

15.000

**BASIC CABLE TV RATE REGULATION**

**Ord. No. 37**

**Adopted: September 7, 1993**

An Ordinance to adopt regulations and procedures for basic cable TV rate regulation.

THE TOWNSHIP OF VEVAY ORDAINS:

15.001

**Definitions.**

Sec. 1. For purposes of this Ordinance, "Act" shall mean the Communications Act of 1934, as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. 102-385), and as may be amended from time to time; "FCC" shall mean the Federal Communications Commission; "FCC Rules" shall mean all rules of the FCC promulgated from time to time pursuant to the Act; "basic cable service" shall mean "basic service" as defined in the FCC Rules, and any other cable television service which is subject to rate regulation by the Township pursuant to the Act and the FCC Rules; "associated equipment" shall mean all equipment and services subject to regulation pursuant to 47 CFR § 76.923; and an "increase" in rates shall mean an increase in rates or a decrease in programming or customer services. All other words and phrases used in this Ordinance shall have the same meaning as defined in the Act and FCC Rules.

15.002

**Purpose; interpretation.**

Sec. 2. The purpose of this Ordinance is to: 1) adopt regulations consistent with the Act and the FCC Rules with respect to basic cable service rate regulation, and 2) prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the Township. This Ordinance shall be implemented and interpreted consistent with the Act and FCC Rules.

15.003

**Rate regulations promulgated by FCC.**

Sec. 3. In connection with the regulation of rates for basic cable service and associated equipment, the Township of Vevay shall follow all FCC Rules.

15.004

**Filing; additional information; burden of proof.**

Sec. 4.

- (a) A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates in accordance with the Act and the FCC Rules. The cable operator shall include as part of

its submission such information as is necessary to show that its schedule of rates or its proposed increase in rates complies with the Act and the FCC Rules. The cable operator shall file ten copies of the schedule or proposed increase with the Township Clerk. For purposes of this Ordinance, the filing of the cable operator shall be deemed to have been made when at least ten copies have been received by the Township Clerk. The Township Board may, by resolution or otherwise, adopt rules and regulations prescribing the information, data and calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.

- (b) In addition to information and data required by rules and regulations of the Township pursuant to Section 4(a) [15.004(a)] above, a cable operator shall provide all information requested by the Township Supervisor in connection with the Township's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. The Township Supervisor may establish deadlines for submission of the requested information and the cable operator shall comply with such deadlines.
- (c) A cable operator has the burden of proving that its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates complies with the Act and the FCC Rules including, without limitation, 47 USC § 543 and 47 CFR §§ 76.922 and 76.923.

**15.005 Proprietary information.**

Sec. 5.

- (a) If this Ordinance, any rules or regulations adopted by the Township pursuant to Section 4(a) [15.004(a)], or any request for information pursuant to Section 4(b) [15.004(b)] requires the production of proprietary information, the cable operator shall produce the information. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the Township determines that the preponderance of the evidence shows that nondisclosure is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. § 552. The Township shall place in a public file for inspection any decision that results in information being withheld. If the cable operator requests confidentiality and the request is denied, (1) where the cable operator is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or (2) the cable operator may seek review within five working days of the denial in any appropriate forum. Release of the information will be stayed pending review.

- (b) Any interested party may file a request to inspect material withheld as proprietary with the Township. The Township shall weigh the policy considerations favoring nondisclosure against the reasons cited for permitting inspection in light of the facts of the particular case. It will then promptly notify the requesting entity and the cable operator that submitted the information as to the disposition of the request. It may grant, deny or condition a request. The requesting party or the cable operator may seek review of the decision by filing an appeal with any appropriate forum. Disclosure will be stayed pending resolution of any appeal.
- (c) The procedures set forth in this section shall be construed as analogous to and consistent with the rules of the FCC regarding requests for confidentiality including, without limitation, 47 CFR §§ 0.459.

**15.006 Public notice; initial review of rates.**

Sec. 6. Upon the filing of ten copies of the schedule of rates or the proposed increase in rates pursuant to Section 4(a) [15.004(a)] above, the Township Clerk shall publish a public notice in a newspaper of general circulation in the Township which shall state that: 1) the filing has been received by the Township Clerk and (except those parts which may be withheld as proprietary) is available for public inspection and copying, and 2) interested parties are encouraged to submit written comments on the filing to the Township Clerk not later than seven days after the public notice is published. The Township Clerk shall give notice to the cable operator of the date, time, and place of the meeting at which the Township Board shall first consider the schedule of rates or the proposed increase. This notice shall be mailed by first-class mail at least three days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the Township Board, then the Township Clerk shall mail a copy of the report by first-class mail to the cable operator at least three days before the meeting at which the Township Board shall first consider the schedule of rates or the proposed increase.

**15.007 Tolling order.**

Sec. 7. After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after 30 days from the date of filing under Section 4(a) [15.004(a)] above unless the Township Board (or other properly authorized body or official) tolls the 30-day deadline pursuant to 47 CFR § 76.933 by issuing a brief written order, by resolution or otherwise, within 30 days of the date of filing. The Township Board may toll the 30 day deadline for an additional 90 days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showings.

**15.008 Public notice; hearing on basic cable service rates following tolling of 30-day deadline.**

Sec. 8. If a written order has been issued pursuant to Section 7 [15.007] and 47 CFR § 76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the Township any additional information required or requested pursuant to Section 4 [15.004] of this Ordinance. In addition, the Township Board shall hold a public hearing to consider the comments of interested parties within the additional 90-day or 150-day period, as the case may be. The Township Clerk shall publish a public notice of the public hearing in a newspaper of general circulation within the Township which shall state: 1) the date, time, and place at which the hearing shall be held, 2) interested parties may appear in person, by agent, or by letter at such hearing to submit comments on or objections to the existing rates or the proposed increase in rates, and 3) copies of the schedule of rates or the proposed increase in rates and related information (except those parts which may be withheld as proprietary) are available for inspection or copying from the office of the Clerk. The public notice shall be published not less than 15 days before the hearing. In addition, the Township Clerk shall mail by first-class mail a copy of the public notice to the cable operator not less than 15 days before the hearing.

**15.009 Staff or consultant report; written response.**

Sec. 9. Following the public hearing, the Township Supervisor shall cause a report to be prepared for the Township Board which shall (based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information) include a recommendation for the decision of the Township Board pursuant to Section 10 [15.010]. The Township Clerk shall mail a copy of the report to the cable operator by first-class mail not less than 20 days before the Township Board acts under Section 10 [15.010]. The cable operator may file a written response to the report with the Township Clerk. If at least ten copies of the response are filed by the cable operator with the Township Clerk within ten days after the report is mailed to the cable operator, the Township Clerk shall forward it to the Township Board.

**15.010 Rate decisions and orders.**

Sec. 10. The Township Board shall issue a written order, by resolution or otherwise, which in whole or in part, approves the existing rates for basic cable service and associated equipment or a proposed increase in such rates, denies the existing rates or proposed increase, orders a rate reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund, or orders other appropriate relief, in accordance with the FCC

Rules. If the Township Board issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 CFR § 76.933. The order specified in this Section shall be issued within 90 days of the tolling order under Section 7 [15.007] in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under Section 7 [15.007] in all cases involving a cost-of-service showing.

**15.011 Refunds; notice.**

Sec. 11. The Township Board may order a refund to subscribers as provided in 47 CFR § 76.942. Before the Township Board orders any refund to subscribers, the Township Clerk shall give at least seven days written notice to the cable operator by first-class mail of the date, time and place at which the Township Board shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent, or by letter at such time for the purpose of submitting comments to the Township Board.

**15.012 Written decisions; public notice.**

Sec. 12. Any order of the Township Board pursuant to Section 10 [15.010] or Section 11 [15.011] shall be in writing, shall be effective upon adoption by the Township Board, and shall be deemed released to the public upon adoption. The Clerk shall publish a public notice of any such written order in a newspaper of general circulation within the Township which shall: 1) summarize the written decision, and 2) state that copies of the text of the written decision are available for inspection or copying from the office of the Clerk. In addition, the Township Clerk shall mail a copy of the text of the written decision to the cable operator by first-class mail.

**15.013 Rules and regulations.**

Sec. 13. In addition to rules promulgated pursuant to Section 4 [15.004], the Township Board may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings (including, without limitation, the conduct of hearings), consistent with the Act and the FCC Rules.

**15.014 Failure to give notice.**

Sec. 14. The failure of the Township Clerk to give the notices or to mail copies of reports as required by this Ordinance shall not invalidate the decisions or proceedings of the Township Board.



**15.015 Additional hearings.**

Sec. 15. In addition to the requirements of this Ordinance, the Township Board may hold additional public hearings upon such reasonable notice as the Township Board, in its sole discretion, shall prescribe.

**15.016 Additional powers.**

Sec. 16. The Township shall possess all powers conferred by the Act, the FCC Rules, the cable operator's franchise, and all other applicable law. The powers exercised pursuant to the Act, the FCC Rules, and this Ordinance shall be in addition to powers conferred by law or otherwise. The Township may take any action not prohibited by the Act and the FCC Rules to protect the public interest in connection with basic cable service rate regulation.

**15.017 Failure to comply; remedies.**

Sec. 17. The Township may pursue any and all legal and equitable remedies against the cable operator (including, without limitation, all remedies provided under a cable operator's franchise with the Township) for failure to comply with the Act, the FCC Rules, any orders or determinations of the Township pursuant to this Ordinance, any requirements of this Ordinance, or any rules or regulations promulgated hereunder. Subject to applicable law, failure to comply with the Act, the FCC Rules, any orders or determinations of the Township pursuant to this Ordinance, any requirements of this Ordinance, or any rules and regulations promulgated hereunder, shall also be sufficient grounds for revocation or denial of a cable operator's franchise.

**15.018 Severability.**

Sec. 18. The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**15.019 Conflicting provisions.**

Sec. 19. In the event of any conflict between this Ordinance and the provisions of any prior ordinance or any franchise, permit, consent agreement or other agreement with a cable operator, then the provisions of this Ordinance shall control.

**15.020 Effective date.**

Sec. 20. This Ordinance shall take effect one day after its publication in a newspaper of general circulation in the Township of Vevay.

16.000

**ALCOHOLIC BEVERAGE LICENSE**

**Ord. No. 38**

**Adopted: July 3, 1996**

An Ordinance to establish procedures and standards for review of applications for sale of alcoholic beverages within the Township of Vevay; to establish an application fee; and to establish procedures and criteria for renewal, non-renewal and revocation of such license, and to provide an effective date hereof.

THE TOWNSHIP OF VEVA, INGHAM COUNTY, MICHIGAN ORDAINS:

16.001

**Application for new license.**

Sec. 1.

- A. *Application.* Applications for license to sell beer and wine or spirits shall be made to the Township Board, in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation, verified by oath or affidavit, and shall contain the following statement and information:
1. The name, age and address of the applicant in the case of an individual; or, in the case of a co-partnership, the person(s) entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and the names and addresses of all persons owning ten percent or more of the stock in such corporation.
  2. The citizenship of the applicant, his place of birth, and, if a naturalized citizen, the time and place of his naturalization.
  3. The character of business of the applicant, and, in the case of a corporation, the object for which it was formed.
  4. The length of time said applicant has been in business of that character, or, in the case of a corporation, the date which its charter was issued.
  5. The location and description of the premises or place of business which is to be operated under such license.
  6. A statement whether applicant has made application for a similar or other license on premises other than described in this application and the disposition of such application.
  7. A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this ordinance or the laws of the State of Michigan.
  8. A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States, or any ordinances of the Township in the conduct of its business.

9. The application shall be accompanied by building and plot plans showing the entire structure and premises and, in particular, the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening and noise control.
  10. The applicant may, in addition to the information listed above, be required to furnish such evidence of financial strength as may be deemed appropriate by the Board, or its designee, demonstrating the ability of the applicant to perform in accordance with the applicant's representations.
- B. *Restrictions on license.* No such license shall be issued:
1. To a person whose license has been previously revoked for cause.
  2. To a person who, at the time of application or renewal of any license issued hereunder, would not be eligible for such license upon a first application.
  3. To a co-partnership, unless all of the members of such co-partnership shall qualify to obtain a license.
  4. To a corporation, if any officer, manager or director thereof, or a stock owner, would not be eligible to receive a license hereunder for any reason.
  5. To a person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee.
  6. To a person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor.
  7. To a person who does not own the premises for which a license is sought, or does not have a lease therefor for the full period for which the license is issued.
  8. For premises where there exists a violation of the applicable Building, Electrical, Mechanical, Plumbing or Fire Codes, applicable Zoning Regulations, or applicable Public Health Regulations.
  9. For premises where it is determined by a majority of the Board that the premises do not or will not, reasonably soon after commencement of operations, have adequate off-street parking, light, refuse disposal facilities, screening, noise or nuisance control.
  10. Where the Board determines, by majority of those voting, that the proposed location is inappropriate, considering the desirability of establishing a location in developed, commercial areas, in preference to isolated, undeveloped areas, the attitude of adjacent residents and property owners, traffic safety, accessibility to the site from abutting roads, capability of abutting roads to accommodate the commercial activity, distance from public or private schools for minors, proximity of



any inconsistent zoning classification and accessibility from primary roads or state highways, or that the issuance of such license is not in the best interest of the Township, as a whole, taking into consideration the need for the issuance of such a license and the limitation, if any, on the number of licenses available within the Township.

- C. *Term of license.* Approval of a license shall be for a period of one year subject to annual renewal by the Township Board upon continued compliance with the regulations of this Ordinance and compliance with the laws of this State. Approval of a license shall be with the understanding that any necessary remodeling or new construction for the use of the license shall be commenced within six months of the action of the Township Board of the Michigan Liquor Control Commission approving such license, whichever last occurs. Any unusual delay in the completion of such remodeling or construction may subject the license to revocation.
- D. *License hearing.* The Township Board shall grant a public hearing upon the license application. Following such hearing, the Board shall submit to the applicant a written statement of its findings and determination. The Board's determination shall be based upon satisfactory compliance with the restrictions set forth in Section 1.B (1) through (10) [16.001.B(1) through (10)] above.
- E. *Application fee.* That at the time said application is submitted, the applicant shall remit to the Township the sum of \$500.00 as a non-refundable application fee. Said fee is estimated to be the amount necessary to fund Township actions and activities in connection with said application, including police background checks, publications, public hearings and administrative costs. Said amount may, by resolution, be modified from time to time as the Township Board shall deem necessary and expedient.

**16.002      Objections to renewal and request for revocation.**

Sec. 2.

- A. *Procedures.* Before filing an objection to renewal or request for revocation of a license with the Michigan Liquor Control Commission, the Township Board shall serve the license holder and person holding a reversionary interest, if known, by first class mail, mailed not less than ten days prior to hearing, with notice of hearing, which notice shall contain the following:
  - 1. Notice of proposed action.
  - 2. Reasons for the proposed action.
  - 3. Date, time and place of hearing.
  - 4. A statement that the licensee may present evidence and testimony and confront adverse witnesses.

- B. *Criteria for initiation of proceedings and non-renewal or revocation.* The Township Board may recommend non-renewal or revocation of a license upon a determination by it that, based upon a preponderance of the evidence presented at hearing, any of the following exist:
1. Violation of any of the restrictions on licenses set forth in Section 1.B(1) through (10) [16.001.B(1) through (10)] above; or
  2. Violation of any restrictions placed upon the utilization of such license and sale of alcoholic beverages by statutes of the State of Michigan pertaining thereto and regulations promulgated thereunder. Such violation shall include, but not necessarily be limited to, hours of operation, age of patrons, sales to visibly intoxicated persons, and ancillary activities conducted upon said premises.
  3. Maintenance of a nuisance upon the premises.
  4. Failure to adequately staff and control the premises.
  5. Excessive noise and disturbance of the peace and tranquility of the neighborhood and environment adjacent to said establishment.
- C. In the case of a license authorizing sale of liquor for consumption off the licensee's premises, the Township Board may request, by resolution, that said license be revoked for violation of the criteria in subsection B, and in addition if, during any calendar year, said licensee is shown by Michigan Liquor Control Commission violation hearings to have sold or furnished alcohol to persons under the age of 21 on at least three separate occasions.

**16.003 Severability.**

Sec. 3. Should any section of this Ordinance be declared void or unconstitutional, such declaration shall not affect the validity of the remaining sections of this Ordinance.

**16.004 Effective date.**

Sec. 4. This Ordinance shall become effective immediately upon its passage and publication.



**17.003 Application for license, contents.**

Amended  
42.01  
9-6-2007

Sec. 3. Application for a license to conduct an outdoor assembly must be made in writing on such forms and in such manner as prescribed by the Township Clerk of Vevay Township, and shall be made at least 60 days prior to the date of the proposed assembly. Each application shall be accompanied by a non-refundable fee of \$250.00. The applicant shall also pay an additional sum as an application fee based upon advance ticket sales of over 1,000 in an amount equal to \$0.10 per person, payable to the Township Clerk, not later than admitted at the time of the assembly or purchase tickets within 24 hours of the time scheduled for the assembly, the licensee shall tabulate the number of persons in attendance, compute the fee as set forth herein, and tender same to the Township Clerk on the next succeeding business day. It is expressly understood by licensee that the bond required by Section 9, subparagraph (m) [17.009(m)] hereof shall be subject to the licensee's performance of the obligations described herein. Said application shall also include the following:

- (a) The name, age, residence, and mailing address of the person making the application.
- (b) In case the applicant for such license is a corporation, partnership, or other association, this information shall be provided for all partners, officers, and directors, or members of such corporation, partnership, or association, and shall be made by the agent who will have principal charge of the outdoor assembly.
- (c) A statement of the kind, character, and type of proposed assembly.
- (d) The address, legal description, and proof of ownership of the site at which the proposed assembly is to be conducted. Where ownership is not vested in the prospective licensee, he shall submit an affidavit from the owner indicating his consent to use the site for the proposed assembly.
- (e) The date or dates and hours during which the proposed assembly is to be conducted.
- (f) Estimate of the maximum number of attendees expected at the assembly for each day it is conducted and a detailed explanation of the evidence of admission which will be used and of the sequential numbering of tickets or other method which will be used for accounting purposes.
- (g) The name of an individual who will constantly be in charge on the premises during the duration of the license, and authorized to receive notice of a revocation of such license.

**17.004 Data required to accompany application for license.**

Sec. 4. Each application shall be accompanied by a detailed explanation, including drawings and diagrams where applicable, of the prospective licensee's plans to provide for the following:

- (a) Police and fire protection.

- (b) Food and water supply facilities.
- (c) Health and sanitation facilities.
- (d) Medical and emergency facilities and services.
- (e) Vehicle access and parking facilities.
- (f) Camping and trailer facilities.
- (g) Illumination facilities.
- (h) Communications facilities.
- (i) Noise control and abatement.
- (j) Facilities for cleanup and waste disposal.
- (k) Insurance and bonding agreement.

**17.005 Investigation; forwarding to Board.**

Sec. 5. Upon receipt of a written application accompanied by the data required in Section 4 [17.004], the Township Clerk shall forward copies of the application to the Township Board, the Ingham County Sheriff, and the Ingham County Health Department. Such officers and officials shall review and investigate any matters relevant to the application and, within 20 days of receipt thereof, shall report their findings and recommendations to the Township Board.

**17.006 Township Board approval; notice.**

Sec. 6. Within 30 days of the filing of the application, the Township Board shall issue, set conditions prerequisite to the issuance of, or deny a license. Where conditions are imposed as prerequisite to the issuance of a license or where a license is denied, within five days of such action notice thereof must be mailed to the applicant by certified mail and, in the case of a denial, the reasons therefor shall be stated in the notice.

**17.007 Grounds for denial of license.**

Sec. 7. A license may be denied if:

- (1) The applicant fails to comply with any or all requirements of this Ordinance or with any or all conditions imposed pursuant hereto or with any other applicable provisions of state or local laws;
- (2) The applicant has knowingly made a false, misleading, or fraudulent statement in the application or in any supporting document.

**17.008 License, content, posting, not transferable.**

Sec. 8. A license shall specify the name and address of the licensee, the kind and location of the assembly, the maximum number of persons permissible, the duration of the license, and any other conditions imposed pursuant to the Ordinance. It shall be posted in a conspicuous place upon the premises of the assembly, and shall not be transferred to any other person or location.



**17.009 Required facilities, conditions, qualifications.**

Amended  
42.01  
9-6-2007

Sec. 9. In approving an application for license, the Township Board shall, at a minimum, require the following:

- (a) *Police and fire protection.* The licensee shall employ at his own expense such police and fire personnel and take such steps as are necessary and sufficient to provide for the adequate security and protection of the maximum number of persons at the assembly and for the preservation of order and protection of property within the site of the assembly.
- (b) *Water facilities.* The licensee shall provide potable water supplied from a public water system or, if not available, then from a well constructed, located and approved in accordance with ACT 294, Public Acts of 1965, and the rules and regulations adopted pursuant thereto, or from a source and delivered and stored in a manner approved by the Ingham County Health Department.
- (c) *Food service.* If food service is made available on the premises, it shall be delivered only through concessions licensed and operated in accordance with the provisions of Act 269, Public Acts of 1968, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law.
- (d) *Restroom facilities.* The licensee shall provide separate enclosed flush-type water closets or, if such flush-type facilities are not available, the Ingham County Health Department, Health Officer, shall permit the use of other facilities which are in compliance with Act 273, Public Acts of 1939, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law.
- (e) *Medical facilities.* The licensee shall employ and provide, at his own expense, such medical personnel and facilities as are necessary and sufficient to provide for the adequate health and protection of the maximum number of persons at the assembly.
- (f) *Liquid waste disposal.* The licensee shall provide for liquid waste disposal in accordance with all rules and regulations pertaining thereto established by the Ingham County Health Department. If liquid waste retention and disposal is dependent upon pumpers and haulers, they shall be licensed in accordance with Act 243, Public Acts of 1951, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law.
- (g) *Solid waste disposal.* The licensee shall provide for solid waste storage on, and removal from, the premises. Storage shall be in approved, covered fly-tight and rodent-proof containers, provided in sufficient quantity to accommodate the number of attendees. The licensee shall enter into an

agreement with a licensed refuse collector, which agreement will assure proper, effective, and frequent removal of solid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.

- (h) *Public swimming.* The licensee shall provide for public swimming on bathing beaches only in accordance with act 218, Public Acts of 1967, and the rules and regulations adopted pursuant thereto, and shall provide for public swimming in swimming pools only in accordance with Act 230, Public Acts of 1966, and the rules and regulations adopted pursuant thereto.
- (i) *Access and traffic control.* The licensee shall provide for ingress to and egress from the premises so as to insure the orderly flow of traffic onto and off of the premises. Access to the premises shall be from a highway or road which is a part of the county system of highways or which is a highway maintained by the State of Michigan. Traffic lanes and other space shall be provided, designated, and kept open for access by ambulance, fire equipment, helicopter, and other emergency vehicles.
- (j) *Parking.* Licensee shall provide an on site parking area sufficient to accommodate all motor vehicles, but in no case shall he provide less than one automobile space for every four attendees.
- (k) *Camping and trailer parking.* A licensee who permits persons to remain on the premises between the hours of 2:00 a.m. and 6:00 a.m. shall provide for camping and trailer parking facilities in accordance with Act 171, Public Acts of 1970, and the rules and regulations adopted pursuant thereto.
- (l) *Insurance.* Before the issuance of a license, the licensee shall obtain public liability insurance with limits of not less than \$300,000.00 and property damage insurance with a limit of not less than \$100,000.00 from a company or companies approved by the Commissioner of Insurance of the State of Michigan, which insurance shall insure liability for death or injury to persons or damage to property which may result from the conduct of the assembly or conduct incident thereto, and which insurance shall remain in full force and effect in the specified amounts for the duration of the license.
- (m) *Bonding.* Before the issuance of a license, the licensee shall obtain, from a corporate bonding company authorized to do business in Michigan, a corporate surety bond in the amount of \$100,000.00 conditioned upon the licensee's faithful compliance with all of the terms and provisions of this Ordinance and all applicable provisions of state or local law, and which shall indemnify the Township of Vevay, its agents, officers, and employees and the Township Board against any and all loss, injury, or damage whatsoever arising out of or in any way connected with the assembly, and which shall indemnify the owners of property adjoining the assembly site for any costs attributable to cleaning up and/or removing debris, trash, or other waste resultant from the assembly.
- (n) *Sound production equipment.* Sound producing equipment, including, but not limited to, amplifiers, speakers, public address systems, radios, phono-

graphs, musical instruments, and other sound enhancing devices, shall not be operated on the premises of the assembly so as to be unreasonably loud or raucous, or so as to be a nuisance or disturbance to the peace and tranquility of the citizens of Vevay Township.

- (o) *Fencing.* The licensee shall erect a fence completely enclosing the site, of sufficient height and strength as will preclude persons in excess of the maximum permissible attendees from gaining access and which will have sufficient gates properly located so as to provide ready and safe ingress and egress.
- (p) *Illumination.* If any portion of the activity will be conducted between sundown and sunrise, the licensee shall provide electrical illumination of all occupied areas sufficient to insure the safety and comfort of all attendees. Said lighting shall be approved by the Ingham County Sheriff Department or Vevay Township Supervisor.
- (q) *Alcoholic beverages.* Alcoholic beverages, including, but not limited to, beer, wine and liquor, shall not be sold, dispensed, supplied or given away by licensee or persons under licensee's control or in privity with licensee on the premises licensed hereunder, unless such activity has been approved in advance by the Michigan Liquor Control Commission and unless such activity is conducted in accordance with all laws of the State of Michigan.
- (r) *Maximum number of attendees.* The licensee shall not admit any persons in excess of the maximum number of attendees estimated by licensee in the license application.
- (s) *Miscellaneous.* Prior to the issuance of a license, the Township Board may impose any other conditions reasonably calculated to protect the health, safety, welfare, and property of attendees or of citizens of Vevay Township.

**17.010 Revocation of license.**

Sec. 10. The Township Board may revoke a license whenever the licensee, his employee or agent fails, neglects, or refuses to fully comply with any and all provisions and requirements set forth herein or with any and all provisions, regulations, ordinances, statutes, or other laws incorporated herein by reference.

**17.011 Severability.**

Sec. 11. If any portion of this Ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portion or application of this Ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the court to be inoperable, and, to this end, this Ordinance is declared to be severable.

**17.012 Effective date.**

Sec. 12. This Ordinance shall become effective 30 days from and after its adoption and publication as required by law.





VEVAY TOWNSHIP  
INGHAM COUNTY, MICHIGAN

ORDINANCE NO. 42.01

ADOPTED:

September 6, 2007

PREAMBLE

17.000

An ordinance to amend ordinance no. 42, section 3, to provide for waiver of application fees and performance bond requirements for non-profit organizations at the discretion of the board of trustees; to amend section 9 to require documentation related to the provision of certain application requirements; and to provide an effective date hereof.

VEVAY TOWNSHIP, INGHAM COUNTY, MICHIGAN, ORDAINS:

17.003

**Section 1. Amendment of Section, "Application for License; Contents" of Vevay Township Ordinance No. 42. Section 3, "Application for License; Contents" of Vevay Township Ordinance No. 42 shall be and is hereby amended to read as follows:**

***Section 3. Application for License; Contents.***

Application for a license to conduct an outdoor assembly must be made in writing on such forms and in such manner as prescribed by the Township Clerk of Vevay Township, and shall be made at least sixty (60) days prior to the date of the proposed assembly. Each application shall be accompanied by a non-refundable fee of Two Hundred Fifty Dollars (\$250.00). The applicant shall also pay an additional sum as an application fee based upon advance ticket sales of over one thousand (\$1,000) in an amount equal to ten cents (5.10) per person, payable to the Township Clerk, not later than twenty-four (24) hours prior to the scheduled assembly. In the event that persons are admitted at the time of the assembly or purchase tickets within 24 hours of the time scheduled for the assembly, the licensee shall tabulate the number of persons in attendance, compute the fee as set forth herein, and tender same to the Township Clerk on the next succeeding business day. It is expressly understood by licensee that the bond required by Section 9, subparagraph (m) hereof shall be subject to the licensee's performance of the obligations described herein. **The Township Board of Trustees may waive, for non-profit organizations, the performance bond required by Section 9 of this Ordinance, and the application fees required by this Section.** Said application shall also include the following:

- a) The name, age, residence, and mailing address of the person making the application.
- b) In case the applicant for such license is a corporation, partnership, or other association, this information shall be provided for all partners, officers, and directors, or members of such corporation, partnership, or association, and shall be made by the agent who will have principal charge of the outdoor assembly.
- c) A statement of the kind, character, and type of proposed assembly.
- d) The address, legal description, and proof of ownership of the site at which the proposed assembly is to be conducted. Where ownership is not vested in the prospective licensee, he shall submit an affidavit from the owner indicating his consent to use the site for the proposed assembly.
- e) The date or dates and hours during which the proposed assembly is to be conducted.
- f) Estimate of the maximum number of attendees expected at the assembly for each day it is conducted and a detailed explanation of the evidence of admission which will be used and of the sequential numbering of tickets or other method which will be used for accounting purposes.
- g) The name of an individual who will constantly be in charge on the premises during the duration of the license, and authorized to receive notice of a revocation of such license.

17.009

**Section 2. Amendment of Section 9, "Required Facilities, Conditions, Qualifications" of Vevay Township Ordinance No. 42. Section 9, "Required Facilities, Conditions, Qualifications" of Vevay Township Ordinance No. 42 shall be and is hereby amended to read as follows:**

**Section 9. Required Facilities, Conditions, Qualifications.**

In approving an application for license, the Township Board shall, at a minimum, require the following, supported by licenses, letters of authority or other documentation provided by the applicant or the entity approving or providing:

**Police and Fire Protection.** The licensee shall employ at his own expense such police and fire personnel and take such steps as are necessary and sufficient to provide for the adequate security and protection of the maximum number of persons at the assembly and for the preservation of order and protection of property within the site of the assembly.

- b) ***Water Facilities.*** The licensee shall provide potable water supplied from a public water system or, if not available, then from a well constructed, located and approved in accordance with Act 294, Public Acts of 1965, and the rules and regulations adopted pursuant thereto, or from a source and delivered and stored in a manner approved by the Ingham County Health Department.
- c) ***Food Service.*** If food service is made available on the premises, it shall be delivered only through concessions licensed and operated in accordance with the provisions of Act 269, Public Acts of 1968, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law.
- d) ***Restroom Facilities.*** The licensee shall provide separate enclosed flush-type water closets or, if such flush-type facilities are not available, the Ingham County Health Department, Health Officer, shall permit the use of other facilities which are in compliance with Act 273, Public Acts of 1939, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law.
- e) ***Medical Facilities.*** The licensee shall employ and provide, at his own expense, such medical personnel and facilities as are necessary and sufficient to provide for the adequate health and protection of the maximum number of persons at the assembly.
- f) ***Liquid Waste Disposal.*** The licensee shall provide for liquid waste disposal in accordance with all rules and regulations pertaining thereto established by the Ingham County Health Department. If liquid waste retention and disposal is dependent upon pumpers and haulers, they shall be licensed in accordance with Act 243, Public Acts of 1951, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law.
- g) ***Solid Waste Disposal.*** The licensee shall provide for solid waste storage on, and removal from, the premises. Storage shall be in approved, covered fly-tight and rodent-proof containers, provided in sufficient quantity to accommodate the number of attendees. The licensee shall enter into an agreement with a licensed refuse collector, which agreement will assure proper, effective, and frequent removal of solid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.

g)

- h) **Public Swimming.** The licensee shall provide for public swimming on bathing beaches only in accordance with act 218, Public Acts of 1967, and the rules and regulations adopted pursuant thereto, and shall provide for public swimming in swimming pools only in accordance with Act 230, Public Acts of 1966, and the rules and regulations adopted pursuant thereto.
- i) **Access and Traffic Control.** The licensee shall provide for ingress to and egress from the premises so as to insure the orderly flow of traffic onto and off of the premises. Access to the premises shall be from a highway or road which is a part of the county system of highways or which is a highway maintained by the State of Michigan. Traffic lanes and other space shall be provided, designated, and kept open for access by ambulance, fire equipment, helicopter, and other emergency vehicles.
- j) **Parking.** Licensee shall provide an onsite parking area sufficient to accommodate all motor vehicles, but in no case shall he provide less than one (1) automobile space for every four (4) attendees.
- k) **Camping and Trailer Parking.** A licensee who permits persons to remain on the premises between the hours of 2:00 a.m. and 6:00 a.m. shall provide for camping and trailer parking facilities in accordance with Act 171, Public Acts of 1970, and the rules and regulations adopted pursuant thereto.
- (l) **Insurance.** Before the issuance of a license, the licensee shall obtain public liability insurance with limits of not less than Three Hundred Thousand Dollars (\$300,000.00) and property damage insurance with a limit of not less than One Hundred Thousand Dollars (\$100,000.00) from a company or companies approved by the Commissioner of Insurance of the State of Michigan, which insurance shall insure liability for death or injury to persons or damage to property which may result from the conduct of the assembly or conduct incident thereto, and which insurance shall remain in full force and effect in the specified amounts for the duration of the license.
- (m) **Bonding.** Before the issuance of a license, the licensee shall obtain, from a corporate bonding company authorized to do business in Michigan, a corporate surety bond in the amount of One Hundred Thousand Dollars (\$100,000.00) conditioned upon the licensee's faithful compliance with all of the terms and provisions of this Ordinance and all applicable provisions of state or local law, and which shall indemnify the Township of Vevay, its agents, officers, and employees and the Township Board against any and all loss, injury, or damage whatsoever arising out of or in any way connected with the

assembly, and which shall indemnify the owners of property adjoining the assembly site for any costs attributable to cleaning up and/or removing debris, trash, or other waste resultant from the assembly.

- n) ***Sound Production Equipment.*** Sound producing equipment, including, but not limited to, amplifiers, speakers, public address systems, radios, phonographs, musical instruments, and other sound enhancing devices, shall not be operated on the premises of the assembly so as to be unreasonably loud or raucous, or so as to be a nuisance or disturbance to the peace and tranquility of the citizens of Vevay Township.
- o) ***Fencing.*** The licensee shall erect a fence completely enclosing the site, of sufficient height and strength as will preclude persons in excess of the maximum permissible attendees from gaining access and which will have sufficient gates properly located so as to provide ready and safe ingress and egress.
- p) ***Illumination.*** If any portion of the activity will be conducted between sundown and sunrise, the licensee shall provide electrical illumination of all occupied areas sufficient to insure the safety and comfort of all attendees. Said lighting shall be approved by the Ingham County Sheriff Department or Vevay Township Supervisor.
- q) ***Alcoholic Beverages.*** Alcoholic beverages, including, but not limited to, beer, wine and liquor, shall not be sold, dispensed, supplied or given away by licensee or persons under licensee's control or in privity with licensee on the premises licensed hereunder, unless such activity has been approved in advance by the Michigan Liquor Control Commission and unless such activity is conducted in accordance with all laws of the State of Michigan.
- r) ***Maximum Number of Attendees.*** The licensee shall not admit any persons in excess of the maximum number of attendees estimated by licensee in the license application.
- s) ***Miscellaneous.*** Prior to the issuance of a license, the Township Board may impose any other condition(s) reasonably calculated to protect the health, safety, welfare, and property of attendees or of citizens of Vevay Township.

17.000

### ***Section 3. Effective Date.***

This Ordinance shall become effective thirty (30) days from and after its adoption and publication as required by law.





Part 18

18.000

**MESSAGE REGULATION**

**Ord. No. 34**

**Adopted: July 1, 1991**

An Ordinance to provide for the licensing and regulation of health, message, bath or similar establishments and the practice of massage and/or massage therapy within the Township; to provide penalties and remedies for violations of this ordinance; to adopt a savings clause; and to provide an effective date thereof.

THE TOWNSHIP OF VEVAY, INGHAM COUNTY, MICHIGAN ORDAINS:

18.001

**Short title.**

Sec. 1. This Ordinance shall be known and cited as the "Massage Regulation Ordinance," and may be cited as such and will be referred to herein as the "Massage Ordinance" or the "Ordinance."

18.002

**Purpose.**

Sec. 2. The provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare of the people of the Township of Vevay receiving services from health, massage, bath or similar establishments.

18.003

**Definitions.**

Sec. 3. For the purpose of this Ordinance, the following words and phrases shall be constructed to have the meanings as stated, unless it is apparent from the context that a different meaning is intended:

- (A) "*Health club*"—Any establishment which offers services in the form of massages, baths, exercises or similar services, singly or in combination, to club members or to the public for a charge. "*Health club*" does not include:
  - (1) Hospitals, nursing homes or medical clinics, or the office or quarters of a state licensed physician, surgeon, chiropractor or osteopath;
  - (2) Barber shops and beauty parlors.
- (B) "*Massage*" or "*practice of massage*"—Any method of applying pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the body, for remedial or hygienic or other purposes, with the hands, with or without the aid of any mechanical, magnetic or electrical apparatus or appliances, with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations.

- (C) "*Massage establishment*"—Any building, room or fixed location where any person engages in, or permits to be engaged in, any conduct constituting the practice of massage. The terms "*massage establishment*" and "*health club*" may be used interchangeably, unless otherwise noted.
- (D) "*Massagist*"—Any person who engages or offers to engage in the practice of massage, except those persons specifically excluded from this Ordinance in Section 22 [18.022].
- (E) "*Operator*"—The operator, manager, director, supervisor, managing partner, president, or chairperson of the board of a massage establishment, regardless of whether such person is also an owner of a massage establishment.
- (F) "*Owner*"—The owner, partners, shareholders, limited partners or proprietors of a massage establishment, regardless of whether such person is also an operator of the establishment.
- (G) "*Person*"—Any individual, firm, corporation, partnership, association or other form of business organization or group.
- (H) "*Sexual and genital area*"—The genital, pubic area or anus of any person, or the breasts of a female.
- (I) "*School of massage*"—Any school or institution of learning, other than a correspondence school or a school located outside the United States of America, which has for its purpose the teaching of the theory, method, profession or practice of massage, and which fulfills both the following requirements:
  - (1) It is recognized by the Michigan State Board of Massage, or is licensed by the Michigan Department of Education, or it is certified by the American Massage Therapy Association or the International Myomasethics Federation;
  - (2) It employs one or more competent licensed massagists as instructor(s), which has minimum requirements for a continuous course of study and training consisting of study in physiology, anatomy, massage theory, hydrotherapy, hygiene, ethics and practical massage, and which requires a minimum of 500 hours of instruction and practical training of its students prior to graduation.

**18.004 License or permit required.**

Sec. 4.

- (A) No person shall practice, engage in, operate, conduct or maintain any health club or massage establishment within the Township without first obtaining a permit from the Township.
- (B) No person shall employ as a massagist any person who does not hold a current, unrevoked massage license as required by this Ordinance.

- (C) No person shall engage in, advertise, solicit or offer to engage in the practice of massage for compensation without obtaining and maintaining in effect a massage license as required by this Ordinance, unless otherwise excluded from this Section by the provisions of this Ordinance.

**18.005 Application for health club or massage establishment permit.**

Sec. 5. The Township Board, or the Township Clerk if the Township Board delegates such authority, shall issue a non-transferable permit for a health club or massage establishment only if the establishment's owner as applicant complies with all of the following minimum requirements:

- (A) An application for a permit required by this Ordinance, on a form supplied by the Township Clerk, shall be filed with the Township Clerk. Such application shall be accompanied by plans and specifications of the quarters showing such details as entrances, partitions, windows, openings, ventilation, plumbing fixtures and water supply.
- (B) The establishment shall comply in all respects with the Township's ordinances including the building code, the housing code, if any, the state plumbing code, the fire code, the state electrical code, and the Township Zoning Ordinance, as are currently in force and as may be amended.
- (C) An application to obtain a permit to operate a massage establishment shall be accompanied by an investigation fee in an amount established by resolution of the Township Board, no part of which shall be refundable.
- (D) After an application for a permit has been fully completed by the applicant and all necessary documentation has been attached and the investigation fee has been paid, the Township Clerk shall refer the application and accompanying documents to the Township Supervisor, or such other person as the Township may designate, for an investigation, and, as may be appropriate, to the Ingham County or Township's Building Department, Planning Department, Zoning Department, Fire Department and the appropriate Health Department for review and recommendation.

**18.006 Application for massagist license.**

Sec. 6. The Township Board, or the Township Clerk, if the Township Board delegates such authority, shall issue a non-transferable license for a massagist only if the person applying for the license complies with all of the following minimum requirements:

- (A) An application, on a form supplied by the Township, for a license required by this Ordinance shall be filed with the Township Clerk.
- (B) Submission of a non-refundable application investigation fee, as established by resolution of the Township Board.
- (C) After an application for a license has been fully completed by the applicant and all necessary documentation has been attached and the investigation

fee has been paid, the Township Clerk shall refer the application and accompanying documents to the Township's chief law enforcement officer for an investigation, for review and recommendation.

**18.007 Application; contents.**

Sec. 7. An applicant for a license or a permit required in this Ordinance shall submit the following information:

- (A) The applicant's present full name and any past names or aliases used, date of birth, and current resident address.
- (B) The two previous resident addresses immediately prior to the present address of the applicant, including the dates that the applicant resided at each address.
- (C) A description of the service to be provided.
- (D) In an application for a massagist license, proof that the applicant:
  - (1) Successfully completed a comprehensive course in the study of massage therapy at a school of massage, either established by legislative enactments by the State or approved by the State Board of Education or the American Massage Therapy Association or the International Myomassethics Federation, as evidenced by a certificate of completion, diploma, certified transcript, degree or other confirming documentation satisfactory to the Township Board; and
  - (2) Successfully completed comprehensive courses of study in anatomy, physiology, massage practice and theory that consists of a minimum of 500 hours of instruction and practical training.
  - (3) Alternately, if the applicant has not completed the training and education required in subsections (1) and (2) above, the applicant may establish that he or she has successfully completed the examination offered by the American Massage Therapy Association or the International Myomassethics Federation for membership therein, and who is currently a member in good standing.
- (E) In an application for a massage establishment permit, the name(s), date(s) of birth, social security number(s) and resident address(es) of the person(s) who will operate or manage the establishment on a daily basis shall be set forth. The permittee shall inform the Township as soon as practicable of a change in operators or managers of the establishment.
- (F) In an applicant for a massage establishment permit, a list of physical equipment to be located on the premises which will be used in the practice of massage.
- (G) The name, location and mailing address of the applicant's proposed work place.
- (H) If the applicant is a corporation, a copy of the articles of incorporation, certificate of good standing or the authorization to do business in the State of Michigan; the by-laws of the corporation; and a complete list, including

names, dates of birth and residence addresses, of each of the officers and directors of the corporation and each stockholder owning more than ten percent of the corporation shares.

- (I) If the applicant is a partnership, the names and residence addresses of each of the partners, including limited partners.
- (J) Written proof that the applicant is at least 18 years of age. Sufficient written proof of the applicant's age may include a birth certificate, sworn affidavits, etc.
- (K) The individual applicant's height, weight, sex, color of eyes and color of hair.
- (L) One portrait photograph at least two inches by two inches taken within the previous 60 days.
- (M) A complete set of the applicant's fingerprints, which shall be taken by the Ingham County Sheriff's Department or its agent.
- (N) If the applicant is not a natural or naturalized citizen of the United States of America, a statement of the applicant's country of citizenship and written proof that the applicant has federal authorization to live and work in this country.
- (O) The business, occupation or employment history of the applicant for five years immediately preceding the date of the application. "Employment history," as used herein, shall include the names, addresses and telephone numbers of previous employers, identifying the owner of each such place of employment and immediate supervisor.
- (P) A certificate from a medical or osteopathic doctor stating that the applicant has, within the prior 30 days, been examined and found to be in good physical health and free from any contagious or communicable disease which is likely to be communicated during the administration of a massage.
- (Q) The history of the applicant in the operation of a massage establishment or similar business, or occupation as a massagist, including but not limited to whether or not such a person has had a similar permit or license to practice massage or to operate a massage establishment revoked or suspended and the reason therefore, and the applicant's business activity or occupation subsequent to such action of suspension or revocation. The applicant shall further affirmatively indicate whether he or she has, within the previous five years, been denied a permit or license in another municipality or state to operate a massage establishment or similar business, or to work as a massagist.
- (R) All criminal convictions, including misdemeanors, other than traffic violations within the previous ten years.
- (S) The following additional information shall be contained in the application for a permit to conduct a health club or massage establishment:
  - (1) The number of employees, names and qualifications of all persons who are intended to give massages in the proposed establishment;



- (2) The names and addresses of any and all schools of massage attended by the operator/applicant and the dates attended;
  - (3) A certified copy of a diploma or certificate of graduation from any and all schools of massage;
  - (4) A statement of whether the applicant has been convicted of any felony or crime of moral turpitude, as those terms are used in the Michigan Compiled Laws, during the previous ten years; provided, however, that an applicant convicted of a non-sex related offense more than two years prior to the date of the application may request a special hearing before the Township Board in order to show his or her rehabilitation from the crime.
- (T) The applicant shall acknowledge that he or she understands that providing knowingly false information shall be justification for denial of a license or permit application, or for revocation of an issued license or permit.
  - (U) The applicant shall authorize for release to the Township all personal, confidential or privileged information, including criminal, health and educational records, bearing on the applicant's qualifications or fitness for a license or permit.
  - (V) The application shall be signed and sworn to by the applicant.
  - (W) Such other identification and information deemed appropriate by the Township in connection with its verification of the applicant's representation.

**18.008      Application review procedures; right to appeal; non-transferability of permit or license.**

Sec. 8.

- (A) The Ingham County Sheriff's Department, or such other agency as the Township may direct, shall have a reasonable time in which to investigate the application and the background of the applicant. Such officer shall recommend denial of an application for a license or permit if the character, reputation, moral integrity, or physical or mental condition of the applicant, or his or her employees, is found to be contrary to the public health, safety, morals or general welfare. The officer's recommendation shall be based upon appropriate facts reasonably related to the practice of massage and the applicant's fitness to practice massage, and which reflects the applicant's propensity to serve the public in a fair, honest, law abiding and open manner.
- (B) In making his determination, the officer shall consider:
  - (1) All criminal convictions of the applicant, the reasons therefore and the demeanor of the applicant subsequent to his or her release;
  - (2) Whether the applicant has been convicted of sexual misconduct, prostitution or pandering, narcotics violations, including possession,

- use or sale of controlled substances, dangerous weapons violations, obscenity law violations, theft, burglary, robbery, fraud, or crimes involving violent or assaultive behavior, or similar offenses.
- (3) Whether the applicant has knowingly made any false, misleading or fraudulent statement in the application;
  - (4) Whether the applicant, in previously operating in the Township or any other municipality or state under a similar license or permit, has had such license or permit revoked or suspended; the reasons therefore; and the demeanor of the applicant subsequent to such action.
- (C) The County or Township's Building Official, Planning and Zoning personnel, Fire Department, as may be appropriate, and the County Health Department, or its designee, shall inspect the premises proposed to be devoted to the massage establishment and shall make, within a reasonable time, separate recommendations to the Township Clerk concerning compliance with the requirements of this Ordinance and all applicable township, county or state laws.
  - (D) In the event each of the foregoing persons and the sheriff make a favorable recommendation to the Township Clerk's office, and if all requirements for the issuance of a permit or license have been met, the Township Board, or the Township Clerk if the Township Board delegates such authority, shall forthwith issue such a permit or license.
  - (E) Any person denied a permit or license by the Township Board or Clerk, pursuant to these provisions may appeal to the Township Board in writing, stating the reasons why the permit or license should be granted. The Township Board may grant or deny the permit or license after a public hearing, and such decision shall be final. The Township Board may elect on its own motion to review any determination of the Township Clerk granting or denying a license.
  - (F) All permits and licenses which are issued are non-transferable; provided, however, a change of location of a massage establishment may be permitted pursuant to the provisions of this Ordinance.

**18.009      Revocation of permit or license.**

Sec. 9.

- (A) Upon the filing of a sworn statement by any person that a massagist or massage establishment or the owner or operator of a massage establishment has violated any provision of this Ordinance, or has committed a felony or crime of moral turpitude, or that such a crime has occurred on the establishment's premises, the Township Board shall be empowered to immediately suspend the license or permit of any massagist and/or massage establishment.

- (B) Within 14 days of an immediate suspension, the massagist or owner or operator of a massage establishment, shall be entitled to a full administrative hearing before the Township Board to determine the alleged violations.
- (C) If the Township Board does not immediately suspend a permit or license, the Board may convene a full administrative hearing within a reasonable time to determine the validity of the alleged violations.
- (D) The license holder shall be entitled to not less than five days notice of the hearing, and the rights to present evidence and to cross-examine witnesses.
- (E) After the hearing, if the Township Board finds that the alleged violations have been proved by a preponderance of the evidence, it may limit, suspend or revoke the license or permit.
- (F) A summary suspension of a license or permit shall not be a prerequisite to the commencement of the administrative hearing authorized in this section, and an administrative revocation of a permit or license is not a prerequisite to the Township seeking all available legal or equitable remedies provided in Section 23 [18.023] of this Ordinance.

**18.010 Permit and license expiration and renewal.**

Sec. 10.

- (A) Permits and licenses issued under this Ordinance shall be renewed annually and shall, in each case, expire on December 31 of each year, except that permits and licenses initially issued during one year shall expire on December 31 of the next succeeding year.
- (B) An application for a renewal of a permit or license shall be filed with the Township Clerk at least 30 days before the current permit or license held by the applicant expires.
- (C) An application for a renewal of a permit or license shall be accompanied by payment of a non-refundable renewal application fee in an amount established by resolution of the Township Board.
- (D) The renewal application shall be on a form supplied by the Township and shall include a sworn affidavit from the applicant that the information provided in the original application, or a previous renewal application, is currently correct, or indicates any changes necessary.
- (E) In addition to the affidavit, a signed statement from a medical or osteopathic doctor must be attached, stating that the applicant has, within the prior 30 days, been examined and found to be free from any contagious or communicable disease which is likely to be communicated during the administration of a massage.
- (F) The Township Clerk shall refer the renewal application and attachments to the officers and departments listed in Section 8 [18.008], for review and recommendation. A permit or license renewal shall be reviewed if all requirements in this Ordinance have been met.

**18.011 Physical plant and equipment standards.**

Sec. 11. No permit to conduct a massage establishment shall be issued unless an inspection by the Township reveals that the establishment complies with each of the following minimum requirements:

- (A) A recognizable and readable sign shall, upon issuance of a permit and certificate of occupancy, be posted at the main entrance identifying the establishment as a massage establishment, provided that all such signs comply with sign requirements in the existing Township Ordinances, or as amended.
- (B) Minimum lighting shall be provided in accordance with the Township Building and Electrical Codes.
- (C) Minimum ventilation shall be provided in accordance with the Township Building Code.
- (D) Adequate equipment for disinfecting and sterilizing apparatus used in performing the acts of massage shall be provided.
- (E) Closed cabinets shall be provided for the storage of clean linen, sheets and towels.
- (F) No part of the building in which the massage establishment is located shall serve as a residence or sleeping quarters for any persons or animals.
- (G) Adequate bathing, dressing, locker and toilet facilities shall be provided for patrons. A minimum of one tub or shower, one dressing room containing a separate locker with lock for each patron to be served, as well as a minimum of one toilet and wash basin, shall be provided for every massage establishment; provided, however, that if male and female patrons are to be served simultaneously at the establishment, separate bathing areas, massage room(s), dressing and toilet facilities shall be provided for male and female patrons.
- (H) Each room of the massage establishment in which any person engages in the practice of massage shall contain a sink or lavatory with hot and cold running water.
- (I) No massage shall be performed in a massage establishment in a private room which is completely closed to the view of other persons. Each room in which any person will engage in the practice of massage shall have an unobstructed opening or window of a size not less than six inches by ten inches and which is located between four to six feet above the floor, from which the area of the room in which the massage is to be administered is clearly visible.
- (J) There shall be no locks on any door to any room in which any person engages in the practice of massage.
- (K) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms,

steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and/or showers shall be thoroughly cleaned after each use.

- (L) Clean and sanitary towels and linens shall be provided for each patron of the establishment. No common use of towels or linens shall be permitted.
- (M) A minimum of one separate wash basin shall be provided in each massage establishment for the use of employees of any such establishment. The basin shall provide soap or detergent, hot and cold running water at all times, and sanitary towels placed in permanently installed dispensers.

### **18.012 Sanitation and hygiene.**

#### Sec. 12.

- (A) At all times, all massagists and all other employees of a massage establishment shall keep themselves personally clean, and shall wear clean, non-transparent outer garments that completely cover the legs, torso, and sexual and genital areas.
- (B) No owner or operator of a health club or massage establishment shall knowingly serve any patron infected with any fungus or other skin infection, nor shall service be performed on any patron exhibiting skin inflammation or eruptions. However, a duly licensed physician may certify that such a person may be safely served and prescribed the conditions thereof.
- (C) Personnel of the health club or massage establishment shall wash their hands in hot, running water, using a soap or disinfectant, before giving any service or treatment to each separate patron.
- (D) All towels, tissues, sheets or other coverings shall be used singularly for each patron and massagist and discarded for laundry or disposal immediately after use.
- (E) Non-disposable tools of the trade shall be disinfected after use upon one patron.

### **18.013 Inspections; right of entry.**

#### Sec. 13.

- (A) Each person who applies for a permit or license under this Ordinance is deemed to have thereby given his or her implied consent for Township representatives to enter and inspect the premises, as specified by this Section.
- (B) The Ingham County Sheriff, or any of the Sheriff's deputies, Fire Marshall, Director of Building, Planning and Zoning, a Township Code Enforcement Officer, local health department official, or their duly authorized subordinates, may enter upon any premises for which a permit or license is required



under this Ordinance, at any reasonable time, for the purpose of inspection, examination of records, and determination of compliance with the requirements of this Ordinance.

- (C) Inspections for compliance with this or any Township Ordinance may be made without prior notice to the owner or operator of the massage establishment or the massagist licensee.
- (D) Any licensee or permittee who refuses the right of entry to any such persons, or who hinders such inspection, shall forfeit the license or permit issued.

**18.014 Place and time for the practice of massage.**

Sec. 14.

- (A) No person shall engage in or allow or permit a person to engage in the practice of massage within the Township except on the premises of a massage establishment for which a valid permit has been issued pursuant to this Ordinance.
- (B) No person shall engage in the practice of massage, nor shall any massage establishment be open for business or engage in the business of the practice of massage except between the hours of 8:00 a.m. and 8:00 p.m.
- (C) A massage establishment must be located on premises zoned for business or commercial use. No person may engage in the practice of massage in a residential district.

**18.015 Regulation of the practice of massage.**

Sec. 15.

- (A) The owner and operator of a massage establishment for which a permit has been granted shall display the permit in a conspicuous place at all times so that it may be readily seen by persons entering the premises.
- (B) Every person to whom a license has been issued to engage in the practice of massage shall conspicuously display the license at all times in the room or area where he or she is engaging in the practice of massage.
- (C) Every massage establishment shall maintain permanent records on the premises showing the name, address, telephone number and signature of every person receiving massage services, the date and time of the massage, the type of massage services provided, the fee paid therefore and the name of the person providing the massage services. This record shall be made available, upon demand and without prior notice, to any Township official inspecting the premises pursuant to Section 13 [18.013] of this Ordinance.
- (D) The sexual and genital areas of patrons and customers must be covered by towels, cloths or undergarments at all times when in the presence of any massagist or employee of a massage establishment.
- (E) Oils, creams, lotions or other preparations used in the practice of massage shall be kept in clean, closed containers or cabinets.



**18.016 Liquor and controlled substances prohibited.**

## Sec. 16.

- (A) No person shall possess or sell any liquor or controlled substance, as that term is defined by MCL 333.7104(2), while on the premises of any massage establishment.
- (B) No person shall engage in the practice of massage with a person who is visibly intoxicated by or under the influence of any liquor or controlled substance.
- (C) No person shall engage in the practice of massage while intoxicated or under the influence of any liquor or controlled substance.

**18.017 Unlawful activities.**

## Sec. 17.

- (A) It shall be unlawful for any person in a massage establishment to knowingly touch, fondle or massage, with any part of his or her body, the sexual or genital area of another person.
- (B) It shall be unlawful for any person in a massage establishment to solicit, offer or agree to perform any act involving the touching, fondling or massaging, with any part of his or her body, the sexual or genital area of another person.
- (C) It shall be unlawful for any person to massage any other person, or give or administer any bath, or to give or to administer any of the other things mentioned in this Ordinance for illegal purposes, or for monetary gain or profit to have any contact with another person's sexual or genital area, breasts, or buttocks in a manner intended to arouse, appeal to or gratify a person's lust, passions or sexual desire.
- (D) Any violation of this provision shall be deemed grounds for the revocation of a license or permit.

**18.018 Patronage of massage establishment by minors.**

Sec. 18. No licensed massagist shall massage or treat any person under the age of 18 upon the premises of a massage establishment, except upon written order by a licensed medical doctor, doctor of osteopathic medicine or physical therapist, such order being dated and in the possession of the massagist giving the massage or treatment. If the person under the age of 18 is accompanied by a parent or legal guardian during the massage or treatment, this provision shall not apply. Otherwise, no person under the age of 18 years old shall enter or remain, nor shall any owner or operator allow such person to enter or remain, on the premises of a massage establishment at any time.

**18.019 Advertising.**

Sec. 19. No massage establishment or massagist granted a license or a permit under this Ordinance shall place, publish or distribute, or cause to be placed, published or distributed, any advertisement, picture or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any massage service.

**18.020 Sale or transfer.**

Sec. 20. Upon the sale or transfer of any interest in a massage establishment, the license shall be null and void. A new application shall be made by any person desiring to own or operate the massage establishment. Any sale or transfer of any interest in an existing massage establishment or any application for an extension or expansion of the building or other place of business of the massage establishment shall require inspection and shall require compliance with all applicable provisions of this Ordinance. A fee in an amount to be established by resolution of the Township Board shall be paid for each application involving extension or expansion of the building or other place of business of the massage establishment.

**18.021 Applicability of regulation to existing business.**

Sec. 21. This Ordinance shall be applicable to all persons and businesses described in this Ordinance, whether the described activities were established before or after the effective date of this Ordinance and including any person or persons whose application is presently under consideration or investigation by the Township. However, those businesses operating prior to the date of adoption of this Ordinance will have a 60-day grace period from the date of adoption within which to comply with all the conditions and requirements of this Ordinance.

**18.022 Exclusions.**

Sec. 22. The provisions of this Ordinance shall not apply to the following persons while engaged in the personal performance of the duties of their respective professions:

- (A) Any medical doctor, doctor of osteopathic medicine, doctor or chiropractic medicine, physical therapist, psychiatrist, psychologist, clinical social worker or family counselor who is licensed to practice his or her respective profession in the State of Michigan, or who is permitted to practice temporarily under the auspices of an association or establishment duly licensed in the State of Michigan.
- (B) Nurses who are registered under the laws of this State and who administer a massage in the normal course of his or her nursing duties.
- (C) A barber, manicurist, beautician or cosmetologist who is duly licensed under the laws of this State, or another state within the United States, or the

Federal Government, and who practices within the established limits of his or her license, and who administers a massage in the normal course of his or her duties; provided, however, that such barber, manicurists, beautician or cosmetologist shall perform a massage only upon the face, hands, feet or neck of another person, and is performing the practice of massage for beautifying or cosmetic purposes only.

- (D) Any athletic trainer who has been certified by the National Athletic Trainers Association or who is employed by one of the public schools or state approved non-public schools, as those terms are used in MCL 380.1561, and who is performing massage on the school premises.
- (E) A person engaged in the practice of massage on his spouse or relative within the first degree of consanguinity in either of their residences.

**18.023 Penalties.**

Sec. 23.

- (A) Any person violating or neglecting or refusing to comply with any provision of this Ordinance shall, upon conviction, be deemed guilty of a misdemeanor and shall be punishable by imprisonment of up to 90 days and/or the imposition of a fine up to \$500.00, plus costs.
- (B) Each day that a violation is permitted to exist shall constitute a separate offense.
- (C) In any prosecution for violation of this Ordinance, the exemptions listed in Section 22 [18.022] shall constitute an affirmative defense to the defendant, and it shall be incumbent upon the defendant to show that he or she is not subject to the provisions of this Ordinance. Nothing within this Ordinance shall be deemed to shift the burden of proof of the violation to the Defendant.
- (D) Violations of any provisions of this Ordinance are declared to be a nuisance per se. In lieu of, or in addition to, any other criminal penalty, administrative sanction, or civil penalty, the Township may seek mandatory injunctive relief for the abatement of the nuisance, and for continued compliance with this Ordinance, plus costs as the court shall determine.
- (E) The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

**18.024 Repealer.**

Sec. 24. All ordinances or parts of ordinances in conflict herewith are repealed only if to the extent necessary to give this ordinance full force and effect.

**18.025 Severability.**

Sec. 25. Should any section, subsection, paragraph, sentence, clause, phrase or word of this Ordinance, or any part thereof, be found invalid or unconstitu-

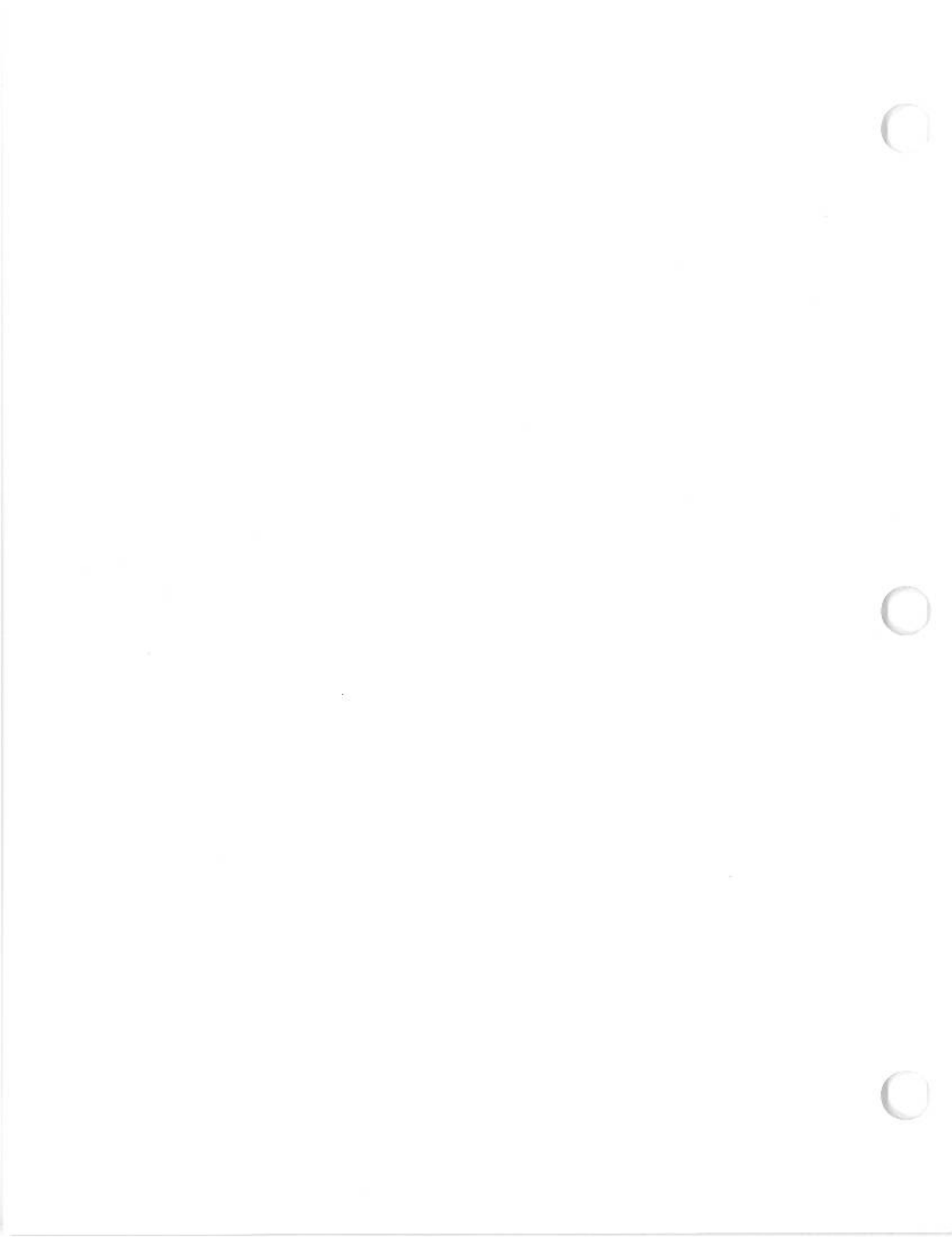
tional for any reason by any court of competent jurisdiction, or any agency, department or commission empowered for such purposes, such decision shall not affect the validity of the remainder of this Ordinance.

**18.026 Savings clause.**

Sec. 26. All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

**18.027 Effective date.**

Sec. 27. The provisions of this Ordinance are ordered to take effect 30 days after enactment.



**19.000 PERMITS FOR TELECOMMUNICATIONS COMPANIES TO UTILIZE  
PUBLIC RIGHTS-OF-WAY  
Ord. No. 57  
Adopted: January 6, 2003**

An Ordinance pursuant to Act No. 48 of Michigan Public Acts of 2002, relating to the issuance of permits for telecommunications companies to utilize the public rights-of-way; to define terms; to establish appropriate fees for such use; to provide for the grant or denial of such permits; and to establish criteria in connection with the utilization of said rights-of-way; to provide for enforcement of this Ordinance by means of municipal civil infractions; to repeal Ordinances and portions of Ordinances inconsistent with this Ordinance; and to provide an effective date hereof.

THE TOWNSHIP OF VEVAY, INGHAM COUNTY, MICHIGAN, ORDAINS:

**19.001 Purpose.**

Sec. 1. The purposes of this Ordinance 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 township qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

**19.002 Conflict.**

Sec. 2. Nothing in this Ordinance shall be construed in such a manner as to conflict with the Act or other applicable law.

**19.003 Terms defined.**

Sec. 3. The terms used in this Ordinance shall have the following meanings:  
*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.

*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 Township 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:

*Authority* means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.



*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.

*Person* means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

*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.

*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 1 of Title 111 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.

*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 1 of the Communications Act of 1934, Chapter 652, 48 Stat. 1 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 Ordinance only, a provider also includes all of the following:

- (1) A cable television operator that provides a telecommunications service.
- (2) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.
- (3) A person providing broadband Internet transport access service.

*Township* means the Township of Vevay.

*Township Board* means the Township Board of the Township of Vevay or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the township Board.

*Township Supervisor* means the Township Supervisor or his or her designee.

#### 19.004

#### **Permit required.**

Sec. 4.

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

- (b) *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 Township Clerk and one copy with the Township Supervisor. Upon receipt, the Township Clerk shall make sufficient copies of the application and distribute a copy to Township Board members and such staff members as may be 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.
- (c) *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.
- (d) *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.
- (e) *Additional Information.* The Township Supervisor may request an applicant to submit such additional information which the Township Supervisor 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 Township Supervisor. If the Township and the applicant cannot agree on the requirement of additional information requested by the Township, the township or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.
- (f) *Previously Issued Permits.* Pursuant to Section 5(1) of the Act, authorizations or permits previously issued by the Township under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the Township 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 Ordinance.
- (g) *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 Township 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 Township an application for a permit in accordance with the requirements of this Ordinance. 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.

**19.005 Issuance of permit.**

Sec. 5.

- (a) *Approval or Denial.* The authority to approve or deny an application for a permit is hereby delegated to the Township Supervisor. Pursuant to Section 15(3) of the Act, the township Supervisor shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under Section 4(b) [19.0004(b)] of this Ordinance for access to a public right-of way within the Township. Pursuant to Section 6(6) of the Act, the Township Supervisor shall notify the MPSC when the Township Supervisor has granted or denied a permit, including information regarding the date on which the application was filed and the date on which the permit was granted or denied. The Township Supervisor shall not unreasonably deny an application for a permit.
- (b) *Form of Permit.* If an application for permit is approved, the Township Supervisor 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.
- (c) *Conditions.* Pursuant to Section 15(4) of the Act, the township Supervisor 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.
- (d) *Bond Requirement.* Pursuant to Section 15(3) of the Act, and without limitation on subsection (c) above, the Township Supervisor 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.

**19.006 Reserved.**

Sec. 6.

**19.007 Conduit or utility poles.**

Sec. 7. 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.

**19.008 Route maps.**

Sec. 8. 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 Township, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the Township. The route maps should be in paper or electronic format unless and until the MPSC determines otherwise, in accordance with Section 6(8) of the Act.

**19.009 Repair of damage.**

Sec. 9. 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 Township, 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.

**19.010 Establishment and payment of maintenance fee.**

Sec. 10. In addition to the non-refundable application fee paid to the Township set forth in subsection 4(d) [19.004(d)] above, a telecommunications provider with telecommunications facilities in the township's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to Section 8 of the Act.

**19.011 Modification of existing fees.**

Sec. 11. In compliance with the requirements of Section 13(1) of the Act, the Township 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 right-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 Township also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of way within the Township's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The Township shall provide each telecommunications provider affected by the fee with a copy of this Ordinance, 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 Township's policy and intent, and upon application by a provider or discovery by the Township, shall be promptly refunded as having been charged in error.

**19.012 Savings clause.**

Sec. 12. 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 11 [19.011] above shall be void from the date the modification was made.

**19.013 Use of funds.**

Sec. 13. Pursuant to Section 10(4) of the Act, all amounts received by the Township from the Authority shall be used by the Township solely for rights-of-way related purposes.

**19.014 Annual report.**

Sec. 14. The Township Supervisor shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority, as required under Section 10(5) of the Act.

**19.015 Cable television operators.**

Sec. 15. Pursuant to Section 13(6) of the Act, the Township 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.

**19.016 Existing rights.**

Sec. 16. Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this Ordinance shall not affect any existing rights that a telecommunications provider or the Township may have under a permit issued by the Township or under a contract between the Township and a telecommunications provider related to the use of the public rights-of-way.

**19.017 Compliance.**

Sec. 17. The Township 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 Township shall comply in all respects with the requirements of the Act, including but not limited to the following:

- (a) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231, 215.246, as provided in Section 4(c) [19.004(c)] of this Ordinance;



- (b) Allowing certain previously issued permits to satisfy the permit requirements of this chapter, in accordance with Section 4(f) [19.004(f)] of this Ordinance;
- (c) 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 4(g) [19.004(g)] of this Ordinance;
- (d) 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 Township, in accordance with Section 5(a) [19.005(a)] of this Ordinance;
- (e) Notifying the MPSC when the Township has granted or denied a permit, in accordance with Section 5(a) [19.005(a)] of this Ordinance;
- (f) Not unreasonably denying an application for a permit in accordance with Section 5(a) [19.005(a)] of this Ordinance;
- (g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 5(b) [19.005(b)] of this Ordinance;
- (h) 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 5(c) [19.005(c)] of this Ordinance;
- (i) 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 5(d) [19.005(d)] of this Ordinance;
- (j) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with Section 6 [19.006] of this Ordinance;
- (k) Providing each telecommunications provider affected by the Township's right-of-way fees with a copy of this Ordinance, in accordance with Section 11 [19.011] of this Ordinance;
- (l) Submitting an annual report to the Authority, in accordance with Section 14 [19.014] of this Ordinance; and
- (m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Section 15 [19.015] of this Ordinance.

**19.018 Reservation of police powers.**

Sec. 18. Pursuant to Section 15(2) of the Act, this Ordinance shall not limit the township's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the Township's authority to ensure and protect the health, safety and welfare of the public.



**19.019 Severability.**

Sec. 19. The various parts, sentences, paragraphs, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause of this Ordinance is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this Ordinance.

**19.020 Authorized Township officials.**

Sec. 20. The Township Supervisor or his or her designee is hereby designated as the authorized Township official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the Municipal Violations Bureau) for violations of this Ordinance.

**19.021 Municipal civil infraction.**

Sec. 21. A person who violates any provision of this Ordinance or the terms or conditions of a permit is responsible for a municipal civil infraction, and shall be subject to a civil fine as established from time to time by Resolution of the Township Board. Nothing in Section 21 [19.021] shall be construed to limit the remedies available to the Township in the event of a violation by a person of this Ordinance or a permit.

**19.022 Repealer.**

Sec. 22. All Ordinances and portions of Ordinances inconsistent with this Ordinance are hereby repealed.

**19.023 Effective date.**

Sec. 23. This Ordinance shall become effective immediately after its adoption and publication as required by law.

Parts 20—49

**(Reserved)**

