

**VILLAGE OF NORTHPORT
LEELANAU COUNTY, MICHIGAN**

Ordinance No. 95

**AN ORDINANCE TO REGULATE THE CONNECTION, USE,
OPERATION AND MAINTENANCE OF THE NORTHPORT
/LEELANAU TOWNSHIP WASTEWATER TREATMENT FACILITY.**

VILLAGE OF NORTHPORT ORDAINS:

**ARTICLE 1
TITLE, PURPOSE AND SCOPE**

Sec. 1.1 Title.

This Ordinance shall be known as the:

“Village of Northport Sewer Use Ordinance of 2007”.

Sec. 1.2 Purpose, Policy And Objectives.

This Ordinance sets forth uniform requirements for the connection, use, operation, and maintenance of the Northport/Leelanau Township Wastewater Treatment Facility (hereinafter referred to as the “System”), thus enabling the Village to comply with all applicable state and federal laws as required by the Federal Water Pollution Control Act (also known as the “Clean Water Act”), as amended, 33 U.S.C. 1251, et seq.; Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCLA §§ 324.3101 et seq., as amended (“Water Resources Protection”); and the rules, Michigan Administrative Code, R 323.2301 et seq., as amended, promulgated pursuant to section 3103, 3106 and 3109 of Part 31 of Act 451 of the Public Acts of Michigan of 1994, as amended. The objectives of this Ordinance are:

(a) To establish standards, rules, and regulations with respect to the use of public sewers and the publicly owned treatment works (POTW).

(b) To prevent the discharge of pollutants into the POTW that would interfere with the operation of the POTW; that would pass through the POTW into the receiving waters of the state or the atmosphere; that would inhibit or disrupt the POTW’s processes, sludge reuse or disposal of sludge; that would cause health or safety problems for POTW workers and the general public; that would result in a violation of the Village's National Pollution Discharge Elimination System (NPDES) permit or of other applicable laws and regulations; or that would cause injury to the public health and safety or the environment.

(c) To regulate the discharge of wastewater to the POTW through the issuance of permits and through other means of enforcement of the requirements of this ordinance.

(d) To authorize and require all inspections, monitoring, reporting and enforcement activities as necessary to insure compliance with applicable laws and regulations.

(e) To provide for mandatory connection to the System.

(f) To otherwise ensure compliance with state and federal laws and regulations applicable to the POTW.

Sec. 1.3 Scope.

This ordinance shall apply to all persons within the Village who discharge into the POTW.

**ARTICLE 2
DEFINITIONS AND ABBREVIATIONS**

Sec. 2.1 Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

“Accidental Discharge” means any unintentional discharge that could result in potential problems at the POTW and includes, but is not limited to, the following: (1) a chemical spill to floor drains or which will enter the POTW; or (2) an unexpected discharge including slug loading that could cause POTW problems.

“Act” means the Federal Water Pollution Control Act (FWPCA) as amended (33 USC 1251 et seq.)

“Authority” means a Utility Authority established (at present, or in the future) pursuant to MCL 124.281, et seq., or other applicable statutory authority, for the purpose of, among other things, construction, operation, and/or maintenance of the POTW.

“Available Public Sanitary Sewer” means a public sanitary sewer line located in a right-of-way, easement, highway, street, or public way which crosses, adjoins, or abuts property in which sanitary sewage originates, and which origination site is on property that is within the Special Assessment District (defined below). This definition also includes a public sanitary sewer line that is declared “available” by statute.

“BOD” (Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20 degrees centigrade, expressed in milligrams per liter.

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

“Building Sewer” means the extension from the building drain to the public sewer or other place of disposal, including the grinder pump and tank (if pressurized).

“CFR” means the Code of Federal Regulations, as amended.

“Chlorine Demand” means the difference between the amount of chlorine applied and the amount of free chlorine available at the end of the contact time, expressed in milligrams per liter.

“COD” (Chemical Oxygen Demand) means the total quantity of oxygen required for oxidation of a waste to carbon dioxide and water, expressed in milligrams per liter.

“Combined Sewer” means a sewer receiving both stormwater and sewage.

“Cooling Water” means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

“Commercial” means of or pertaining to any retail or wholesale business engaged in selling merchandise or a service.

“Compatible Pollutant” means biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, and any additional pollutants which can be effectively reduced or removed by the POTW treatment system to within acceptable levels for the POTW residuals and receiving stream (as determined by the POTW). Specifically excluded from “compatible pollutants” are “heavy” metals, PCBs, mercury, and any pollutants that may contribute or cause process operation or sludge reuse or disposal problems or unacceptable discharges to the receiving waters of the state.

“Composite Sample” means a series of individual samples taken over a specific time period and combined into a single sample (formed either by continuous sampling or by mixing discrete time or flow proportional samples) representative of the average waste stream during the sampling period.

“Domestic User” means a user that discharges only segregated normal strength domestic waste into the POTW.

“Domestic Waste” means liquid or water-carried wastes of human origin from residences, dwellings, commercial buildings, industrial plants and institutions generated by personal activities from sources such as toilets, kitchens, laundry, bathing, or other facilities used for normal household or dwelling purposes (also referred to as “sanitary sewage”).

“Dwelling” means any structure designed for habitation, including, but not limited to, houses, mobile homes, apartment buildings, condominiums and townhouses.

“EPA” means the United States Environmental Protection Agency.

“Garbage” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce. To be considered “properly shredded” for purposes of this ordinance, garbage must be shredded to the degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than 1/2 inch in dimension.

“Groundwater” means the water beneath the surface of the ground, whether or not flowing through known or definite channels.

“Hazardous Waste” means any substance discharged or proposed to be discharged into the POTW, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261.

“Holding Tank Waste” means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

“Incompatible Pollutant” means any pollutant that is not a compatible pollutant.

“Indirect Discharge” means the introduction of pollutants into the POTW, intentionally or unintentionally, from any non-domestic source, including, but not limited to, holding tank waste or trucked or hauled waste discharged into the POTW and pollutants entering the POTW through infiltration or inflow.

“Infiltration” means any waters entering the POTW from the ground, through means such as, but not limited to, defective pipes, pipe joints, connections or manhole walls.

“Inflow” means any waters entering the POTW from sources such as, but not limited to, roof leaders; cellar, yard, and area drains; foundation drains; drains from springs and swampy areas; manhole covers; cross connections from storm sewers and combined sewers; catch basins; storm waters; surface runoff; street wash waters; or drainage.

“Instantaneous Maximum Concentration” means the maximum concentration of a pollutant allowed to be discharged at any instant in time. If the concentration determined by analysis of any grab sample, composite sample, or discrete portion of a composite sample exceeds the instantaneous maximum concentration, the instantaneous maximum concentration shall be deemed to have been exceeded.

“Institution” means any educational, religious, or social organization, such as a school, church, nursing home, or other similar organization.

“Interference” means a discharge which, alone or in conjunction with a discharge or discharges from other sources, either: (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, reuse or disposal; or (2) is a cause of a violation of any requirement of the POTW’s NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge reuse or disposal in compliance with the

following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): section 405 of the Act; the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as RCRA, and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

“MDEQ” means Michigan Department of Environmental Quality

“Medical Waste” means isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

“Non-domestic User” means any user other than a domestic user.

“Normal Strength Domestic Sewage” means a domestic waste flow for which the levels of pollutants (including, but not limited to, BOD, SS, ammonia nitrogen, or phosphorous) are below the surcharge levels for any parameter as established by this ordinance. Further, the wastewater shall have a pH of between 6.5 and 9.5, and shall not contain a concentration of other constituents that would interfere with POTW processes.

“NPDES Permit” means a permit issued pursuant to the National Pollution Discharge Elimination System for the discharge of wastewater into the waters of the state.

“Operation, Maintenance and Replacement Cost” means all costs, direct and indirect, replacement costs, necessary to insure adequate wastewater treatment on a continuing basis, conform with all related federal, state, and local requirements, and assure optional long-term facility management. Operation and maintenance costs do not include expenditures required to retire debts resulting from capital costs of construction.

“Pass Through” means a discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

“Person” means any individual, firm, company, association, society, corporation, unit of local government, government agency, or group.

“pH” means the logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.

“Pollutant” includes (but is not limited to) all of the following:

- (a) Any material that is discharged into water or other liquid, including, but not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, wrecked or discharged equipment, rock, sand, industrial, municipal, and agricultural waste.

(b) Properties of materials, including, but not limited to, pH, SS, BOD, COD, toxicity, odor and heat.

(c) Substances regulated by categorical standards promulgated by EPA in accordance with the Act.

(d) Substances discharged to the POTW that are required to be monitored by a user under this Ordinance, are limited in the POTW's NPDES permit, or are identified in the user's wastewater discharge permit application to the POTW.

(e) Substances for which control measures on industrial users are necessary to avoid restricting the POTW's residuals management program; to avoid operational problems at the POTW; or to avoid POTW worker health and safety problems.

“Pollution” means man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

“POTW” (Publicly Owned Treatment Works) means the treatment works, as defined by applicable provisions of the CFR and the Act, that is owned by the Village, including any devices, processes and systems used in the storage, treatment, recycling or reclamation of wastewater, or sludge, as well as sewers, pipes and other conveyances used to collect or convey wastewater to the treatment works. The term “POTW” shall also include any sewers that convey wastewater to the POTW from any user outside of the Village. The term “POTW” also includes the System.

“POTW Treatment Plant” means that portion of the POTW which is designed to provide treatment (including recycling or reclamation) of domestic waste and industrial waste.

“Premises” means a lot or parcel of land, or a building or structure, having any connection, direct or indirect, to the POTW, or from which there is a discharge to the POTW.

“President” means the President of the Village of Northport Council.

“Properly Shredded Garbage” means the wastes from the preparation, cooking, and dispensing of foods that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with not particle greater than ½ inch in any dimension.

“Public Sanitary Sewer System” includes the Northport/Leelanau Township Wastewater Treatment Facility, along with all collection lines, trunk sewers, interceptors, pump stations, lift stations, manholes, the Wastewater Treatment Facility, and all appurtenances thereto. It also includes the POTW, defined above.

“Public Sewer” means a sewer in which all owners of abutting properties have equal access rights, and which is controlled by a public authority. Public Sewer means the main sewer line exclusive of sewer leads. Sewer leads shall be considered to be part of the “Building

Sewer”. Public Sewer also includes the 11 (eleven) original grinder pumps and tanks included in the System for which easements have been given to the Village, and any replacements thereof. Public Sewer does not include any other grinder pumps and tanks.

“Replacement Costs” means necessary expenditures made during the service life of the treatment works to replace equipment and plant appurtenances to maintain the intended performance of the treatment works.

“Residential” means of or pertaining to individual homes or dwelling units, including mobile homes, apartments, condominiums, single-family dwellings or multi-family dwellings.

“Residential Equivalent Unit or “REU” is a flow unit based upon the equivalent sewage flow generated from a single family residence, as established by resolution of the Village.

“Sanitary Sewer” means a sewer intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

“Severe Property Damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

“Sewage” means a combination of the water carried wastes from residences, business buildings, institutions, and industrial establishments, together with any groundwater, surface water, and storm water that may be present.

“Sewage Treatment Plant” means the POTW Treatment Plant.

“Sewage Works” means the POTW.

“Sewer” means a pipe or conduit for carrying domestic and industrial waste.

“Shall” is mandatory; **“May”** is permissive.

“Slug Loading” means (1) any discharge of water, domestic waste or industrial waste which in concentration of any given constituent or in quantity of flow exceeds more than 5 times the average 24-hour concentration or quantity of flow during normal operation, for any period longer than 15 minutes; or (2) any pollutant released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW; or (3) any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

“Special Assessment District” means the Village of Northport Sewer SAD No. 2005-1.

“Storm Sewer” (sometimes termed “storm drain”) means a channel, pipe or sewer designed primarily for collecting and conveying storm water runoff.

“Storm Water” means the excess water running off from the surface of a drainage area during and immediately after a period of rain or snow melt and is that portion of the rainfall or snow melt runoff and resulting surface flow in excess of that which can be absorbed through the infiltration capacity of the surface soil.

“Superintendent” means the person designated by the Village Council to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this ordinance.

“Surcharge” means an additional treatment or handling charge applied by the Village for the treatment of wastewater containing pollutants in excess of specified concentrations, loadings or other applicable limits.

“Suspended Solids” (“SS”) means solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids, and which can be removed by laboratory filtering.

“System” means the Northport/Leelanau Township Wastewater Treatment Facility, including the POTW.

“Toxic Pollutant” means any pollutant or combination of pollutants which is or can potentially be harmful to public health or environment, including, but not limited to, those listed as toxic in regulations promulgated by the EPA Administrator under section 307(a) of the Act or under other laws.

“Treatment Facility” means the portion of the Public Sanitary Sewer System designed to provide treatment to wastewater.

“Trucked or Hauled Waste or Pollutants” means any waste proposed to be discharged to the POTW from a mobile source, including, but not limited to, holding tank waste.

“User” means any person who discharges into the POTW or any municipality whose collection system discharges into the POTW.

“User Charge” means the charge levied on all users of the POTW for the cost of connection to the POTW plus the perpetual operation, maintenance, and replacement of the works.

“User Discharge” means the introduction of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether direct or indirect.

“Village” means Village of Northport, Michigan, or where appropriate, the Village Council or other duly authorized official representative of the Village. The term also includes, where the context permits, an Authority, or other public body, having regulatory and/or operational control or authority over the System.

“Wastewater” means the liquid and water-carried industrial, commercial or domestic waste from dwellings, commercial buildings, industrial facilities, and institutions (including, but not limited to, contaminated groundwater and landfill leachate), whether treated or untreated, that is contributed, introduced or discharged into the POTW.

“Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

“Waters of the State” means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the State or any portion of the State, and as otherwise specified by applicable laws and regulations.

Sec. 2.2 Abbreviations.

The following abbreviations shall have the following designated meanings:

BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
EPA	United States Environmental Protection Agency
FWPCA	Federal Water Pollution Control Act
gpd	gallons per day
l	Liter
mg/l	Milligrams per liter
MAC	Michigan Administrative Code
MDEQ	Michigan Department of Environmental Quality
NPDES	National Pollutant Discharge Elimination System
PCBs	Polychlorinated Biphenyls
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 <u>et seq.</u>
REU	Residential Equivalent Unit
SIC	Standard Industrial Classification
SS	Suspended Solids
SWDA	Solid Waste Disposal Act, as amended, 42 U.S.C. 6901, <u>et seq.</u>
U.S.C.	United States Code
T	Total
TSS	Total Suspended Solids
ug/l	Micrograms per liter

**ARTICLE 3
DISPOSAL OF SEWAGE AND WASTEWATER**

Sec. 3.1 Depositing Wastes Upon Public or Private Property.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the Village, or in any area under the jurisdiction of the Village, any human or animal excrement, garbage, or other objectionable waste.

Sec. 3.2 Privies and Septic Tanks.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank or septic system, cesspool, holding tank, or other facility intended or used for the disposal of sewage in any area to which the System is available, as “availability” is defined in this Ordinance.

Sec. 3.3 Sewage and Wastewater Discharges.

Unless otherwise expressly permitted by applicable laws or regulations or authorized by the issuance of an NPDES permit:

(a) It shall be unlawful to discharge sewage, wastewater or pollutants to any waters of the state within the Village or in any area under the jurisdiction of the Village, either directly or through a Village storm sewer.

(b) It shall be unlawful to discharge unpolluted water of any kind, including, but not limited to, storm water, drainage water, groundwater, or industrial non-contact cooling water, except to sewers that are specifically designated as storm sewers; or to any waters of the state, either directly or through a Village storm sewer, complying with the applicable state and federal requirements.

Sec. 3.4 Connection to Public Sewer Required if Available; Time Limit.

(a) The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the Village, and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, an Available Public Sanitary Sewer is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect the facilities directly with the proper Available Public Sanitary Sewer in accordance with the provisions of this Ordinance. Connection with the Public Sanitary Sewer System shall be required within ninety (90) days after the date of official notice to connect, if the Public Sanitary Sewer is available to the land in which sanitary sewage originates, or if connection is otherwise required by the County Health Department, or by another regulatory body, or by statute.

(b) Any septic tanks, cesspools, or similar wastewater disposal facilities which are abandoned or discontinued as required by this section shall, at the time of connection to the

public sewer, be emptied of wastes and either removed or filled with clean gravel, dirt or other suitable material to prevent collapse.

(c) Upon the failure to complete connection where to an Available Public Sanitary Sewer within the 90 day period provided in Subsection (a) above, the Village shall require the connection to be made forthwith after notice by first class mail or certified mail or posting on the property to the owners, occupants or persons having control of the property on which the structure is located. The notice shall give the approximate location of the Available Public Sanitary Sewer for connection of the structure involved and shall advise such persons of the requirements and the enforcement provisions of this Ordinance.

(d) If any structure in which sanitary sewage originates is not connected to an Available Public Sanitary Sewer within ninety (90) days after the date of mailing or posting of the written notice pursuant to Subsection (c) above, the Village, in addition to the remedies otherwise provided by this Ordinance, may bring an action for a mandatory injunction or order in the applicable Leelanau County court, to compel the owner to immediately connect to the Available Public Sanitary Sewer. The Village in one or more such actions may join any number of owners of structures to compel each owner to connect to the Available Public Sanitary Sewer.

(e) If the owner or occupant of property with a private sewage disposal system fails to connect to an Available Public Sanitary Sewer as provided by this Section, then the Village may take any action necessary to do so, charging all costs of compliance to the property owner or occupant of the property, and the charges shall become (and shall be collectible as) a lien on the property.

Sec. 3.5 Reserved.

Sec. 3.6 Reserved.

Sec. 3.7 Additional Requirements.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Village or other applicable authorities.

ARTICLE 4 BUILDING SEWERS AND CONNECTIONS TO THE PUBLIC SEWER

Sec. 4.1 Public Sewer Connection Permit Required.

No unauthorized person shall uncover, use, alter, disturb, or make any connections with or opening into any public sewer or appurtenance thereof without first obtaining a written public sewer connection permit from the Village.

Sec. 4.2 Application.

The building owner or the owner's agent shall apply on a form furnished by the Village and pay the permit and inspection fee required by this section at the time the application is submitted. The permit application shall be supplemented by any plans, specifications, or other information considered necessary in the judgment of the Superintendent to administer this article. The permit and inspection fees for public sewer connection permits shall be as determined from time to time by resolution of the Village Council in an amount sufficient to reimburse the Village for administrative costs, review of plans and specifications and field inspections. The Village may deny a public sewer connection permit if the application for the permit shows that anticipated discharges will be harmful to the POTW or storm sewer, will violate the provisions of this ordinance, or in any other way will hamper the operation of the POTW.

Sec. 4.3 Costs, Expenses and Liability.

All costs, expenses and liability incident to the installation, inspection, repair, maintenance, replacement and connection of the building sewer to the Public Sanitary Sewer System shall be borne by the owner. The owner shall indemnify and save harmless the Village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. However, with regard to pressurized systems (which require a grinder pump and tank), the owner may elect, at the time application is made for connection, to have the Village install the building sewer line from, and including, the grinder pump and tank to the public sewer. In such event, the Village shall assume responsibility not only for the cost of the installation, but also the cost and responsibility for repair, inspection, maintenance, and replacement of that portion of the building sewer at no additional charge to the owner. In such event, the election will be made in writing and will authorize the Village to enter the owner's property for purposes of carrying out the aforesaid functions. In the event the owner does not elect to have the above defined portion of the pressurized building sewer line installed by the Village, the owner will assume all costs of installation, inspection, repair, replacement, and maintenance of the entire building sewer, including the grinder pump and tank.

Sec. 4.4 Separate Sewer for Every Building; Exception.

A separate independent building sewer shall be provided for every building. However, 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 building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, if the extension conforms with the adopted plumbing code standards. The Village assumes no responsibility for damage caused by or resulting from any single building sewer which serves more than one building.

Sec. 4.5 Existing Building Sewers.

Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Plumbing Inspector, or an authorized representative, to meet all requirements of this ordinance and applicable plumbing code standards.

Sec. 4.6 Applicable Code Provisions, Regulations.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes, or other applicable rules and regulations of the Village, or other Authority having jurisdiction on the matter. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing Materials (A.S.T.M.) and the Water Environment Federation (W.E.F.) shall apply.

Sec. 4.7 Elevation.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the building owner.

Sec. 4.8 Connection of Surface Runoff or Groundwater Prohibited.

No person shall make connection of roof down spouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a POTW without the prior written permission of the Superintendent.

Sec. 4.9 Connection Into Public Sewer.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or all other applicable laws, rules, regulations, orders and directives, or the procedures set forth in appropriate specifications, which shall require that the connections shall be made gas-tight and water-tight and shall be verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the Superintendent, or an authorized representative, before installation.

Sec. 4.10 Inspection and Connection.

The applicant for the public sewer connection permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent, or an authorized representative.

Sec. 4.11 Excavations; Conditions of Work.

All excavating 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 Village.

Sec. 4.12 Interceptors.

(a) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, 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 Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Required grease, oil and sand interceptors shall be maintained by the building owner, at his expense, and shall be in continuously efficient operation at all times. The owner shall maintain records, subject to review by the Village, showing the dates and means of disposal of materials collected in required interceptors. Any removal and handling of collected materials from required interceptors must be performed by currently licensed waste disposal firms. Failure to maintain a required interceptor in continuously efficient operation at all times is a violation of this Ordinance, subject to fine as provided by this Ordinance, plus liability to the Village for costs for damage (on or off the premises) resulting from such failure.

Sec. 4.13 Capacity.

No connections to the Public Sanitary Sewer System will be allowed unless there is capacity available (in terms of concentration, mass, flow or other parameter) as determined by the Village, in downstream sewers, pump stations, interceptors, forcemains and the POTW treatment plant, including capacity for removal of BOD, suspended solids, or other pollutants.

**ARTICLE 5
EXTENSIONS TO SYSTEM**

Sec. 5.1 Village Extensions.

The Village may extend public sewers under any of the following circumstances:

(a) After approval of the Village Council, the Village may extend public sewers to complete or expand the existing POTW to protect the health, safety and welfare of its citizens. Property owners may be specially assessed in accordance with applicable law.

(b) At the request of citizens for the Village to extend the sewer, by petition containing the signatures of a majority of the property owners along both sides of the sewer route.

(c) At the request of a private developer for the Village to extend public sewers to and through the property of the developer, if the developer advances to the Village the total costs of the project as estimated and approved by the Village Engineer. Applicable fees pursuant to Article 7 for all REUs shall be paid at the time of connection to the sewer. If there are properties that will benefit from the extension of the sewer, the contractor may be refunded accordingly per contractual agreement.

Sec. 5.2 Private Extensions.

A private developer may extend the POTW at the private developer's expense following written approval of the Village and the Village Engineer. Ownership of the POTW extension shall revert to the Village following completion of construction, testing and approval by the Village Engineer and acceptance by the Village Council. The private developer shall reimburse the Village for the cost of its testing and approval of any such sewer extensions.

**ARTICLE 6
DISCHARGE TO THE POTW -
PROHIBITIONS, LIMITATIONS AND REQUIREMENTS**

Sec. 6.1 General Discharge Prohibitions.

No user shall discharge or cause to be discharged into the POTW, directly or indirectly, any pollutant(s) which causes Pass Through or Interference. This general prohibition, and the specific discharge prohibitions in section 6.2 of this article shall apply to every user whether or not the user is subject to other pretreatment standards or requirements.

Sec. 6.2 Specific Discharge Prohibitions.

No user shall discharge or contribute to the POTW, directly or indirectly, any of the pollutants, substances, or wastewater as provided by this subsection. This subsection sets forth the minimum requirements for users' discharges to the POTW. Additional or more restrictive requirements may be required of particular users as otherwise authorized or required by this Ordinance or other applicable laws and regulations.

(a) <u>Parameter</u>	<u>Instantaneous Maximum Concentration</u>
Mercury	Nondetect. Any discharge of mercury at or above the detection limit is a specific violation of this ordinance. The detection limit shall be established pursuant to the procedure for determination of the method detection limit ("MDL") as set forth in section 3(a) of Appendix B of 40 CFR part 136. The MDL study used to determine the MDL shall be made available to the POTW immediately upon request. The detection limit shall not exceed 0.2 µg/l, unless a higher detection limit is approved by the POTW because of sample matrix interference. Mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring shall be in accordance with EPA method 245.1

PCBs (T)

Nondetect. Any discharge of PCBs at or above the detection limit is a specific violation of this ordinance. The detection limit shall be established pursuant to the procedure for determination of the method detection limit (“MDL”) as set forth in section 3(a) of Appendix B of 40 CFR part 136. The MDL study used to determine the MDL shall be made available to the POTW immediately upon request. The detection limit shall not exceed 0.1 µg/l, unless a higher detection limit is approved by the POTW because of sample matrix interference. PCB sampling procedures, preservation and handling, and analytical protocol for compliance monitoring shall be in accordance with EPA method 608. Total PCBs is defined as the sum of any identified Aroclors, including, but not limited to, Aroclors 1242, 1248, 1254 and 1260. In addition, any detected Aroclor-specific measurements shall be reported.

(b) Pass Through/Interference. Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause Pass Through or Interference at POTW.

(c) Color. Color, as from, but not limited to, dyes, inks, and vegetable tanning solution, shall be controlled to prevent light absorbency which would interfere with treatment plant processes or that prevent analytical determinations.

(d) Fire/Explosion Hazard. Liquids, solids or gases that, by reason of their nature or quantity, may either alone or by interaction with other substances create a fire or explosion hazard or be injurious in any other way to the POTW or to the operation of the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade) using the test methods specified in 40 CFR 261.21.

(e) Garbage. Garbage not properly shredded.

(f) Grease, Oils, Fat, Etc. Solvent extractibles, including, without limitation, oil, grease, wax, or fat, whether emulsified or not, in excess of 50 mg/l (daily maximum or monthly average); or other substances that may solidify or become viscous (with a viscosity of 110% of water) at temperatures between 32E Fahrenheit and 150E Fahrenheit in amounts that may cause obstruction to the flow in sewers or other interference with the operation of the POTW.

(g) Oils Causing Interference or Pass Through. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through.

(h) Inert Suspended Solids. Inert suspended solids (including, but not limited to, Fuller's earth, lime slurries, and lime residues) or dissolved solids (including, but not limited to, sodium chloride and sodium sulfate) in unusual concentrations.

(i) Solid, Insoluble, or Viscous Substances. Solid, insoluble, or viscous substances that may cause obstruction to the flow in a sewer or otherwise may impair or result in interference with the operation of the POTW including, but not limited to, grease; improperly shredded garbage; animal guts or tissues; paunch manure; bones; hair; hides or fleshings; entrails; whole blood; feathers; ashes; cinders; sand; spent lime; stone or marble dust; metal; glass; straw; shavings; grass clippings; leaves; rags; spent grains; spent hops; wastepaper; wood; plastics; gas; tar; asphalt residues; residues from refining or processing of fuel or lubricating oil; mud; or glass grinding or polishing wastes.

(j) Soluble Substances. Soluble substances in a concentration that may increase the viscosity to greater than 10% over the viscosity of the water or in amounts that will cause obstruction to the flow in the POTW resulting in Interference.

(k) Noxious or Malodorous Liquids, Gases, or Solids. Noxious or malodorous liquids, gases, or solids (including, but not limited to, hydrogen sulfide, sulphur dioxide, or oxides of nitrogen, and other substances) that either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(l) Toxic Gases, Vapors or Fumes. Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems or danger to the general public.

(m) Toxic Pollutants. Wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in an applicable categorical pretreatment standard.

(n) Corrosive Wastewater/pH. Wastewater or pollutants having a pH less than 5.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(o) Substances Causing Violation of NPDES Permit or Water Quality Standards. Any substance that will cause the POTW to violate its NPDES permit or the receiving water quality standards.

(p) Radioactive wastes. Radioactive wastes or isotopes of a half-life or concentration which may exceed limits established by applicable state and federal regulations.

(q) Temperature. Wastewater having a temperature that will inhibit biological activity in the POTW resulting in interference, or heat in such quantities that the temperature at

the POTW treatment plant exceeds 104E Fahrenheit (40E Celsius). No discharge to the POTW shall have a temperature less than 32E Fahrenheit or greater than 150E Fahrenheit.

(r) Interference With Sludge Reclamation, Reuse or Disposal. Any substance that may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation, reuse or disposal, or otherwise interfere with the reclamation, reuse, or disposal process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; under the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as RCRA, and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; or any more stringent state or local regulations, as applicable.

(s) Excess Foam. Any pollutant that results in excess foaming during the treatment process. Excess foaming is any foam which, in the opinion of the Superintendent, is a nuisance in the treatment process.

(t) Trucked or Hauled Pollutants. Any trucked or hauled pollutants.

(u) Unpolluted Water, Non-Contact Cooling Water, Etc. Any unpolluted water, non-contact cooling water, storm water, surface water, groundwater, roof runoff or subsurface drainage, except as otherwise expressly permitted by applicable law or regulation, and subject to the prior written permission of the Village.

(v) Medical or Infectious Wastes. Any medical or infectious wastes, as defined by part 138 of the Public Health Code, Act No. 368 of the Public Acts of 1978, MCL 333.13801 to 333.13831.

(w) Contaminated Groundwater or Landfill Leachate. Any contaminated groundwater or landfill leachate determined by the Superintendent to have a reasonable potential to adversely affect the operation of the POTW, to result in Pass Through or Interference, or to violate any pretreatment standard or requirement.

(x) Additional Prohibited Pollutants, Substance and Wastewater. Any pollutant, substance, or wastewater that, either directly or indirectly:

(1) creates a chemical reaction with any materials of construction to impair the strength or durability of sewer mains and structures;

(2) causes a mechanical action that will damage or destroy sewer mains and structures;

(3) impedes or restricts the hydraulic capacity of the POTW;

(4) interferes with normal inspection or maintenance of sewer structures.

(5) places unusual demands upon the wastewater treatment equipment or processes by biological, chemical or physical means; or

(6) causes a hazard to human life or creates a public nuisance.

Sec. 6.3 Preliminary Treatment Facilities

The admission into the public sewers of any waters or waste containing any quantity of substances having the characteristics described in Section 6.2 or having a daily average flow greater than five percent (5%) of the average daily wastewater flow of the Village, shall be subject to the review and approval of the Village. Where necessary in the opinion of the Village, the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce objectionable characteristics or constituents to within the maximum limits provided for in Section 6.2 or control the quantities and rates of discharge of such waters or waste. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval of the Village and/or MDEQ, and no construction of such facility shall be commenced until said approvals are obtained in writing.

Sec. 6.4 Maintenance of Preliminary Treatment Facilities

Where preliminary treatment facilities are provided for any waters or waste, they shall be maintained in satisfactory and effective operation by the owner at his expense.

Sec. 6.5 Right to Refuse or Condition Discharge.

The Superintendent may refuse to accept, or may condition its acceptance of, all or any portion of any proposed or existing discharge to the POTW, regardless of whether or not a wastewater discharge permit has been issued, if the Superintendent determines that the discharge has a reasonable potential to adversely affect the operation of the POTW; result in Pass Through or Interference; cause the POTW to violate its NPDES permit; or if the impacts of the discharge on the POTW or the POTW's discharge are uncertain or unknown (because, for example, no local limits or headworks analysis has been conducted for particular pollutants in the discharge). If the Superintendent denies any user permission to commence or continue all or any portion of a discharge to the POTW, the user shall refrain from commencing to discharge or shall immediately terminate the discharge to the POTW and shall not thereafter recommence discharge without written authorization from the Superintendent. Similarly, if the Superintendent denies any user permission to commence or continue all or any portion of a discharge to the POTW except subject to conditions determined necessary and appropriate by the Superintendent, the user shall refrain from commencing or continuing the discharge except in full compliance with those conditions.

Sec. 6.6 Authority for Control of Discharges to the POTW.

If any user discharges, or proposes to discharge wastewaters or pollutants to the POTW which are prohibited or limited by this ordinance, the Superintendent may take any action as authorized by this Ordinance or other applicable law or regulation to assure and require

compliance with the provisions of this Ordinance, including, but not limited to, the issuance of orders, the imposition of surcharges, and the assessment of fines and penalties.

**ARTICLE 7
FEES AND CHARGES**

The procedure for the establishment of rules and standards regarding fees and charges related to the System and/or to the collection of revenues from the System, is set forth in a separate Ordinance to be known as the “Village of Northport Sewer Rates and Charges Ordinance of 2007”.

**ARTICLE 8
ADMINISTRATION AND ENFORCEMENT**

Sec. 8.1 Operation and Management of POTW (or an Authority).

(a) The operation, maintenance, alteration, repair and management of the POTW shall be under the supervision and control of the Village. The Village may employ additional persons as necessary or advisable to carry out the efficient management and operations of the system and may make any rules, orders and regulations as determined necessary by the Village to assure the efficient management and operation of the system, including the setting of rates, surcharges, fees, penalties, fines, or other charges, for the use of the POTW.

(b) To the extent the Village contracts with an Authority, or other legal entity, relating to the acquisition, construction, improvement, enlargement, extension, operation, maintenance, or financing of the system, such authority, if authorized by subsequent resolution of the Village Council, shall have the same powers as afforded the Village in this Ordinance.

Sec. 8.2 Powers of Superintendent.

The Superintendent is empowered, either directly or through authorized representatives, to:

- (a) Supervise the implementation of this Ordinance.
- (b) Make inspections and tests of existing and newly installed, constructed, reconstructed, or altered sampling, metering, or pretreatment equipment to determine compliance with the provisions of this Ordinance.
- (c) Make recommendations to the Village for amendments to this Ordinance as required or as necessary to comply with applicable laws and regulations.
- (d) Encourage voluntary cooperation in water pollution control.
- (e) Collect and disseminate information on water pollution control.

(f) Coordinate activities under this Ordinance with planning and zoning agencies to promote conservation and management of the water resources of the Village.

(g) Cooperate with federal, interstate, state, county, district, municipal, or other agencies concerned with water pollution with respect to studies, abatement programs, public complaints, and other matters to conserve and improve the natural resources of the Village.

(h) Verify the completeness, accuracy and representativeness of self-monitoring data submitted and/or maintained by users.

(i) Perform any other actions authorized by this Ordinance, or as necessary or advisable for the management and operation of the POTW.

Sec. 8.3 Powers of President.

The President is empowered, either directly or through authorized representatives, to:

(a) Investigate complaints of violations of this Ordinance, make inspections and observations of discharges, and maintain a record of the investigations, complaints, inspections and observations.

(b) Issue orders and notices of violation and take other actions as necessary to require compliance with this Ordinance.

(c) Issue municipal civil infraction citations.

(d) Institute actions against all users violating this Ordinance and institute necessary legal proceedings on behalf of the Village to prosecute criminal violations of this Ordinance, to compel the abatement or prevention of violations, to compel compliance with this Ordinance and any order, determination, permit or agreement issued or entered into under this Ordinance, and to pursue other necessary or advisable relief or remedies with respect to violations of this Ordinance.

(e) Perform any other actions necessary or advisable for the enforcement of this Ordinance and other applicable laws and regulations.

Sec. 8.4 Inspection, Surveillance, Maintenance, and Monitoring Authority; Right of Entry.

(a) In General. The POTW is authorized to carry out all inspection, surveillance, sampling and monitoring activities and procedures, as necessary to determine, independent of information supplied by users or any other persons, compliance or noncompliance with applicable standards and requirements, with this Ordinance, and with other applicable laws and regulations. This authority includes, but is not limited to, the authority:

(1) To verify the completeness, accuracy and representativeness of self-monitoring data submitted by users.

(2) To determine compliance with the requirements of this Ordinance or orders.

(3) To support enforcement actions taken by the POTW against non-compliant users.

(4) To determine if users have corrected problems identified in previous inspections.

(5) To identify which (and to what degree) users influence the quality of the POTW's influent, effluent and sludge quality.

(6) To evaluate the impacts of the POTW's influent on its treatment processes and receiving stream.

(7) To evaluate the need for revised local limits.

(8) To maintain current data on each user.

(9) To provide a basis for establishing sampling and monitoring requirements for users.

(10) To assess the potential for spills and/or slug discharge control measures, and evaluate the effectiveness of spill and slug discharge control measures.

(11) To evaluate compliance with existing enforcement actions.

(12) To require any user to submit one or more representative samples of the wastewater discharged or that the user proposes to discharge into the POTW.

(b) Right of entry. The President, Superintendent and other authorized representatives of the Village bearing proper credentials and identification are authorized to enter a user's premises to conduct inspection, work, surveillance and monitoring activities as necessary to determine compliance with this ordinance, and in that regard shall have, but shall not be limited to, the following minimum authority:

(1) To enter into any premises of any user in which a discharge source, treatment system or activity is located or in which records are required to be kept as provided by this ordinance, for the purpose of inspecting, observing, measuring, sampling and testing the wastewater discharge, removing samples of wastewater for analysis, and inspecting and making copies of required records.

(2) To maintain, at the Village's expense, grinder pumps, tanks, and building sewer lines which the owner elected, at the time the owner applied for connection, to have the Village install and maintain at the Village's expense, per Sec. 4.3.

(3) To set up and maintain on the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations, or to require the discharger to do so, at the discharger's sole expense.

(4) To enter all private properties through which the Village or other governmental agency holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the POTW or wastewater transmission facilities lying within the easement.

(c) Access without delay required. Users shall allow the POTW ready access at all reasonable times to all parts of the user's facility where wastewater governed by this ordinance is created, handled, conveyed, treated or discharged, or where any production, manufacturing, fabrication, or storage area where pollutants regulated under this ordinance could originate, be stored, or be discharged to the POTW, or where wastewater records are kept, for the purposes of inspection, sampling, records examination, or in the performance of any of the POTW's duties. If a user has security measures in force that would require proper identification and clearance before entry into the premises by the POTW, the user shall make necessary arrangements in advance with its security guards so that upon presentation of suitable identification, authorized representatives of the POTW (or authorized state or federal personnel) will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(d) Refusal to allow entry. If a user refuses to permit access to an authorized POTW representative or to permit the representative to obtain, take, and remove samples or make copies of documents or undertake other authorized inspection, surveillance and monitoring activities as provided by this ordinance, the President may order the termination of the discharge of wastewater to the POTW; order the user to permit access within a time certain; issue the user a notice of violation of this section; or take other appropriate action as provided by this ordinance and other applicable laws and regulations.

Sec. 8.5 Notice of Violation.

Any person found to be violating a provision of this Ordinance may be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction of the violation (which under some circumstances, may be immediate). The person shall, within the period of time stated in notice, permanently cease all violations. The notice of violation shall be served and shall contain the information as provided by section 9.7 of this ordinance. Failure to comply with any requirement of a notice of violation shall constitute a separate violation of this Ordinance.

Sec. 8.6 Orders.

The President or his or her authorized representative may issue an order to any user as determined by the Superintendent to be appropriate under the circumstances, as provided by this section. Multiple orders may be issued simultaneously or in combination as a single order with respect to a single discharger.

(a) Service. An order shall be served upon a user and shall contain the information as provided by section 8.7 of this Ordinance. However, orders to immediately cease and desist discharge, or to terminate the discharge to the POTW, or other emergency orders where delay might endanger human health, the environment or the POTW, may be oral and may be served by telephone (to be followed within 5 days by written confirmation of the order by the Superintendent).

(b) Types of Orders. The President may issue the following types of orders:

(1) Order to Immediately Cease and Desist Discharge. The President may issue an order to cease and desist from discharging any wastewater, incompatible pollutant, or discharge not in compliance with this ordinance. The order shall have immediate effect if the actual or threatened discharge of pollutants to the system presents, or may present, imminent or substantial endangerment to the health or welfare of persons, to the environment, or causes, or may cause, interference or pass through. The President shall implement whatever action is necessary to halt the illegal discharge. The user shall be assessed for any penalties, fines, charges, surcharges, expenses, or losses incurred due to the actual or threatened discharge of pollutants as provided by this Ordinance.

(2) Order to Cease Discharge Within a Time Certain. The President may issue an order to cease and desist from discharging any wastewater, incompatible pollutant, or discharge not in compliance with this Ordinance by a certain time and date. The proposed time for any required remedial action shall be specified in the order. The order may also contain conditions as determined appropriate by the President. In addition to other circumstances as determined appropriate by the President, the failure to pay applicable permit fees or to comply with any term of an order or an industrial user permit constitutes sufficient cause to issue an order under this section.

(3) Order to Perform Corrective Action. The President may issue an order requiring a user to perform any action required under this Ordinance, including, but not limited to, requiring a user to submit samples; to install sampling, metering and monitoring equipment; to submit reports; to permit access for inspection, sampling, testing, monitoring and investigations; to reduce or eliminate a discharge or pollutants in a discharge; or to pay permit fees or other applicable charges.

(4) Order to Terminate Sewer Services. The President may issue an order to terminate the sewer services of a user, including physical blockage of the user's sewer connection, for reasons including, but not limited to, the following:

(a) A discharge which violates any general or specific discharge prohibition, and which reasonably appears to present an imminent endangerment to human health, the environment or the POTW.

(b) Failure of a user to notify the POTW of any discharge which the user was aware or reasonably should have been aware.

(c) Failure of a user to sample, monitor, pretreat or report, or failure to install monitoring or pretreatment facilities, as required by an order of the President.

(d) A knowing, willful violation of any term, condition or requirement of an order.

(e) A negligent violation of any major term or condition or requirement of an order. For purposes of this section, a “major” term, condition or requirement is one the violation of which is reasonably likely to endanger human health, the environment or the POTW.

(5) Order to Show Cause. The President may issue an order requiring a user to appear and explain any noncompliance with the requirements of this Ordinance or any permit, order, decision or determination promulgated, issued or made under this Ordinance, and to show cause why more severe enforcement actions against the user should not go forward. A show cause hearing shall be held within 10 days after the order to show cause was issued, as follows:

(a) The hearing shall be conducted and evidence shall be taken by the President or by an authorized representative designated by the President. Notice of the hearing shall be provided to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. If the hearing is conducted by an authorized representative of the President, the President shall thereafter be provided with a written report of the hearing, including transcripts, any other evidence, and any recommendations to the President for further action.

(b) Testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript.

(c) After reviewing the evidence taken at the hearing, the President shall decide whether further enforcement action is required and, if so, the nature and extent of that further action, including, but not limited to, the issuance of any order or imposition of any fines, fees, surcharges or penalties, as authorized by this Ordinance.

(c) Immediate Response to Order by User may be Required. Any user issued an order by the President as provided by this section to immediately suspend its discharge to the POTW shall immediately stop or eliminate the discharge using whatever means are necessary to do so, or take any other action as required by the order. If the user fails to comply voluntarily with the order to immediately suspend its discharge, the Village shall take any action determined as necessary as authorized by this Ordinance, including immediate suspension of water service and/or severance of the sewer connection, to prevent or minimize damage to the POTW or endangerment to public health, safety or the environment. The President may reinstate the POTW service upon satisfactory proof or other demonstration by the user that the noncomplying

discharge has been eliminated or will not reoccur. A detailed written statement submitted by the user describing the causes of the noncomplying discharge and the measures taken to prevent any further occurrence shall be submitted to the President within fifteen (15) days of the occurrence.

(d) Noncompliance Due to Factors Beyond User's Control. If noncompliance with an order is unintentional and temporary and due to factors beyond the reasonable control of a user, and the user can demonstrate the conditions necessary for demonstration of an upset the President may modify the order or take other actions as determined appropriate. However, a user shall not be relieved of liability for noncompliance with an order to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

(e) Amendment, Suspension and Revocation of Orders. An order shall be subject to amendment, suspension or revocation as determined appropriate by the President. Notice of the amendment, suspension or revocation shall be served upon the user in the same manner as notice was provided for the original order. An amendment, suspension or revocation of an order shall be subject to the same procedures for review and appeal as the original issuance of the order, as provided by this Ordinance.

(f) Consent Orders. The President may enter into a consent order with a user to resolve disputed claims and address identified and potential deficiency's in the user's compliance status. The consent order shall be in the form of an agreement and may contain appropriate provisions, including, but not limited to, compliance schedules and stipulated fines and remedial actions.

Sec. 8.7 Service of Orders, Notices of Violations and Notices of Assessments.

Except as otherwise expressly provided by this ordinance, all orders and Notices of Violations shall be served upon persons and shall contain the information as provided by this section.

(a) Service. Service shall be by personal delivery or certified mail (return receipt requested), addressed to the user, alleged violator or other person, as applicable. The person served shall sign and date the order or notice and shall return the signed original copy to the Village; provided, that the failure to do so shall not affect the person's obligation to comply with the order or notice.

(b) Contents. All orders shall contain at least the following information, as applicable and to the extent known:

- (1) The name and address of the violator;
- (2) The location and time that the violation occurred or was observed, and the duration of the violation;
- (3) The nature of the violation, including the provisions of this Ordinance or of any permit, order, decision, determination or agreement violated;

(4) The basis for determining that a violation has occurred (personal observation, pollutant analysis, etc.);

(5) The amount of the fine, penalty or charge assessed or due, if any;

(6) The manner in which, and time and date by which, any fine, penalty or charge must be paid, including any penalty or charge for late payment;

(7) The remedial action ordered, the time within which required actions must be taken, and any consequences for failure to do so.

(8) The right to appeal the issuance of the order or notice and a summary of the procedures for appeal, or other applicable administrative procedures.

(9) The date and time the order or notice was issued.

(c) Request for Additional Information. A person served may request additional information from the Superintendent regarding the contents or requirements as provided by any order or notice. However, a request for additional information shall not extend the time for compliance with an order or notice.

Sec. 8.8 Municipal Civil Infractions.

(a) A user/person who violates any provision of this Ordinance (including, but not limited to, any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this ordinance) except as provided in section 8.11 is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$100.00 per day for domestic users and \$500.00 per day for nondomestic discharges for each infraction, and not more than \$1,000.00 per day for domestic users and \$5,000.00 per day for nondomestic users for each infraction, plus costs and other sanctions.

(b) Repeat offenses shall be subject to increased fines. As used in this section, “repeat offense” means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this ordinance (i) committed by a person within any 30 day period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:

(1) The fine for any offense that is a first repeat offense shall be not less than \$250.00 for domestic users and \$1,000.00 for nondomestic users, plus costs.

(2) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$500.00 for domestic users and \$2,500.00 for nondomestic users, plus costs.

(c) In determining the amount of a municipal civil infraction fine, the court shall consider the type, nature, severity, frequency, duration, preventability, potential and actual effect,

and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation, the violator's recalcitrance or efforts to comply, the economic impacts of the fine on the violator, and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered by the court in determining the amount of a fine. However, mitigating factors shall not be considered unless the court determines that the violator has made all good faith efforts to correct and terminate all violations.

(d) The Village President and/or such other or additional persons as subsequently authorized by resolution of the Village Council, is authorized to issue municipal civil infraction citations (directing alleged violators to appear in court) for violations of this Ordinance which are designated as municipal civil infractions.

Sec. 8.9 Criminal Penalties; Imprisonment.

In addition to any applicable state and federal penalties, any person who (1) at the time of a violation knew that a pollutant or substance was discharged contrary to any provision of this Ordinance, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Ordinance; or (2) intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this Ordinance, or in any other correspondence or communication, written or oral, with the POTW regarding matters regulated by this ordinance; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this Ordinance; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court.

Sec. 8.10 Continuing Offense.

Each act of violation, and each day or portion of a day that a violation of this Ordinance, or of any permit, order, notice or agreement issued or entered into under this Ordinance is permitted to exist or occur, constitutes a separate offense and shall be punishable as provided by this Ordinance.

Sec. 8.11 Number of Violations.

The number of violations resulting from a user's noncompliance with applicable discharge prohibitions or effluent limitations shall be determined as follows:

(a) Applicable concentration limitations and mass (or loading) limitations shall be treated as separate limitations, and a user may be liable and penalized separately for exceeding any of those limitations for a single pollutant or sampling parameter.

(b) Each violation of a daily maximum limit for a single pollutant or sampling parameter shall constitute a single violation for each day on which the violation occurs or continues.

(c) Each violation of an instantaneous maximum limit for a single pollutant or sampling parameter shall constitute a single violation for each such exceedence, and there may be multiple violations for each day on which such a violation occurs or continues.

(d) Each violation of a monthly average limit for a single pollutant or sampling parameter shall constitute a violation for each day of the month during which the violation occurred, regardless of the number of days on which samples were actually taken. (For example, in a month with 31 days, a violation of the monthly average limit for that month constitutes 31 violations for each pollutant parameter for which the monthly average limit was exceeded during the month.)

Sec. 8.12 Nuisance.

A violation of this Ordinance, or of any permit, order, notice or agreement issued or entered into under this ordinance, is deemed to be a public nuisance. The Village may enforce this Ordinance by injunction or other remedy, including the right to correct any violation and bill the owner or person in charge of the premises for expenses incurred.

Sec. 8.13 Reimbursement of Village.

(a) Reimbursement Required. Any user/person who violates any provision of this Ordinance, or who discharges or causes a discharge that produces a deposit or obstruction or otherwise damages or impairs the POTW, damages public or natural resources, or causes or contributes to a violation of any federal, state or local law governing the POTW, shall be liable to and shall reimburse the Village for any expense, cost, loss, or damage (direct or indirect) caused by the violation or discharge. The costs that must be reimbursed to the Village shall include, but shall not be limited to, all costs incurred by the POTW in responding to the violation or discharge, including, but not limited to: expenses for any cleaning, repair or replacement work caused by the violation or discharge; all costs of surveillance, monitoring, pumping, treating or enforcement in connection with any violation, exceedence or noncompliance; costs for Village employee time or contractual staff or consultant services; actual attorney fees; and the full amount of any fines, assessments, penalties, claims, including natural resource damages, levied against the POTW by any governmental agency or third party as a result of a violation of the POTW's NPDES permit (or other applicable law or regulation) that is caused by or contributed to by any person, plus all actual expenses, costs, losses or damages (direct or indirect) incurred by the Village as a result thereof, including consultant fees and actual attorney fees and defense costs. The Village is authorized to correct any violation of this Ordinance or damage or impairment to the POTW caused by a user discharge and to bill the user causing the violation or discharge for the amounts to be reimbursed to the Village. Failure to pay assessed costs constitutes a separate violation of this Ordinance. Costs reimbursed to the Village under this section shall be in addition to any penalties or remedies imposed under this Ordinance or other applicable local, state or federal law or regulation.

(b) Determining Reimbursement Amount. In determining the amounts to be reimbursed to the Village, the President may consider any relevant factors including, but not limited to, the following:

- (1) The volume of a discharge.
- (2) The length of time a discharge occurred.
- (3) The composition of a discharge.
- (4) The nature, extent, and degree of success the POTW may achieve in minimizing or mitigating the effect of a discharge.
- (5) The toxicity, degradability, treatability and dispersal characteristics of the discharges.
- (6) The direct and indirect costs incurred by the Village, or imposed upon the Village to treat the discharges, including sludge handling and disposal costs.
- (7) The costs and expenses incurred by the Village in taking enforcement action against a discharger, including, but not limited to, costs in connection with inspection, surveillance, monitoring, sampling, preparation of notices of violation, orders and other enforcement documents, Village staff time (including any overtime) and actual attorney's fees, and actual fees of consultants and experts.
- (8) Fines, assessments, levies, charges, expenses and penalties imposed upon and/or incurred by the Village, including the Village's costs of defense (including actual attorney's fees, consultant and expert fees, expenses, costs and sampling and analytical fees) of actions, or suits brought or threatened against the Village by governmental agencies or third parties.
- (9) Such other factors as the POTW deems appropriate under the circumstances.

Sec. 8.14 Cumulative Remedies.

The imposition of a single penalty, fine, order, damage, or surcharge upon any user for a violation of this Ordinance, or of any permit, order, notice or agreement issued or entered into under this ordinance, shall not preclude the imposition by the Village or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable statutory limitations on penalty amounts. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon or held in abeyance during any civil, judicial, or Village administrative proceeding, conference, or hearing regarding the person.

Sec. 8.15 Judicial Relief.

The Council President is hereby empowered, with the Village Attorney, to institute legal proceedings in a court of competent jurisdiction for the abatement of any nuisance, and to seek relief for violations of this Ordinance, or of any permit, order, notice or agreement issued or entered into under this Ordinance. The Council President may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief that a Court may order. The Council President may also seek collection of surcharges, fines, penalties, and any other amounts due to the Village which the user has not paid.

**ARTICLE 9
PROTECTION FROM DAMAGE**

It is a criminal misdemeanor for any person to maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is part of the municipal sewer works.

**ARTICLE 10
MUNICIPAL LIABILITY**

The Village shall not be responsible for interruptions of service due to natural calamities, equipment failures, or actions of the system users. It shall be the responsibility of the customer that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

**ARTICLE 11
MISCELLANEOUS**

Sec. 11.1 Headings.

The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be a part of this Ordinance.

Sec. 11.2 Recordation; Publication; Effective Date.

This Ordinance shall be recorded in the minutes of the meeting of the Village Council at which it was adopted, as soon as practicable after its adoption, which record shall be authenticated by the signature of the Village President, and shall be published once in the *Leelanau Enterprise*, a newspaper of general circulation within the Village.

Sec. 11.3 Validity.

If any section, paragraph, sentence, clause or phrase of this Ordinance shall be held invalid, it shall not affect any other part of this Ordinance.

Sec. 11.4 Repeal.

All ordinances and resolutions and parts thereof, insofar as the same may be in conflict with the provisions of this Ordinance, are hereby repealed.

Sec. 11.5 Conflict.

In the event of a conflict between this ordinance and any other ordinance except for an ordinance authorizing the issuance of bonds secured by the revenues of the System, this ordinance shall control.

Sec. 11.6 Effective Date.

This ordinance shall take effect upon publication, or twenty (20) days after its adoption, whichever occurs last.

ORDINANCE ADOPTED AND SIGNED June 7, 2007.

Michael F. Rogers Sr.
Village President

Laura a. Weiss
Village Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an Ordinance duly adopted by the Village Council of the Village of Northport, Leelanau County, Michigan, at a meeting held on June 7,2007.

DATED: June 7, 2007

Laura A. Weiss, Village Clerk

I further certify that this Ordinance was published in full in the *Leelanau Enterprise* on _____, 2007.

DATED: _____, 2007

Village Clerk

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