

ARTICLE 5

PROVISIONS REGARDING PUBLIC

SEWER SYSTEM PROTECTION AND OPERATION

501 PURPOSES

The purposes of this Article are to provide for the operation of Whitehall Township's extension of the Muskegon County Wastewater Management System, on a public utility basis under the provisions of PA 94 of 1933, as amended, to provide for certain rules and regulations relative to the use of and discharge of waste materials into said system, to provide for the rates to be charged for the use of such system, to provide for the mandatory connection to said system, and to provide for other matters relative to the operation of said system.

502 DETERMINATION OF TOWNSHIP BOARD

It is hereby determined to be desirable and necessary, for the public health, safety, and welfare of the residents and property of the Township of Whitehall, that the Muskegon County Wastewater Management System located within the Township be operated by said Township as lessee/contractee of and from Muskegon County and the Muskegon County Department of Public Works, under Public Act 185 of 1957, as amended, on a public utility rate basis in accordance with the provisions of Public Act 94 of 1933, as amended.

503 DEFINITIONS

When used in this Ordinance, the terms and phrases set forth below shall be defined as follows:

A. "Available Sewer Service" shall refer to sewer services being deemed available with respect to any structure which is located entirely or in part within 200 feet of any part of any road right-of-way easement, or other public way upon or under which is located a public sewer line.

B. "Structure" means a building or other improvement which contains toilet, kitchen, laundry, bathing, industrial, commercial, or any other facilities which generate water-carried effluent, sanitary waste, or sewage, and which facilities are used or available for use for household, industrial, or commercial purposes.

C. "The System" shall be understood to mean the complete Muskegon County Wastewater Management System (Whitehall Township Extension), including all sewers, lines, pumps, lift stations, and all other facilities used or useful in the collection and disposal of domestic, commercial, or industrial wastes, including all appurtenances thereto and including all extensions and improvements thereto which may hereafter be acquired.

D. "Revenues" and "Net Revenues" as used in this Ordinance shall be understood to have the meanings as defined in Section 3 of Public Act 94, 1933, as amended.

E. "Single Family Residential Premises" or "Single Family Residence" means a single, detached structure used or intended to be used for single-family residential premises, but shall not include duplexes, condominiums, row houses, or apartments.

F. "Unit Factor" is the measurement of The System's sewer charge rate, as measured in increments of the sewer charge to single-family residential premises. All other occupancy uses are expressed in terms of their ratio to single-family residences.

G. "Equivalent Unit Factor" is the sewer charge rate factor that a particular use is assigned by Appendix "A" to this Article and is expressed in terms of its ratio to normal usage (Unit Factor) for single-family residential premises. Single-family residential premises have a baseline unit factor of one (1.0).

H. "Sewer Connection" means the hook-up from The System's line or lateral to a structure on a single parcel of real property or private sewer extension.

I. "New Construction" means any structure for which a building permit is applied for or paid for after the date upon which sewer service initially becomes available with respect to the real property upon which such structure has been or is being constructed.

J. "System Regulations" shall refer to all regulations and ordinances adopted by the County of Muskegon pursuant to the operation of The System, as the same may be adopted and/or amended by Muskegon County.

K. "Operation and Maintenance" shall refer to all costs, direct and indirect, and inclusive of all expenditures attributable to administration, replacement, treatment, and collection of sewage or waste, necessary to ensure adequate treatment and collection of sewage or waste on a continuing basis in conformance with the NPDES Permit, and other applicable regulations.

L. "Replacement and Capital Improvement" shall refer to expenditures and costs for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of The System to maintain the capacity and performance for which The System was designed and constructed.

504 SYSTEM OPERATION WITHIN THE TOWNSHIP

The operation and maintenance of The System shall be under the supervision and control of the Township of Whitehall, subject to the terms of certain agreements between the County of Muskegon and the Township of Whitehall. Pursuant to the terms of such agreements, the Township of Whitehall has retained the exclusive right to establish, maintain, and collect rates and charges for sewer collection and disposal service, and in such capacity the Township board of the Township of Whitehall may employ or engage such person or persons in such capacity or capacities as it deems advisable and may make such rules, orders and regulations as it deems advisable to assure the efficient establishment, maintenance, and collection of The System and its rates and charges.

To ensure this purpose, the Whitehall Township Board has authorized a "Fund Analysis and Rate Study" as a cost-of-service analysis. The Study was completed by Act Finance, Inc. on November 30, 2006.

The primary objective of this cost-of-service analysis and rate study is to implement economical and equitable user rates to ensure proper funding of Operation and Maintenance, outstanding debt service, replacement reserve, and future capital improvement through cash funding and debt funding. Additional objectives include ensuring that the rate structure itself properly reflects the customer base by equitably allocating cost, calculating a connection charge based on industry standard, and ensuring that all ordinances and resolutions that have been adopted and are to be adopted are consistent with the results of the rate study.

505 SEWER CHARGES, PAYMENTS FOR SAME, ENFORCEMENT

Amended 11-24-2014 Effective 11-30-2014

Rates to be charged for service furnished by The System and for connection to The System shall be determined, calculated, billed, and enforced as set forth below.

A. Sewer Use Charges. Sewer use charges to each single-family residential premises shall be determined from me to me by resolution of the Township Board. Each user other than a single-family resident shall pay a quarterly sewer use charge, which amount shall be determined from me to me by the Township Board. Such sewer use charge shall be multiplied by the equivalent unit factor assigned to such use, as reflected in Exhibit “A”.

Alternatively, if water usage is metered, a sewer use charge may be based on the amount of metered water usage (as determined by the Township), and that charge shall be determined from me to me by the Township Board.

Amended 1-24-2022

B. Sewer Connection Charges. For each connection to the lines of The System, there shall be a one-time fee charged of five thousand

two hundred eighty and 00/100 dollars (\$5,280.00) per single-family residence. Each user other than a single-family residence shall pay the sum of five thousand two hundred eighty and 00/100 dollars (\$5,280.00) multiplied by the equivalent unit factor assigned to such use, as reflected in Appendix "A", but not less than five thousand two hundred eighty and 00/100 dollars (\$5,280.00).

C. Initial and Subsequent Equivalent Unit Factors. The equivalent unit factor shall be calculated and assigned for any structure based upon the use of the structure and property upon which it is located at the time of the original application for sewer charge. Whenever the use of the structure and property is changed, modified, or enlarged, from that stated in the original application or assignment of the original equivalent unit factor, the Township shall charge an additional connection charge and an additional sewer use charge, based upon the equivalent unit factor schedule as set forth in " Appendix "A" for the additional equivalent user units over the number originally assigned. However, the equivalent unit factor shall not be revised below that for the initial assignment. "

D. Payment of Connection Charges. All connection charges shall " be payable upon the date of hook-up to the System, or the date by which hook-up to the System became mandatory, whichever is first. Notice of the existence of deferred payments applicable to a structure and the Township's right to assert a tax lien for the payment thereof shall be made as set forth in Section 513.

E. Special Rates. The Township Board shall establish, from time to time as it deems advisable, special rates or costs for miscellaneous or special services with respect to the System.

Amended 11-24-2025 Effective 11/25/2025

F. Billing. Bills for sewer usage charges shall be rendered quarterly on January 1, April 1, July 1, and October 1, representing the user's previous quarterly sewer use, and are payable without penalty within thirty (30) days after the date of billing. Payments made after the due date shall carry a penalty on the amount of the payment due of three percent (3%) per month or fraction thereof, compounded monthly.

G. Enforcement. The charges for sewer services (including use charges as well as charges set forth pursuant to paragraph E), which are under the provisions of Section 21, Act 94, Public Acts of Michigan, 1933, as amended, made a lien on all premises served thereby, are hereby recognized to constitute such lien. Officials in charge of the collection thereof shall certify annually, after October 1 of each year, to the tax-assessing officer of the Township, the identity of all premises against which there shall lie an unpaid charge which has been delinquent for at least six (6) months, whereupon such charges shall be by him/her entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general Township taxes against such premises are collected and the lien thereof enforced. In addition to the foregoing, the Township shall have the right to Shut off sewer service to any premises for which charges for sewer service (including use charges as well as charges set forth pursuant to paragraph E) are more than three (3) months delinquent, and such service shall not be reestablished until all delinquent charges and penalties and a turn-on charge, to be specified by the Township Board, have been paid. Further, such charges and penalties may be recovered by the Township by Court action.

H. Miscellaneous. Anything to the contrary notwithstanding, the following additional terms, conditions, and provisions shall apply.

1. Rates and charges for the use of The System are hereby established and made against each lot, parcel of land, or premises which may have connections to The System, or which may otherwise discharge wastewater into The System

2. The rates and charges hereby established shall be based upon a methodology which complies with applicable federal and state statutes and regulations. The amount of the rates and charges shall be sufficient to provide for debt service and for the expenses of operational, maintenance, and replacement of The System as necessary to preserve the same in good repair and working order. The amount of the rates and charges shall be reviewed at least annually and revised when necessary to ensure the System expenses are met and that all users pay their proportional share of operation, maintenance, and equipment replacement expenses. A hill review shall be conducted of the rates and charges every three (3) years.

3. The amount of such rates and charges and the intervals at which users of the wastewater system are billed shall be determined from time to time by resolution of the Township Board.

Amended 11/24/2014 Effective 11/30/2014

4 The rates charged for operation, maintenance, and replacement hereby established shall be uniform within the area served by the Township. No free service shall be owed for any user of the wastewater system.

506 SYSTEM REGULATIONS

The System Regulations of The System are hereby adopted by Whitehall Township in their entirety, by reference thereto, as if the same were fully set forth herein. Copies of The System Regulations may be obtained from the Muskegon County Wastewater Management System, 8301 White Road, Muskegon, MI 49442, during normal business hours, or at the Whitehall Township Hall, 7644 Durham Road, Whitehall, MI 49461, during normal business hours. All of the uses of The System within the Township shall comply with The System Regulations.

507 MANDATORY CONNECTION TO THE SYSTEM

It is hereby determined and declared that public sanitary sewers are essential to the health, safety, and welfare of the people of the Township of Whitehall, and therefore, all premises and structures to which there is available sewer service shall connect to said System. Such connection shall occur at the user's expenses within six (6) months after the mailing or posting of notice to such premises by the appropriate township official that there is available sewer service to such property. Such notification and enforcement of this section shall be in conformity with Act 288 of the Public Acts of Michigan of 1972, as amended. The Township may obtain, from a court of competent jurisdiction, injunctive relief requiring the owners of real property, who fail to connect to The System within such six (6) month period, to connect their structure to the System, pay the Township all expenses and costs of litigation, including actual attorney fees, and to pay the Township all past due fees and charges set for in this Ordinance.

508 NECESSITIES FOR INITIAL DETERMINATION OF RATES AND SUBSEQUENT RE-DETERMINATION OF RATES

The rates hereby fixed are estimated to be sufficient to provide for the payment of the expenses of The System's administration and operation, such expenses for maintenance of the system as are necessary to preserve same in good repair and working order, to provide for the payment of the contractual obligations of the Township to the County of Muskegon pursuant to the aforesaid contract between said County and the Township of Whitehall and to provide for such other expenditures and funds for said System as this Ordinance may require or the Township Board deems advisable. Such rates shall be re-determined from time to time as may be necessary to produce these amounts.

509 SEWER SYSTEM FUNDS

The revenues of The System shall be set aside, as collected and deposited in a separate depository account in any bank or credit union duly qualified to transact business in Michigan, in an account to be designated as the sewer system receiving fund (hereinafter referred to as the "Receiving Fund") and said revenues so deposited shall be transferred from the Receiving Fund periodically in the manner and at times hereafter specified.

A. Operation and Maintenance Fund. Out of the revenue in the Receiving Fund, there shall be set aside quarterly into a depository account, a sum sufficient to provide for the payment of the next quarter's current expenses for the operation and maintenance

thereof as may be necessary to preserve same in good repair and working order. In any case, the target level of funds on hand, in this account, compared to annual operating expenses should be kept at 200%.

B. Replacement and Capital Improvement Fund. There also shall be established and maintained a separate fund which shall be used for the purpose of making contract payments, major repairs, and replacements to The System if needed, and for making improvements, extensions, and enlargements to The System. The target level of funds on hand, in this account, shall be set at \$200,000.

C. Moneys remaining in the Receiving Fund at the end of any operating year, after full satisfaction of the requirements of the foregoing, may, at the option of the Township Board, be retained or used in connection with any project of the Township reasonably related to the purposes of The System.

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

510 TRANSFER OF FUNDS

In the event the money in the Receiving Fund is insufficient to provide for the current requirements of the Operation and Maintenance Fund, any moneys and/or securities in other funds of The System, except sums derived from tax levies or assessments, shall be transferred to the Operation and Maintenance Fund, to the extent of any deficit therein.

511 INVESTMENT OF FUNDS

Moneys in any fund or account established by the provisions of this Article may be invested in obligations of the United States of America in the manner and subject to the limitations provided in Act 94, Public Acts of Michigan, 1933, as amended. In the event such investments are made, the securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds from which such purchase was made. Income received from such investments shall be credited to the fund from which said investments were made.

512 HARDSHIP DEFERMENT OF FEES

The owner or owners of a single-family residence, in which residence said owner or owners reside and upon which a connection charge has been imposed, may submit a request to the Township seeking a deferment in the partial or total payment of the connection charge provided for herein, based upon a showing of financial hardship, subject to and in accordance with the following:

A. Submission of Hardship Deferment Application. The owners of the premises shall, under oath, complete a hardship application as set forth in Appendix "B", and file said application, together with all other information and documentation reasonably required by the Township, with the Township Board not less than sixty (60) days prior to the due date. An application shall be completed and filed by each and every legal and equitable interest holder in the premises, excepting financial institutions having a security interest in the premises.

B. Township Board Review. Hardship applications shall be reviewed by the Township Board, and after due deliberation, the Township Board shall determine, in each case, whether there has been an adequate showing of financial hardship, and shall forthwith notify the applicants of said determination. An applicant may appear before the Township Board in person for the purpose of showing hardship and presenting any argument or additional evidence. A denial of a hardship application shall be final and conclusive.

C. Township Board Action Upon Application; Determination and Re-determination of Hardship. In the event that the Township Board makes a finding of hardship, the Township Board shall fix the amount of partial or total deferment of the charge so imposed, and in so doing, may require an annual filing of financial status by each applicant, providing that upon a material change of financial status of any applicant, said applicant shall immediately notify the Clerk of the Township so that a further review of the matter may be made by the Township Board and provided further that the duration of the deferment granted shall be self-terminating upon the occurrence of any one of the following events:

- I) A change in the financial status of any applicant that removes the basis for financial hardship;
- 2) A conveyance of any interest in the premises by any of the applicants, including the execution of a new security interest in the premises or extension thereof.
- 3) A death of any of the applicants.

D. Notice of Deferment of System Charges. Notice of the existence of deferred/installment payments applicable to a structure, and the Township's right to assert a tax lien for the payment thereof, shall be made as set forth in Section 513.

513 NOTICE OF DEFERRED/INSTALLMENT PAYMENTS FOR SEWER CONNECTION CHARGES

A notice, in the form set forth in Appendix "C", shall be recorded with the Muskegon County Register of Deeds, as to any premises for which deferred payments are being made for the payment of sewer connection charges.

514A CONNECTION CHANGE IN OWNERSHIP AND PAYMENT OF CONNECTION AND/OR ASSESSMENT CHARGES

Amended October 19, 2009

All connection and/or assessment charges paid by installment payments and/or deferred payments, and the interest carried by these installment payments and/or deferred payments shall be payable in full immediately upon any equitable or legal transfer or more than 50% interest in the premises for which installment payments and/or deferred payments of sewer connections are being made. An equitable transfer shall include the transfer of ownership of more than 50% of any entity that owns the applicable premises.