

CHAPTER 5: PUBLIC HEALTH, SAFETY, AND WELFARE

Article 1. TRAFFIC REGULATION

Section 5101. Uniform Traffic Code Adopted. Pursuant to M.C.L. 257.951, the City of Frankfort adopts by reference the Uniform Traffic Code for Cities, Townships, and Villages, as amended, as published by the Michigan Department of State Police, with the amendments shown in Section 5102. A complete copy of the Uniform Traffic Code is available for inspection in the office of the City Clerk.

Section 5102. Uniform Traffic Code Amendments. REPEALED.

Section 5103. Adoption of Michigan Vehicle Code.

Section 5103.1 Pursuant to MCI 117.3(k), the City of Frankfort adopts by reference the Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923, as amended.

Section 5103.2 References in the Michigan Vehicle Code to “local authorities” shall mean the City of Frankfort.

Section 5103.3 The penalties provided by the Michigan Vehicle Code are adopted by reference; provided that the City may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days.

Section 5103.4 The City Clerk shall publish this Ordinance in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Michigan Vehicle Code and the fact that a complete copy of the Code is available to the public at the office of the Clerk for inspection.

CHAPTER 5: PUBLIC HEALTH, SAFETY, AND WELFARE

Article 2. FIRES AND FIRE PREVENTION

Section 5201. Authority of Fire Department

5201.1 At any time, the Fire Chief or other person in command of the Fire Department shall have full control of all persons present, and shall have full power to enter upon any adjoining premises to utilize any facilities available for extinguishing the fire.

5201.2 The Fire Chief or other person in command of the Fire Department, or any member of the Police Department, may require the aid of any person in extinguishing such fire, or in preventing any property from being stolen or injured, or in protecting, removing or securing the same.

Section 5202. Destruction of Buildings. The Fire Chief alone, or any other person in command of the Fire Department with the concurrence of the Superintendent or Mayor, shall have the authority to order any building removed or destroyed for the purpose of checking the progress of any fire.

Section 5203. Fire Inspection. The Fire Director and/or the Fire Chief is hereby empowered to enter at any reasonable time any premises, building, or structure for the purpose of investigating fire hazards or inspecting fire fighting equipment. If such inspection shall disclose any fire hazard or any deficiency in fire fighting equipment, the Fire Director shall order the condition remedied pursuant to Section 3303.

Section 5204. Fire Fighting Equipment: Damage or Taking for Private Use. No person shall damage or take for private use any fire fighting equipment.

Section 5205. Fire Hydrants: Improper Use or Obstruction. No person shall place any obstruction whatever, nor shall any person responsible for such obstruction permit it to remain, within 15 feet of any fire hydrant. In an emergency, or if any person fails to remove an obstruction immediately after ordered to do so by the Fire Director or Fire Chief, the City may remove the obstruction and may recover the expense of removal from the person responsible for the obstruction. No person shall draw water from any fire hydrant except in an emergency for the purpose of extinguishing fire, for fire practice by the Fire Department, or with written authorization of the Fire Director.

Section 5206. Fires: Permits, Restrictions.

5206.1 PROHIBITED BURNING: No person shall cause, allow or maintain any open burning of any waste materials or rubbish, whether unenclosed or in any incinerator, barrel, can, or similar container or enclosure; except as provided in Section 5206.2; no person in charge of or in possession of any premises upon which such burning occurs, or any premises immediately adjacent to any public place upon which such burning occurs, shall fail to extinguish the fire if he/she has knowledge of the fire and it is within his/her power to extinguish it.

5206.2 PERMITTED BURNING:

- (a) Burning under the following conditions does not require a permit from the City:
- 1) Personal use of smoking materials;
 - 2) Use of matches for lighting authorized fires;
 - 3) Outdoor cooking fires used for the exclusive preparation of food for human consumption and confined to a barbeque grill, barbeque pit, or other fire proof structure;
 - 4) Burning of firewood and commercially produced fuel products in connection with indoor or outdoor stoves or fireplaces designed for food preparation, heating, or decorative purposes;
 - 5) Controlled fires for training firefighters, under the supervision of the Fire Department;
 - 6) Controlled brush fires at designated areas within the City, supervised by the City Superintendent or his/her designee;

(b) Burning under the following conditions requires an annual special permit issued after inspection is made by the Fire Director or Fire Chief. Fees for such permit will be set by City Council. Once a special permit is approved, a burn permit from the Fire Director and/or Fire Chief must be obtained after his/her determination that no fire hazard is present:

- 1) Burning of logs, brush, charcoal and other similar materials for the purpose of food preparation or recreation in an approved open fire pit on private property. Approved open fire pits must be excavated a minimum of two (2) foot into the ground with fire retardant sides a minimum of one (1) foot high above non disturbed ground and a diameter of not more than three (3) feet. Material allowed to burn must be in its natural form. Burning of grass clippings, leaves, household, construction or demolition waste is prohibited.

Such fires may not be within 25 feet of any structure or within **25 feet** of any City right of way or public place. ***A water hose or operable fire extinguisher must be on site.***

5206.3 No person shall kindle a fire in any street, alley, or right-of-way.

5206.4 No person having kindled a fire shall fail to be in constant attention upon the same until it is completely extinguished.

5206.5 When in the judgment of the Fire Chief the kindling of a fire will constitute a fire hazard, or when a fire produces excessive smoke or foul odors which interfere with neighboring property owners' use and enjoyment of their property, he/she shall direct any person kindling a fire to extinguish the same. No person shall fail to obey such direction.

5206.6 No person shall burn any hazardous or toxic substance, as defined in Section 5702.6, including without limitation, chemicals, plastics, rubber, or household waste.

5206.7 No person shall burn grass clippings or leaves.

5206.8 Portable outdoor fireplaces shall be a minimum of twenty-five (25) feet from any building, street, or alley.

Section 5207. Fire Exits

5207.1 No obstruction shall be permitted in the way of, or upon, any fire escape, balcony or ladder intended as a means of escape from fire.

5207.2 No inflammable material shall be permitted under or at the bottom of any stairway, elevator, or other part of any building, nor shall any such material be placed in such a position as to obstruct or render hazardous egress from a building.

5207.3 No obstruction shall be permitted in hallways of apartment houses, hotels, lodging houses, or tourist homes.

5207.4 No aisle, passageway, or stairway in any store shall be obstructed with tables, show cases, or other obstructions during the hours said store is open to the public.

Section 5208. Violation, Penalties: Any violation of Section 5204, 5205, 5206.5 or 5207 shall be a misdemeanor. All other violations of this Article shall be municipal civil infractions.

CHAPTER 5: PUBLIC HEATH, SAFETY, AND WELFARE

Article 3. CURFEW

Section 5301. Purpose.

The purpose of this Chapter is to deter juvenile crime, to limit the exposure of juveniles to crime, and to protect juveniles from each other, from other persons, and to assist in the enforcement of parental control over responsibility for children.

Section 5302. Definition. “Juvenile” means any unemancipated person under the age of sixteen (16).

Section 5303. Curfew. No juvenile shall be or remain upon the public streets, alleys, parks, or other public areas of the City, unless accompanied by a parent, guardian, or adult person placed in charge of the juvenile by the parent or guardian, between the hours of 12:00 o'clock P.M. and 5:00 o'clock A.M.

Section 5304. Exceptions. The following shall not be a violation of this Article:

- a) When the minor is gainfully employed and is going to or returning from his/her place of employment by a direct route.
- b) When the juvenile is on the sidewalk or property where the juvenile resides, or on either side of or across the street from the place the juvenile resides, and the adult or resident of that property gives permission for the juvenile to be there.
- c) When the juvenile is returning home by a direct route from and within one hour of the termination of a school activity, or an activity of religious or voluntary association, or a place of public entertainment, such as a movie, play, or sporting event. If the event is not commercial in nature or does not have a fixed, publicly known time at which it will or does end, the sponsoring organization must register the event with the Chief of Police (or his/her designated representative) at least 24 hours in advance, informing the Police Department of the time that such event is scheduled to begin, the place at which it shall be held, the time it shall end, and the name of the sponsoring organization.
- d) When a juvenile is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, or right of assembly, if the parent, guardian, or adult person placed in charge of the juvenile by the parent or guardian, has first notified the Chief of Police or his/her designated representative in writing, of the time, place, and purpose for which the juvenile would be in a public place during the hours when the ordinance is applicable in the exercise of the First Amendment rights.
- e) When there is a reasonable necessity for the juvenile to enter or remain in a public place, but only after the juvenile’s parents, guardian, or adult person placed in charge of the juvenile by the parent or guardian, has communicated to the Chief of Police, or his/her designated representative, notification of facts establishing the reasonable necessity, including when, where, and for what purpose the juvenile must be in a public place, including points of origin and destination.
- f) When the juvenile is, with consent of a parent, guardian, or adult person placed in charge of the minor, engaged in normal inter-state travel through the City or originating or terminating in the City.

Section 5305. Responsibility of Parent or Guardian. It shall be unlawful for parent having legal custody of a juvenile or the guardian or adult person placed in charge of the juvenile to knowingly allow the juvenile to violate the provisions of Section 5303.

Section 5306. Enforcement Procedure.

- 5306.1 If a police officer reasonably believes that a juvenile is in a public place in violation of this Article, the officer shall notify the juvenile that he or she is in violation and shall require the juvenile to provide his or her name, address and telephone number and how to contact his or her parent or guardian.
- 5306.2 The police officer shall issue the juvenile a written warning that the juvenile is in violation of the Article and order the juvenile to go promptly home. The Chief of Police shall send the parent or guardian of the juvenile written notice of the violation.
- 5306.3 When the juvenile has been issued one previous warning of violation of this Article or a police officer has reasonable grounds to believe that the juvenile has engaged in delinquent or criminal conduct, the officer shall take the juvenile to the police station where a parent or guardian shall notified to pick up the juvenile. If the parent can not be located or fails to take charge of the juvenile, then the juvenile shall be released the appropriate juvenile authorities, or, in the discretion of the police officer, to a responsible adult.
- 5306.4 When the juvenile, parent, or guardian has been issued one previous warning, any subsequent violation shall be a municipal civil infraction.

CHAPTER 5: PUBLIC HEALTH, SAFETY AND WELFARE

Article 4. NOISE REGULATION

Section 5401. Purpose and Findings. The City of Frankfort finds that excessive sound may jeopardize the health, safety and welfare of the citizens or degrade their quality of life. The purpose of this Article is to regulate sound producing activities to ensure the continued well-being of the citizens of the City.

Section 5402. Definitions. All terminology used in this Article but not defined below, shall be in conformance with applicable publications of the American National Standard Institute (ANSI) or its successor body. As used in this Article:

5402.1 “A-weighted sound level” means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level is designated dB(A) or dBA.

5402.2 “Decibel (dB)” means a unit of measuring the volume of sound, equal to twenty (20) times the logarithm of the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

5402.3 “Emergency” means any occurrence involving or threatening personal injury or serious property damage.

5402.4 “Emergency work” means any work performed to prevent or alleviate personal injury or serious property damage threatened or caused by an emergency, as well as work necessary to restore property to a safe condition following an emergency.

5402.5 “Noise disturbance” means any sound which endangers or injures humans or animals, annoys or disturbs a reasonable person, endangers personal or real property or exceeds the maximum permissible sound levels of this Article.

5402.6 “Noise sensitive zone” means an area in the City which contains noise sensitive activities, such as schools, libraries, churches, hospitals and nursing homes, as designated by resolution of the City Council.

5402.7 “Sound level meter” means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting networks used to measure sound pressure levels.

Section 5403. Noises Prohibited. No person shall make a noise disturbance. The following acts are *prima facie* violations of this section. This list is not exclusive.

- a) Sound Production and Reproduction Systems. Playing, using or operating any television or radio receiving set, musical instrument, phonograph or other machine or device for producing, reproducing or amplifying sound, in such a manner as to create a noise disturbance, or at a volume louder than is necessary for convenient listening by the persons who are in the room, chamber, vehicle or other place in which the instrument, machine, set or device is operated and who are voluntary listeners; operating such television or radio receiving set, instrument, phonograph, machine or device between 11:00 pm and 7:00 am in such a manner as to be plainly audible at a distance of fifty feet from the building, structure, vehicle or other place in which it is located.

- b) Loudspeakers; Public Address Systems. Using or operating any loudspeaker, public address system, musical instrument or similar device between 11:00 pm and 7:00 am so as to create a noise disturbance in a residential area or noise sensitive zone.
- c) Yelling and Shouting. Yelling, shouting, hooting, whistling or singing on the public streets, between the hours of 10:00 p.m. and 7:00 a.m. so as to create a noise disturbance in a residential area or noise sensitive zone.
- d) Animals and Birds. Owning, or keeping any bird or other animal which creates a noise disturbance in a residential area or a noise sensitive zone.
- e) Loading and Unloading. Loading, unloading, opening, closing, destruction or otherwise handling boxes, bales, crates, containers, building materials, or similar objects so as to create a noise disturbance between 10:00 p.m. and 7:00 a.m., in a residential area or a noise sensitive zone.
- f) Motor Vehicle Repairs and Testing. Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat so as to create a noise disturbance in a residential area or noise sensitive zone.
- g) Construction. Operating any tools or equipment used in construction, drilling or demolition work between 10:00 p.m. and 7:00 a.m., so as to create a noise disturbance in a residential area or noise sensitive zone.
- h) Domestic Power Tools. Operating a power saw, drill, sander, grinder, lawn or garden tool or similar device between 10:00 p.m. and 7:00 a.m. so as to create a noise disturbance in a residential area or noise sensitive zone.

Section 5404. Maximum Permissible Sound Levels. No person shall create sound that exceeds the limits stated below, as measured on the property receiving the sound. Any sound that exceeds those limits is a *prima facie* noise disturbance.

| Land-Use Category of Property Receiving Sound ¹ | Time | A-Weighted Sound Level Limit (dBA) |
|--|---------------------|------------------------------------|
| Residential Districts | 10:00 pm to 7:00 am | 70 |
| Residential Districts | 7:00 am to 10:00 pm | 75 |
| Commercial Districts | 10:00 pm to 7:00 am | 72 |
| Commercial Districts | 7:00 am to 10:00 pm | 77 |
| Specialized Districts | | |
| 1. Urban Development | 10:00 pm to 7:00 am | 72 |
| 2. Urban Development | 7 am to 10:00 pm | 77 |
| 3. Critical Environmental (CEHRE) | 10:00 pm to 7:00 am | 70 |
| 4. Critical Environmental (CEHRE) | 7:00 am to 10:00 pm | 75 |
| 5. High Risk Erosion Overlay | 10:00 pm to 7:00 am | 70 |
| 6. High Risk Erosion Overlay | 7:00 am to 10:00 pm | 75 |
| Noise Sensitive Zones | 10:00 pm to 7:00 am | 68 |
| Noise Sensitive Zones | 7:00 am to 10:00 pm | 73 |

Section 5405. Exceptions. The following activities and uses shall be exempt from the noise level regulations established in this Article:

- a) Emission of sound for the purpose of alerting persons to the existence of an emergency or emission of sound in the performance of emergency work;
- b) Police, fire, ambulance or other emergency vehicles while in public use;
- c) Noises of public or governmental safety signals, warning devices and emergency relief valves when used as warnings in case of emergency or danger or when tested;
- d) Any aircraft operated in conformity with federal law, federal air regulations and air traffic control instruction;
- e) Noise from church bells, chimes or churches, except between 12:00 midnight and 6:00 am;
- f) Noise from construction, except such noise as is specifically prohibited by Section 5403(g)
- g) Noise from repair of public utilities;
- h) Noise from the operation of snow removal equipment when being used for snow removal;
- i) Noise from City sponsored or approved community activities open to the public.

¹ As defined in the zoning ordinance of the City of Frankfort.

Section 5406. Temporary Permits

5406.1 Upon application the Superintendent or his/her designee may issue a permit for relief from any of the restrictions of this Article. Such a permit shall not be effective for more than three days and shall not be renewed more than three times. Such a permit shall only be granted if the requirements set forth in Section 5407 are satisfied.

5406.2 Any permit granted pursuant to this section is subject to any conditions, limitations or requirements which the Superintendent or his/her designee deems necessary to minimize adverse effects upon the public.

Section 5407. Special Permits

5407.1 Following a public hearing at a regular or special Council meeting, a permit for relief from any of the restrictions or noise level requirements of this Article may be granted by an affirmative vote of a majority of the City Council. Applications for such a permit shall be made to the Superintendent or his/her designee. Such a permit may be granted if:

- a) bringing the sound into compliance with this Article would constitute an unreasonable hardship for the applicant, the applicant needs additional time to alter or modify its operation to comply with this Article, or the activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with the other requirements of this Article;
- b) no reasonable alternative is available to the applicant; and
- c) the noise created will not unreasonably damage or endanger the health, safety or welfare of the public.

5407.2 Written notice of the application and hearing shall be mailed to residents living within three hundred (300) feet of the applicant's property, at least thirty (30) days prior to the hearing.

5407.3 The Council may place any conditions, limitations or requirements upon any permit granted under this section which it deems necessary to minimize adverse effects upon the public. Any permit granted pursuant to this section shall contain all conditions, limitations or requirements to which it is subject.

5407.4 The Superintendent or his/her designee may revoke a permit granted pursuant to this section if the conditions upon which it was granted are violated or if the conditions set forth in Section 5407.1 no longer exist.

5407.5 If a permit under this section is revoked, written notice shall be served upon the permittee or his/her agent or officer personally or by certified mail. If the activities being conducted or the noise created pursuant to such a permit endangers the public health or safety, such revocation will be effective immediately; otherwise the revocation will be effective ten (10) days after service of the notice of revocation.

Section 5408. Additional Remedies. In addition to other remedies provided in Chapter 3 of this Code, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this Article or which causes a noise disturbance is expressly declared to be a public nuisance and shall be subject to the remedies provided in Chapter 3, Article 4.

CHAPTER 5: PUBLIC HEALTH, SAFETY, AND WELFARE

Article 5. WATER AND SEWER

Section 5501. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

5501.1 “Authorized or designated official” means the Frankfort City Superintendent or a person he or she designates.

5501.2 “Sewage Works” means all facilities for collecting pumping, treating and disposing of sewage or sludge, including those owned by any utility authority of which the City is a member.

5501.3 “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground water, surface and storm waters as may be present.

5501.4 “Sewer” means a pipe or conduit for carrying sewage.

5501.5 “Public Sewer” means a sewer in which all owners of abutting properties have equal rights, which is controlled by the City.

5501.6 “Combined Sewer” means a sewer receiving both surface runoff and sewage.

5501.7 “Sanitary Sewer” means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

5501.8 “Storm Sewer” or “Storm Drain” means a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

5501.9 “Sewage Treatment Plant” means any arrangement of devices and structures used for treating sewage, or sludge, whether owned by the City or a utility authority of which the City is a member.

5501.10 “User Class” means the kind of user connected to sanitary sewers including but not limited to residential, industrial, commercial, institutional and governmental.

- a) “Residential User” means a user of the sewage works whose premises or buildings are used primarily as a domicile for one or more persons, including dwelling units such as detached, semi-detached and row houses, condominiums, mobile homes, apartments, or permanent multi-family dwellings.
- b) “Industrial User” means any user which discharges industrial wastes as defined in this Article.
- c) “Commercial User” means an establishment listed in the Office of Management and Budget's "Standard Industrial Classification Manual" (1972 Edition) involved in a commercial enterprise, business or service (including transient lodging) which, based on a determination by the City, discharges primary segregated domestic wastes from sanitary conveniences and which is not a residential user or an industrial user.
- d) “Institutional User” means any establishment listed in the "SICM" involved in a social, charitable, religious, or educational function which, based on a determination by the City, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.
- e) “Governmental User” means any Federal, State or Local government user of the wastewater treatment works.

5501.11 “Industrial Wastes” means the wastewater discharges from an industrial, manufacturing, trade or business process, as distinct from employees' domestic wastes or wastes from sanitary conveniences.

5501.12 “BOD” (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Centigrade.

5501.13 “Compatible Pollutants” means a substance amenable to treatment in the wastewater treatment plant such as biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the NPDES Permit if the sewage treatment plant was designed to treat such pollutants, and if act does remove such pollutant to a substantial degree. Examples of such additional pollutants may include: chemical oxygen demand, total organic carbon, phosphorus, and phosphorus compounds, nitrogen compounds, fats, oils, and greases of animal or vegetable origin.

5501.14 “Incompatible Pollutants” means any pollutant which is not a compatible pollutant.

5501.15 “NPDES Permit” means a permit issued pursuant to the National Pollutant Discharge Elimination System prescribed in U.S. Public Law 92-500.

5501.16 “Garbage” means solid waste from the preparation, cooking and dispensing of food and from the handling, storage, and sale of produce.

5501.17 “Properly Shredded Garbage” means the waste from the preparation, cooking or dispensing of food that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (½”) in any dimension.

5501.18 “Building Drain” means that part of the lowest horizontal piping of a drainage system which receives the drainage from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.

5501.19 “Building Sewer” means the extension from the building drain to the public sewer or other places of disposal.

5501.20 “Suspended Solids” mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids; and which are removable by laboratory filtering.

5501.21 “Natural Outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

5501.22 “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

5501.23 “The Federal Water Pollution Control Act and the Clean Water Act” are used interchangeably in this Article and refer to Public Law 92-500, as adopted in 1972 and amended by Public Law 92-217 in 1977, and any succeeding amendments.

5501.24 “Operation and Maintenance” means all work, materials, equipment, utilities, and other efforts required to operate and maintain the sewage works consistent with insuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES Permit and other applicable State and Federal regulations, and includes the cost of replacement.

- 5501.25 “Replacement” means the replacement in whole or in part of any equipment in the sewage works to insure continuous treatment of wastewater in accordance with NPDES Permit and other State and Federal regulations.
- 5501.26 “User” or “Consumption Charge” means a charge levied on City users of the sewage works for the cost of operation and maintenance of the sewage works pursuant to Section 204(b) of PL 92-500.
- 5501.27 “Service Charge” means the flat charge levied on each user of the sewage works in addition to the user charge.
- 5501.28 “Surcharge” means the additional charge which the City may require any user discharging water or waste with any of the characteristics described in Section 5506.3 to pay to cover the cost of treatment.
- 5501.29 “Shall” is mandatory; “May” is permissive.
- 5501.30 “Chemical Oxygen Demand” (COD) means a measure of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. It is also known as OC and DOC, oxygen consumed and dichromate oxygen consumed, respectively.
- 5501.31 “Footing Drain” means a pipe or conduit which is placed around the perimeter of a building foundation and which intentionally admits ground water.
- 5501.32 “Infiltration” means that portion of ground water which is unintentionally admitted to a sewer.
- 5501.33 “Laboratory Determination” means the measurements, tests and analyses of the characteristics of waters and wastes in accordance with the methods contained in the latest edition at the time of any such measurement, test, or analysis, of "Standard Methods for Examination of Water and Wastewater", a joint publication of the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation or in accordance with any other method prescribed by applicable State or Federal regulations.
- 5501.34 “pH” means the reciprocal of the logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution; neutral water, for example, has a pH value of seven and hydrogen ion concentration of 10,000,000.

Section 5502. Water System Connections

- 5502.1 No person shall use a private well to supply water to any property on which a building is within 200 feet of a City water main. If a City water main is not within 200 feet of any building, water may be supplied by a private well complying with local health department requirements.
- 5502.2 When a City water main is constructed, all wells serving properties with buildings located within 200 feet of the water main shall be disconnected and connection shall be made to the main.
- 5502.3 No person shall make any connection with, use, alter, or disturb any part of the City water distribution system without first obtaining a written permit from the Superintendent.

- 5502.4 All costs and expenses incident to the installation, connection and maintenance of the building service pipe and its connection to the water main shall be borne by the owner of the premises served. All materials and installation shall be in accordance with the plumbing code in effect in the City and shall be subject to inspection by the Superintendent.
- 5502.5 The Department of Public Works shall not turn on the water in any premises until all the conditions prescribed by this Article have been met, nor until the Clerk indicates that all necessary fees and deposits have been paid. No person shall turn on water into any premises except upon the authority of the Department, except that any licensed plumber may temporarily turn on the water for the purpose of testing the pipes only.

Section 5503. Use of Public Sewers Required

- 5503.1 It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the City, or in any area under its jurisdiction, any human or animal excrement, garbage or other objectionable waste.
- 5503.2 It shall be unlawful to discharge to any natural outlet, any sanitary sewage, industrial waste, or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this Article.

Section 5504. Private Sewage Disposal

- 5504.1 Where a public sanitary sewer is not available under the provisions of MCL 333.12751 et seq., the building sewer shall be connected to a private sewage disposal system complying with local health department regulations.
- 5504.2 At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in MCL 333.12751, et seq., direct connection shall be made to the public sewer in compliance with this Article, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned for sanitary use, filled with suitable material and sealed.
- 5504.3 The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

Section 5505. Building Sewers and Connections.

- 5505.1 No unauthorized person shall uncover, make any connections with or openings into, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. No building sewer shall be covered until after it has been inspected and approved by the authorized official.
- 5505.2 All costs and expenses incidental to the installation and connection of the building sewer to the public sewer connection shall be borne by the owner.
- 5505.3 A separate and independent building sewer shall be provided for every building constructed after April 10, 1989.
- 5505.4 Old building sewers may be used in connection with the new buildings only when they meet all requirements of this Article.

- 5505.5 The size, slope, alignment, and materials of construction of a building sewer and the methods to be used in excavating, placing the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable standards of the City.
- 5505.6 Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade and in a straight line.
- 5505.7 In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by a pumping system approved by the City and discharged to the building sewer.
- 5505.8 No sewer connection will be permitted unless there is capacity available in all downstream sewers, lift stations, force mains and the sewage treatment plant, including capacity for treatment of BOD and suspended solids.
- 5505.9 All extensions and alterations of the system of sewer mains shall be under City supervision. Each petition for the extension of sewer mains shall be addressed to the City, and the City shall consider the petition and advise the petitioners of its decision.
- 5505.10 If any person proposes to develop property within the boundaries of the City and to dedicate portions of the property for street or utility rights-of-way, the City may require that sewer mains be installed within the rights-of-way at the developer's expense. These mains shall be constructed according to plans and specifications approved by the City and shall meet the specifications for public sewer mains. No sewage shall be admitted into the mains and they shall not be connected to the City system until the City has approved the installation. The provisions of this subsection shall also apply to any installation of sewer mains outside the boundaries of the City, when the owner wishes to connect such mains to the City system. Nothing in this Section shall be construed as giving owners of property located outside the boundaries of the City the right to connect sewer mains or building sewers to the City system.
- 5505.11 Before any connection is made to a sanitary sewer main, application for a permit therefor must be made in writing to the City by the owner of the premises to be served, or by his/her authorized representative. The application shall be made on forms provided by the City.
- 5505.12 After the permit for service connection has been granted, and before the connection is made, the owner shall pay a permit fee for tapping the main and installation of the sewer main from the main to the premises. The permit fee shall be determined and paid according to a schedule of fees established by the City.

Section 5506. Use of the Public Sewer

5506.1

- a) No person shall discharge or cause to be discharged any storm water, surface water, ground water, water from footing drains, or roof water to any sanitary sewer or sewer connection, except as provided in this Article. Any premises connected to a storm sewer shall comply with County, State, and Federal requirements.
- b) Downspouts and roof leaders shall be disconnected from sanitary sewers within six (6) months after the date of installation of storm sewers.

5506.2 Storm water, ground water, water from footing drains and all other unpolluted drainage shall be discharged into sewers specifically designated as storm sewers if available, or to a natural outlet, unless approval to discharge to a sanitary sewer is granted by the City. Industrial cooling water or unpolluted process waters may be discharged to a storm sewer or a natural outlet upon application and approval by the City and the appropriate State Agency.

5506.3 No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer, without prior approval of the City:

- a) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (66 degrees Centigrade) or lower than 32 degrees Fahrenheit (0 degrees Centigrade).
- b) Any water or waste which may contain more than 50 parts per million by weight of fat, oil or grease.
- c) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- d) Any garbage that has not been properly shredded.
- e) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, woods, animal manure, or any other solid or viscous substance capable of causing obstruction to flow in sewers or other interference with the proper operation of the sewage works.
- f) Any waters or wastes having corrosive properties, capable of causing drainage hazard to structures, equipment, and personnel of the sewage works.
- g) Any waters or wastes with pH lower than 6.5 or greater than 9.5.
- h) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment plant.
- i) Any waters or wastes containing more than 300 mg/1 of BOD, 300 mg/1 of suspended solids, or 450 mg/1 of COD.
- j) Any noxious or malodorous gas or substance capable of creating a public nuisance.
- k) Any industrial waste that may cause a deviation from the NPDES Permit requirements, pretreatment standards or any other State or Federal regulation.
- l) Any waste having an average daily flow greater than two percent (2%) of the average daily flow of the City.

5506.4 Grease, oil and sand interceptors shall be provided when liquid wastes contain grease in excessive amounts or other harmful ingredients; provided that such interceptors shall not be required for single family or multiple family dwelling units. All interceptors shall be of a type and capacity approved by the City, shall be easily accessible for cleaning and inspection, and shall be maintained by the owner, at his/her expense, in continuously efficient operation at all times.

5506.5 If any person discharges or proposes to discharge any waters or wastes containing any of the substances or possessing any of the characteristics listed in Section 5506.3, the City may:

- a) reject the wastes;
- b) require pre-treatment to an acceptable condition for discharge to the public sewers;
- c) require reduction of the quantity and rate of discharge;
- d) require payment of a surcharge to cover the added cost of handling and treating the wastes as provided by Section 5512 of the Municipal Code;
- e) enter into a written agreement with the user to accept the wastes subject to payment of surcharge to cover the added cost of handling and treating the wastes as provided in Section 5512, if such an agreement does not violate NPDES requirements.

If the City permits the pre-treatment or equalization of waste flows, the facilities shall be constructed according to plans and specifications approved by the City and shall comply with all applicable State and Federal requirements.

5506.6 The owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling, and measurement of the wastes. The manhole shall be constructed according to plans and specifications approved by the City, shall be installed by the owner at his/her expense, and shall be maintained by him/her so as to be safe and accessible at all times.

5506.7 All measurements, tests, and analysis of the characteristics of waters and wastes to which references are made shall be determined in accordance with Standard Methods for Examination of Water and Wastewater and Guidelines Establishing Test Procedures for the Analysis of Pollutants Federal Regulation 40 CFR 136, published in the Federal Register on October 16, 1973 and shall be determined at the control manhole provided for in Section 5506.6, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

5506.8 To determine the sewage flow from any premises, the City may use any of the following methods:

- a) the amount of water supplied to the premises by the City as measured by the water meter; or
- b) the volume of sewage discharged into the sewer system as determined by measurements taken at a manhole installed pursuant to Section 5506.6; or
- c) any other equitable method chosen by the City.

Section 5507. Protection from Damage.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any sewage or water works.

Section 5508. Power and Authority of Inspectors. Duly authorized employees or representatives of the City bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Article.

Section 5509. Guarantee Deposit. A cash deposit may be required in amounts and from such persons as the Council shall by resolution determine. The deposit shall constitute a guarantee deposit which shall be continuously held as a guarantee of payment for water and sewer service used and for the protection of the City against any damage to the water meter. Such deposit shall bear no interest and shall be retained by the Clerk until service has been discontinued and all rates and charges paid and the meter found to be in good condition. The City shall have the right to use such portion of that sum to repair any meter damaged by reason of the customer's negligence and to pay any unpaid water or sewer service rates or charges for which the customer may be liable, and the customer shall be required to pay such additional sums as shall be necessary to have on deposit at all times the sum required by the original deposit.

Section 5510. Meters.

5510.1 All premises using City water and sewer systems shall be metered, unless the Council by resolution shall so direct. Each dwelling unit, as that term is defined by Section 8110.4 of the Municipal Code, constructed after April 10, 1989, and each commercial, industrial, institutional and governmental user shall have a separate meter. If more than one dwelling unit uses a meter, it shall be the responsibility of the property owner to report to the City the number of units using a meter.

5510.2 Water meters shall be furnished by the Department of Public Works, but shall be installed at the expense of the consumer, or under the direction of the Department. Title and ownership of water meters shall be vested in the City, and the Department shall have the right to take out any meter for the purpose of inspecting, repairing, or testing it.

5510.3 No person shall cause or permit a bypass or connection around a meter. All water furnished by the City and used on any premises must pass through the meter placed upon such premises or installed for the purpose of measuring the water supplied to such premises.

5510.4 If any meter registers improperly, the consumer will be charged for water and sewer service at the average consumption rate as shown by the figures over the period of the preceding four water and sewer terms when the meter was accurately registering.

Section 5511. Maintenance of Services. Every person having water or sewer service shall at his/her own cost and expense keep in repair all pipes and equipment, except the water meter, located on the property between the City sewer and the premises, and the Department is authorized to turn off the water from any premises, upon failure to make necessary repairs as required by the Department. The Department will maintain all meters and make all necessary repairs and replacements caused by normal usage, but the consumer will be held responsible for care and protection of the meter from freezing or damage by hot water or from injury by any person, or persons. Any damage which may occur to any water meter due to the carelessness on the part of the tenant, owner, or agent of the property on which said water meter is placed shall be paid for by such person upon presentation of the statement of damages. The Council may determine that the City shall be responsible for the cost of repairs to meters, pipes, and other equipment.

Section 5512. Rates.

5512.1 The rates to be charged for water and sewer service shall be set by the Council by resolution or otherwise, and may include service or readiness-to-serve charges, user or consumption charges, turn-on and permit or tap-in fees, laboratory testing fees, and surcharges.

5512.2 Charges for water and sewer service shall be billed on a monthly basis for service provided during the preceding month. The Department of Public Works shall read each water meter at least five times a year and shall make a written report of all water meter readings. In months in

which no reading is made of a meter, an estimate or minimum charge may be used, which amount or charge shall be taken into account in future billings.

5512.3 All bills shall be sent to the owners of the buildings to which service has been supplied, as shown by the tax records of the City. Bills may be sent to a tenant, in the discretion of the City, upon presentation of written evidence that the tenant assumes responsibility therefor. However, the owner remains liable for the charges.

5512.4 To all bills for water and sewer service, a penalty of ten percent (10%) of the amount of the bill shall be added to that bill if payment is not made within twenty (20) days after the due date as shown on said bill.

Section 5513. Collection of Delinquent Charges.

5513.1 Delinquent water or sewer service charges may be collected by suit brought in the name of the City against the owner and/or occupant of the premises or property.

5513.2 Any water or sewer service rate or charge not paid within 30 days after it shall become due and payable shall be considered to be delinquent.

5513.3 The production of the books of the Clerk shall be prima facie evidence of the liability to pay the amount therein charged.

Section 5514. Lien for Delinquent Charges.

5514.1 The City shall have a lien upon any building and the land upon which it is situated as security for the collection of any charges for water or sewer service supplied to that building, in accordance with state law.

5514.2 All unpaid water or sewer service charges which, upon the first day of April each year, have remained unpaid for three months or more, shall be reported by the Clerk to the Council at the first meeting thereof in the month of April. The Council shall thereupon order the publication in a newspaper published in the City a notice to all owners of property within the City that all unpaid water or sewer service charges, which have remained unpaid for a period of three months or more as of the first date of April and which have not been paid by the 30th day of April of that year, will be transferred to the tax roll and assessed upon the City's tax roll against the property to which service was supplied.

5514.3 All unpaid water or sewer service charges which are so reported and which remain unpaid on the 30th day of April shall be transferred to the City tax rolls and assessed against the property to which the water or sewer service was supplied, which unpaid charges shall be collected in the same manner as City taxes are collected.

Section 5515. Discontinuance of Service.

5515.1 Water may be turned off or on by the Department of Public Works at the request of the owner of property supplied with water.

5515.2 In the event any bill for water or sewer service is not paid within thirty (30) days after the due date, the Clerk may, without further notice, order the Department to shut off all water to any premises delinquent in payment of water or sewer service bills until such bills, together with any penalties, are paid in full.

5515.3 In case any authorized representative of the Department is refused admittance to any premises

using City water or sewer service, or in any way hindered in making any necessary inspection or examination, the water may be turned off from such premises, after giving 24 hours notice to the owner or occupant thereof.

5515.4 The City reserves the right to shut off the water or sewer services from any premises at any time because of accident or for the purpose of making repairs or extensions. The Department shall endeavor to give timely notice to the consumers affected thereby and shall, so far as practical, use its best efforts to prevent inconvenience and damage arising from any such cause, but the failure to give such notice shall not render the City responsible or liable in damages for any inconvenience, injury, or loss which may result therefrom.

5515.5 Whenever any provision of this Article is violated, the Department of Public Works shall cause the water to be shut off from the building or place of such violation, after giving 24 hours notice to the owner or occupant thereof. The water in such premises shall be turned on again only upon reapplication for use of water to the Clerk, and only after paying all damages and other charges caused by the failure to comply.

5515.6 The Council shall by resolution determine charges and penalties for turning water off and on.

Section 5516. Improper use of Water. No person shall, without consent, take or use City water or sewer service from premises other than his/her own, and no person shall sell water or sewer services from his/her own premises for any purpose.

Section 5517. Penalties

5517.1 Any person violating any provision of this Article except Section 5507, shall be served by the City with a corrective order, pursuant to Section 3403 of this Code.

5517.2 Any person who shall continue any violation beyond the time limit stated in the corrective order or who violates Section 5507, shall be guilty of a municipal civil infraction. Each day in which a violation shall continue shall be deemed a separate offense.

5517.3 Any person violating any of the provisions of this Article shall be liable to the City for any expense, loss, or damage occasioned by reason of such violation.

Section 5518. Environmental Problems; Additional Information

The City may require each person who applies for or receives sewer service, or through the nature of the enterprise creates a potential environmental problem to take any or all of the following steps:

- a) File a written statement setting forth the nature of the enterprise, the source and amount of water used, the amount of water to be discharged, with its present or expected bacterial, physical, chemical, radioactive, or other pertinent characteristics of the wastes.
- b) Provide a plan map of the building, works or complex, with each outfall to the surface waters, sanitary sewer, storm sewer, natural watercourse, or ground water noted, described and the waste stream identified.
- c) Sample, test, and file reports with the City and the appropriate State agencies on appropriate characteristics of wastes on a schedule, at locations, and according to methods approved by the City.

- d) Place waste treatment facilities, process facilities, waste streams or other potential waste problems under the specific supervision and control of persons who have been certified by an appropriate State Agency as properly qualified to supervise such facilities.
- e) Provide a report on raw materials, intermediate materials, final products, and waste by-products entering the process or support systems, as those factors may affect waste control.
- f) Maintain records and file reports on the final disposal of specific liquid, solid, sludges, oils, radioactive materials, solvents, or other wastes.
- g) Give written notice to the City at least thirty (30) days before any industrial process is to be altered to include a process waste.

Section 5519. Cross Connection Ordinance. An ordinance regulating cross connections with the public water supply system, i.e. a connection or arrangement or appurtenances through which water of questionable quality, wastes or other contaminants can enter the public water supply system.

5519.1 The City of Frankfort adopts by reference the Water Supply Cross Connection Rules of the Michigan Department of Environmental Quality, being R 325.11401 to R 325.11407 of the Michigan Administrative Code.

5519.2 It shall be the duty of the City to cause inspections to be made of all properties served by the public water supply where cross connection with the public water supply is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the City and as approved by the Michigan Department of Environmental Quality.

5519.3 A representative of the City Department of Public Works shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the City for the purpose of inspecting its piping system or systems for cross connections. On request, the owner, lessees, or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on the property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connection.

5519.4 The City shall discontinue water service, after reasonable notice, to any property where any connection in violation of this ordinance exists and shall take such other precautionary measures it deems necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this ordinance.

5519.5 All testable backflow prevention devices shall be tested initially upon installation to be sure that the devices are working properly. Subsequent testing of devices shall be conducted at a time interval specified by the City and in accordance with Michigan Department of environmental Quality requirements. Only individuals approved by the City shall be qualified to perform such testing. Those individuals shall certify the results of their testing.

5519.6 The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this ordinance and by the state plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the portable system much be labeled in a conspicuous manner as:

**WATER UNSAFE
FOR DRINKING**

- 5519.7 This ordinance does not supersede the state plumbing code but is supplementary to it.
- 5519.8 Any person or customer found guilty of violating any of the provisions of this ordinance or any written order of the City issued pursuant to this ordinance shall be subject to the penalties specified in Section 5517.

CHAPTER 5: PUBLIC HEALTH, SAFETY, AND WELFARE

Article 6. REFUSE AND WASTE COLLECTION

Section 5601. Definitions

- 5601.1 "Refuse" means kitchen wastes, including cans, bottles, household or animal food, and vegetable matter incidental to the preparation, use, cooking or serving of food; fish offal; household and commercial rubbish, including ashes, rags, clothing, cartons, boxes, wrapping material, and newspapers or magazines.
- 5601.2 "Waste" means household appliances, furniture, earth, sod, rocks, concrete, trash from construction or remodeling, trees or parts thereof (including Christmas trees), automobile or truck parts, tires, crates, manufacturing or trade wastes, hazardous waste as defined by MCL 299.504(3), as amended, and any non-auto loading container weighing more than fifty-five (55) pounds or exceeding thirty-five (35) gallons capacity regardless of content.
- 5601.3 "Yard Waste" means grass clippings, wood, bushes, leaves, brush and branch clippings, and other biodegradable plant matter produced or collected from yards.
- 5601.4 "Residential Unit" means any single family dwelling, or any mobile home not located within a licensed mobile home park, or any multiple family residential structure containing not more than four (4) single family units, located within the City, which generates less than six (6) cubic yards of refuse per week.
- 5601.5 "Commercial Unit" means any business establishment; multiple family residential structures containing more than four (4) single family units; mobile home parks; government buildings; non-profit organizations such as schools, churches, and hospitals; or any unit which generates six (6) or more cubic yards of refuse per week; located within the City.
- 5601.6 "Authorized Refuse Container" means those readily identifiable plastic bags purchased from the City for purposes of refuse collection; any non-autoloading container of no more than 35-gallon capacity and weighing no more than 55 pounds, which has affixed thereto one of those readily identifiable tags sold by the City for purposes of refuse collection; or a refuse dumpster furnished pursuant to a municipal refuse collection contract.
- 5601.7 "Recycling Dumpster" means those specially-marked autoloading containers furnished by the refuse contractor to commercial units for cardboard collection pursuant to a municipal refuse collection contract.

Section 5602. Collection by City; Exceptions. All refuse or waste accumulated in the City shall be collected, conveyed and disposed of by the City or by persons authorized by the City. No other person shall collect, dispose of, or convey over any of the streets or alleys of the City, any refuse or waste accumulated in the City.

5602.1 This Section shall not prohibit the actual producers of refuse or waste, or the owners of premises upon which refuse or waste has accumulated, from personally collecting, conveying and disposing of such refuse or waste, provided such producers or owners comply with the provisions of this Article and with any other governing law or ordinance.

5602.2 This Section shall not prohibit collectors of refuse or waste from outside of the City from hauling such refuse or waste over City streets, provided such collectors comply with the provisions of this Article and with any other governing law or ordinance.

Section 5603. Refuse Containers; Contents

5603.1 Refuse shall be deposited only in authorized refuse containers.

5603.2 Only refuse shall be deposited in authorized refuse containers.

5603.3 Only cardboard shall be deposited in recycling dumpsters.

5603.4 Yard waste shall be deposited in authorized yard waste containers, except under express approval granted by the Superintendent.

5603.5 All commercial units which prepare or process food or foodstuffs for sale to the public, and which generate three (3) or more cubic yards of refuse per week, shall procure and maintain one refuse dumpster. If a commercial unit generates more than six (6) cubic yards of refuse per week, it shall maintain one additional refuse dumpster for each six (6) cubic yards (or fraction thereof) of refuse so generated, or contract for more frequent collection as provided in Section 5606.1.

5603.6 Any single building or location which generates six (6) or more cubic yards of refuse per week, regardless of the nature of that refuse, shall maintain one refuse dumpster for each six (6) cubic yards (or fraction thereof) of refuse so generated.

5603.7 All units which do not maintain a refuse dumpster shall deposit refuse in another type of authorized refuse container.

Section 5604. Accumulation of Refuse or Waste

5604.1 No person shall place, store, or allow to accumulate any refuse or waste in any street, alley or other public place, or upon any private property whether owned by such person or not, except it be in authorized refuse containers or under express approval granted by the Superintendent.

5604.2 No person shall cast, place, sweep or deposit any refuse or waste in such manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, sewer, parkway or other public place, or into any occupied premises within the City.

5604.3 No person shall place refuse or waste, regardless of how packaged, on any private premises without the express consent of the owner of the premises.

5604.4 No person shall throw or deposit any refuse or waste in any lake, stream, or other body of water.

5604.5 No person except occupants of property located within the City shall place refuse or waste on any private premises or public place, except under express approval granted by the Superintendent.

Section 5605. Points of Collection; Time. Refuse containers shall be placed for collection at ground level on the property, not within the improved right-of-way of a street or alley, and accessible to and not more than forty (40) feet from the side of the street or alley from which collection is made; provided that containers may be placed for collection at other than ground level and at a distance of more than forty (40) feet when approved by the Superintendent. All refuse shall be placed for collection no more than twenty-four (24) hours before scheduled collection.

Section 5606. Collection Practices

5606.1 Refuse shall be collected from residential and commercial units at least once each week. Commercial units may enter into an agreement for a greater frequency of collection. Where necessary to protect the public health, the City Superintendent shall have the authority to direct that more frequent collections be made.

5606.2 The removal of wearing apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed should be performed under the supervision and direction of the County Health Officer. Such refuse shall not be placed in containers for regular collection.

5606.3 Any refuse constituting hazardous waste as defined by MCL 299.504 shall be disposed of in accordance with the Hazardous Waste Management Act, MCL 299.501 et seq.

Section 5607. Collection by Actual Producers and Outside Collectors; Requirements

5607.1 The actual producers of refuse who desire personally to collect and dispose of such refuse, and collectors of refuse from outside the City who desire to haul over the streets of the City, shall use a water-tight vehicle provided with a tight cover and so operated as to prevent offensive odors escaping therefrom and refuse from being blown, dropped or spilled. Persons who desire to dispose of waste material not included in the definition of refuse shall use an appropriate vehicle so operated as to prevent offensive odors from escaping therefrom and waste material from being blown, dropped or spilled. All such persons must comply with applicable State regulations for transporting solid wastes.

5607.2 Disposal of refuse or waste by persons so permitted under 5607.1 shall be made outside the City limits, in approved disposal facilities.

Section 5608. Title to Refuse. Ownership of refuse or waste set out for collection shall be vested in the City.

Section 5609. Civil Infraction; Exception. Any violation of this Article shall be a municipal civil infraction, except that a violation of Section 5606.3 shall be a misdemeanor.

Section 5610. Public Nuisance. In addition to the remedies provided in Chapter 3 of this Code, any violation of this Article is expressly declared to be a public nuisance and shall be subject to the remedies provided in Chapter 3, Article 4 of this Code.

CHAPTER 5: PUBLIC HEALTH, SAFETY, AND WELFARE

Article 7. GROUNDWATER PROTECTION

Section 5701. Purpose and findings. The City of Frankfort finds:

- 1) The groundwater underlying the City is the sole source of the City's drinking water.
- 2) Groundwater aquifers are integrally connected with, and flow into, the surface waters, lakes, and streams which constitute significant public health, recreational and economic resources of the City.
- 3) Spills and discharges of petroleum products, sewage and other hazardous substances threaten the quality of the groundwater supplies and other water related resources, posing potential public health and safety hazards and threatening economic losses.

Therefore, the City of Frankfort enacts this Article to:

- 1) Preserve and maintain existing and potential groundwater supplies, aquifers, and groundwater recharge areas of the City, and protect them from adverse development or land use practices.
- 2) Preserve and protect present and potential sources of drinking water supply for public health and safety.
- 3) Conserve the natural resources of the City.
- 4) Protect the financial investment of the City in its drinking water supply system and to meet state requirements for wellhead protection.
- 5) Assure that state regulations which help protect groundwater are implemented consistently when new or expanded development proposals are reviewed.

Section 5702. Definitions.

5702.1 "Aquifer" means a geologic formation, group of formations or part of formation capable of storing and yielding a significant amount of groundwater to wells or springs.

5702.2 "Best Management Practices" means measures, either managerial or structural, to prevent or reduce pollution inputs to soil, surface water or groundwater.

5702.3 "Development" means the carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.

5702.4 "Environmental Contamination" means the release of a hazardous substance, or the potential release of a discarded hazardous substance, in a quantity which is or may become injurious to the environment, or to the public health, safety, or welfare.

5702.5 "Facility" means any building, structure, or installation from which there may be a discharge of pollutants.

5702.6 "Hazardous Substances" means a chemical or other material which is or may become injurious to the public health, safety, or welfare, or to the environment. The term "hazardous substance" includes, but is not limited to, hazardous substances as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, 94 Stat. 2767; "hazardous waste" as

defined in the Hazardous Waste Management Act, Act No. 64 of the Public Acts of 1979, being Sections 229.501 to 299.551 of the Michigan Compiled Laws; “petroleum” as defined in the Leaking Underground Storage Tank Act, Act No. 478 of the Public Acts of 1988, being Sections 299.831 to 299.850 of the Michigan Compiled Laws.

5702.7 “Primary Containment Facility” means a tank, pit, container, pipe, or vessel of first containment of a hazardous substance.

5702.8 “Secondary Containment Facility” means a second tank, catchment pit, pipe or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment facility. Containment systems shall be constructed of materials of sufficient thickness, density and composition to prevent the discharge to land, ground waters, or surface waters, of any pollutant which may emanate from said storage container or containers.

Section 5703. Scope. These provisions shall apply to all business and facilities, including private and public facilities, which use, store or generate hazardous substances, or which require site plan review under the provisions of the City of Frankfort Zoning Ordinance.

Section 5704. General Provisions.

5704.1 Groundwater Protection Standards

- a) All projects and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains and groundwater, and to ensure the absence of an impairment, pollution, and/or destruction of water, natural resources, and the public trust therein.
- b) Storm water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, shall not increase flooding or the potential for environmental contamination, on-site or off-site, and shall not result in loss of the use of property by any third party.
- c) General purpose floor drains shall be connected to a public sewer system, an on-site holding tank, or a system authorized through a state surface or groundwater discharge permit. If connected to the public sewer system then the volumes and concentrations of waste discharged to the floor drain may require compliance with Section 5506.5 of this Code.
- d) Sites at which hazardous substances are stored, used, or generated shall be designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.
- e) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without applicable permits and approvals.
- f) In determining conformance with the standards in this zoning ordinance, the City shall take into consideration the publication entitled “Small Business Guide to Secondary Containment”, Clinton River Watershed Council, 1991, and other applicable references.

- g) Bulk storage of pesticides shall be in accordance with Regulation No. 640, Commercial Pesticide Bulk Storage, Act 171 of the Public Acts of 1976, as amended, being MCL 286.569.

5704.2 Above-ground Storage and Use Areas for Hazardous Substances and Polluting Material

- a) Primary containment of hazardous substances shall be product tight.
- b) Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance. Products held in containers of 10 gallons or less packaged for retail use shall be exempt from this item.
- c) Outdoor storage of hazardous substances be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism, including an allowance for the expected accumulation of precipitation.
- d) Out buildings, storage rooms, sheds and pole barns which are utilized as secondary containment shall not have floor drains which outlet to soil, the public sewer system, groundwater, or nearby drains or natural water bodies unless a surface or groundwater discharge permit has been obtained.
- e) Areas and facilities for loading and unloading of hazardous substances as well as areas where such materials are handled and stored, shall be designed and constructed to prevent unpermitted discharges to floor drains, rivers, lakes, wetland, groundwater, or soils.

5704.3 Underground Storage Tanks

- a) Existing and new underground storage tanks shall be registered with the authorized state agency in accordance with applicable requirements of the U.S. Environmental Protection Agency and the Michigan Department of Environmental Quality, Storage Tank Division.
- b) Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with applicable requirements of the State Police Fire Marshall Division. Leak detection, corrosion protection, spill prevention and overfill protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review by City officials for five years.
- c) Underground storage tanks taken out of service permanently shall be emptied and permanently closed in accordance with the requirements of the State Police Fire Marshall Division, and the Michigan Department of Environmental Quality.

5704.4 Well Abandonment. Out of service water wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Environmental Quality, Drinking Water and Radiological Protection Division.

5704.5 Site with Contaminated Soils and/or Groundwater

- a) Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and the environment.
- b) Development shall not be allowed on contaminated areas of a site unless the Michigan Department of Environmental Quality has approved a remediation plan, and the applicant shows that cleanup will proceed in a timely fashion.

5704.6 Construction Standards

- a) The general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for handling any hazardous substances. For instance, handling hazardous substances in proximity to water bodies or wetlands may be improper.
- b) Hazardous substances stored on the construction site during the construction process, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands. Any storage container which contains hazardous substances shall have secondary containment.
- c) If the contractor will be storing or handling hazardous substances that require a manufacture's material safety data sheet, the contractor shall familiarize him/herself with the sheet, and shall be familiar with procedures required to contain and clean up any releases of the hazardous substance.
- d) Upon completion of construction, all hazardous substances and containment systems no longer used, or not needed in the operation of the facility shall be removed from the construction site by the responsible contractor, and shall be disposed of, recycled, or reused in a property manner as prescribed by applicable State and Federal Regulations.

5704.7 Maintenance. In areas where hazardous substances are handled, structural integrity of the building must be maintained to avoid inadvertent discharge of chemicals to soil and groundwater. Cracks and holes in floors, foundations and walls must be repaired in areas where chemicals are handled or stored.

Section 5705. Site Plan Review Requirements. In addition to the information required by the Zoning Ordinance, all site plan review applications shall:

1. Specify location and size of interior and exterior area(s) and structure(s) to be used for on-site storage, use, loading/unloading, recycling, or disposal of hazardous materials.
2. Specify location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous materials storage, collection of contaminated storm water or wash water, and all similar uses.
3. Specify location of exterior drains, dry wells, catch basins, retention/detention areas, sumps, and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
4. Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of site cleanup, if applicable.
5. Submit evidence that all required State and County environmental permits have been obtained.

Section 5706. Exemptions And Waivers. The transportation of any hazardous substance shall be exempt from the provisions of this Article, provided the transporting motor vehicle or rail is in continuous transit, or that it is transporting substances to or from a State licensed hazardous waste treatment, storage, or disposal facility.

Section 5707. Penalties And Costs.

5707.1 Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Article, or who falsifies, tampers with, or knowingly renders inaccurate any method required under this Article, shall be guilty of a misdemeanor.

5707.2 Any person who is found to have violated an Order of the City issued under this Article or who willfully or negligently fails to comply with any provision of this Article and any orders or permits issued thereunder, shall be guilty of a misdemeanor.

5707.3 Each day on which a violation shall occur, or continue to occur, shall be deemed a separate and distinct offense.

Section 5708. Cost Recovery.

5708.1 Any person violating any of the provisions of this Article shall be liable to the City for any costs, loss or damage caused by such violation, including the cost of providing police, city attorney and/or administrative services. Costs include, but are not limited to, the salaries, wages, and fringe benefits of any personnel engaged in investigating or responding to an alleged violation of this Article, all costs related to any prosecution of the person responsible for the alleged violation, and any remediation costs incurred by the City.

5708.2 The City Clerk, or his or her designee, may submit a bill for the costs of violation by first class mail or by personal service to the person liable for the expense. The bill(s) shall require full payment in thirty (30) days from the date of service. Service by mail shall be effective upon depositing the bill in a United States Postal Service receptacle. No bill shall be submitted more than one year after the date of the last expense incurred.

5708.3 Failure by the person liable for the costs to pay the bill within thirty (30) days of service shall be considered a default. In the event of a default, the City may commence civil suit to recover the costs and any addition costs allowed by law, or may use any other method of collection permitted by law.

CHAPTER 5: PUBLIC HEATH, SAFETY, AND WELFARE

Article 8. LIABILITY FOR MINORS' CONSUMPTION OR POSSESSION OF ALCOHOL

Section 5801. Definitions. As used in this Article:

5801.1 "Alcoholic Beverage" means any beverage containing more than ½ to 1% of alcohol by weight. The percentage of alcohol by weight shall be determined in accordance with the provisions of MCL 436.2, as amended.

5801.2 "Minor" means a person not legally permitted by reason of age to possess alcoholic beverages, pursuant to MCL 436.33b, as amended.

5801.3 "Residence" or "Premises" means a motel room, hotel room, home, apartment, condominium, or other dwelling unit, including the curtilage of the dwelling unit, or a hall, meeting room, or other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for social functions, and whether owned, leased, rented or used with or without compensation.

5801.4 "Control" means immediate dominion including a possessory right, but does not include the interest of a landlord, land contract seller, motel or hotel operator or owner, or similar non-possessory interest.

Section 5802. Regulation. A person having control of any residence or premises shall not allow a minor, other than a member of the person's immediate family, to possess or consume any alcoholic beverage at that residence or premises, where the person knew or could have discovered upon reasonable inquiry, that an alcoholic beverage was in the possession of or being consumed by a minor and where the person failed to make reasonable efforts to prevent the possession or consumption.

Section 5803. Exception. The provisions of this Article shall not apply to legally protected religious observances or legally protected educational activities.

CHAPTER 5: PUBLIC HEALTH, SAFETY, AND WELFARE

Article 9. FALSE ALARMS

Section 5901. Purpose and Findings. The City of Frankfort finds that false alarms are a public nuisance because they threaten public safety by diverting limited police resources from legitimate requests for assistance and other law enforcement matters. The purpose of this Article is to recover the cost of responding to false alarms and thereby reduce their occurrence.

Section 5902. Definitions

5902.1 “Alarm User” means any person who owns or leases a security alarm system or on whose premises a security alarm system is maintained.

5902.2 “False Alarm” means any alarm (including oral, mechanical, electrical, or otherwise) conveyed to the Police or Fire Departments in order to solicit an immediate response, but for which there is no evidence of criminal activity, fire, medical emergency or other situation warranting a call for immediate assistance.

5902.3 “Alarm System” means any system, device, or mechanism for detecting and reporting any criminal activity, attempted criminal activity, fire or medical emergency upon the premises, which when activated, automatically transmits a telephone message or emits an audible, visible, or electronic signal that can be heard, seen, or received by persons outside of the protected premises and is intended to summon Police or Fire Department assistance.

Section 5903. Audible Alarm Standards. An alarm system which emits an audible signal that may be heard outside of the protected premises shall be equipped with a mechanism to automatically discontinue emitting the audible sound within ten (10) minutes after activation of the alarm.

Section 5904. Registration

5904.1 Every alarm user shall file an information form with the Police Department or Superintendent (in case of fire alarm systems) containing the following information:

- a) alarm user’s name, address and telephone number;
- b) date of installation;
- c) type of alarm;
- d) name, address and telephone number of at least two local contact persons who have knowledge of the alarm system;
- e) name, address and telephone number of the person providing maintenance, repair, or monitoring of the alarm system;
- f) any special features of the alarm system.

5904.2 Registration forms shall be filed within twenty-eight (28) days after installation of the system or within twenty-eight (28) days after the effective date of this Article, whichever is later.

Section 5905. Prohibition. No alarm user shall maintain, use, or allow the use of an alarm system which signals four (4) or more false alarms in any 365-day period.

Section 5906. Frequent False Alarms

5906.1 Any alarm user whose alarm system initiates more than two (2) false alarms in a 365-day period shall be required to pay to the City a fee of One Hundred Dollars (\$100) for each subsequent false alarm within the 365-day period commencing with the first false alarm.

5906.2 The Police Department or the Superintendent (in case of fire alarm systems) shall send a false alarm notification to the alarm user after the occurrence of each false alarm, and a notice of assessment after the third and each subsequent false alarm.

5906.3 After notification of the first and any subsequent false alarm, the alarm user shall have the alarm system inspected and serviced by an alarm provider when it is determined that the false alarm was caused by a malfunction within the system, lack of maintenance, or when a determination as to the reason for activation cannot be made. Documentation of the inspection shall be given to the Police Department or Superintendent (in case of fire alarm systems) within fourteen (14) days after the date of false alarm notification. Any alarm user who fails to provide documentation shall pay fee of Fifty Dollars (\$50).

5906.4. Alarms caused by the following extenuating circumstances shall not constitute a false alarm, and no false alarm fee shall be charged:

- a) Alarm system malfunctions, if corrective measures have been instituted within a seventy-two (72) hour period with documentation to the Police Department or Superintendent (in case of fire alarm systems) of repair service having been performed to remedy the malfunction.
- b) Storm or severe weather conditions.
- c) Alarms activated by persons working on the alarm system with prior notification to the Police Department or Superintendent (in case of fire alarm systems).
- d) Alarms activated by disruption or disturbance of telephone facilities or motor vehicle/utility pole accidents.

Section 5907. Appeals

5907.1 If any alarm user wishes to request a waiver of assessment of any fee due to extenuating circumstance, he/she may do so in writing within ten (10) working days of the false alarm notification and assessment. The waiver request shall contain documentation of the extenuating circumstances. Within ten (10) working days of the receipt of the waiver request, the Police Chief, Superintendent (in case of fire alarm systems), or his/her designee shall make a determination and notify the alarm user of the decision in writing.

5907.2 If the alarm user is not satisfied with the decision rendered by the Police Chief, or Superintendent (in case of fire alarm systems) an appeal may be made to the City Council within ten (10) working days from the date of decision by the Police Chief or Superintendent (in case of fire alarm systems). Appeals shall be heard by the City Council within thirty (30) days after the filing of the appeal or at the next regular scheduled meeting of the Council.

Section 5908. Collection. If the alarm user fails to pay the false alarm fees to the City within thirty (30) days after notice of assessment, the costs shall become a lien upon the premises served by the alarm system, and may be collected by suit or in the same manner as City property taxes.

Section 5909. No Liability of City. The City assumes no liability for any defects in the operation of any alarm system, for any failure or neglect of any person associated with the installation, operation, or maintenance of any alarm system, for any failure or neglect of any alarm user, for the transmission or receipt of alarm signals or any failure or neglect to respond upon receipt of an alarm from any source. In the event that the City finds it necessary to cease responding to alarms from a specific premises due to excessive false alarms, the City shall have no liability for such action. No special duty, other than that owed to the general public, shall be created by this Article.

ARTICLE 5: PUBLIC HEALTH, SAFETY AND WELFARE

Article 10. HAZARDOUS SPILLS COST RECOVERY

Section 51001. Intent. Surface waters, groundwater, soils, vegetation, and atmosphere inside the City are susceptible to damage from the handling, storage, use, processing and disposal of hazardous material, and the expense incurred by the taxpayer as a result of the City or its Designee having to respond in an emergency to protect life, property and the environment when there has been a release of hazardous materials should be recovered from the person responsible for the emergency.

Section 51002. Definitions. As used in this Article:

- a) “CFR” means the Code of Federal Regulations.
- b) “Compressed gas” means any material regulated as compressed gas by the United States Department of Transportation, by regulations found in 49 CFR §§173.300.
- c) “Designee” means the Northwestern Regional Hazardous Materials Response Team or such other public or private agency authorized in writing by the City to respond to hazardous materials incidents within the City.
- d) “Emergency action” means all of the activities conducted in order to prevent or mitigate injury to human health or to the environment inside the City from a release or threatened release of any material into or upon the environment.
- e) “Explosive” means any material regulated as a class A or class B explosive by the United States Department of Transportation, by regulations found in 49 CFR §§173.53 and 173.88.
- f) “Flammable liquid” means any material regulated as a flammable liquid by the United States Department of Transportation, by regulations found in 49 CFR §173.115.
- g) “Flammable solid” means any material regulated as a flammable solid by the United States Department of Transportation by regulations found in 49 CFR §173.150.
- h) “Hazardous material” means any of the following:
 - (1) Any material listed in the list of toxic pollutants found in 40 CFR §401.15, as amended.
 - (2) Any material designated as hazardous material by applicable State law.
 - (3) Any compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison or radioactive material.
- i) “Oxidizer” means any material regulated as an oxidizer by the United States Department of Transportation by regulations found in 49 CFR §173.151.
- j) “Person” includes any individual, corporation, association, partnership, firm, trustee, or legal representative.
- k) “Poison” means any liquid that is life threatening when mixed with air in small amounts, and shall also include all those materials regulated as poison class A by the United States Department of Transportation by regulations found in 49 CFR §173.326.
- l) “Radioactive material” means any material required by the United States Department of Transportation to have type A packaging or other special protection or closed transport vehicles, under regulations found in 49 CFR §173.425.
- m) “Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injection, escaping, leaching, dumping or disposing into or upon the environment, including, but not limited to, the release of any material classified as hazardous material by any federal legislation or regulation, by any state legislation or regulation, or by any City ordinance.
- n) “Threatened release” means any imminent or impending event potentially causing but not resulting in a release, but causing the City to undertake an emergency action.

Section 51003. Notice and Response.

- 51003.1 Any person who has damaged the surface waters, groundwater, soils or atmosphere by the handling or storage of hazardous materials, or who has violated any local, State or federal environmental laws with respect to hazardous materials, is required to immediately notify the City.
- 51003.2 The requirements of this Article shall not be construed to forbid or forgive any person from using all diligence necessary to control a hazardous material release prior or subsequent to the notification to the City, especially if such efforts may result in the containment of the release or the abatement of extreme hazard to the employees or the general public. Delays in reporting releases due to in-house notification of off-site owners or supervisors shall result in penalties. Nothing in this Article shall be construed to exempt or release any person from any other notification or reporting required by any state or federal agency.
- 51003.3 The City Fire Chief or the City's Designee are authorized to direct an emergency action and the clean up and abatement of any release, or threatened release, within the City.

Section 51004. Liability for Costs.

- 51004.1 Any person causing or contributing to the causing of a release or threatened release shall be liable to the City for the recoverable costs.
- 51004.2 The following described persons shall be jointly and severally liable to the City for the payment of all costs incurred by the City as a result of such clean up or abatement activity:
- a) Any person whose negligent or willful act or omission proximately caused such release, discharge or deposit;
 - b) The person who owned or had custody or control of the hazardous material or the material at the time of such release, discharge, or deposit without regard to fault or proximate cause; and
 - c) The person who owned or had custody or control of the container which held such hazardous material at the time of or immediately prior to such release, discharge or deposit, without regard to fault or proximate cause.

Section 51005. Recovery of Costs.

- 51005.1 The City or its Designee shall keep an itemized record of recoverable costs resulting from a release or threatened release including an emergency action.
- 51005.2 The City or its Designee shall submit a written itemized claim to the responsible person for the total costs incurred by the City or its Designee related to the release or threatened release and any emergency action, with a written notice that unless the amounts are paid in full within thirty (30) days after the date of the mailing of the claim and notice, a civil action will be commenced seeking recovery for the stated amount plus any amounts occasioned by such suit.
- 51005.3 For the purposes of this Article, costs of the City or its Designee shall mean all direct and indirect costs and shall include costs of an emergency action and shall include but not be limited to the following:

- a) Actual labor cost of personnel, including workers compensation benefits and fringe benefits;
- b) Administrative overhead;
- c) Costs of equipment operation;
- d) Cost of materials;
- e) Laboratory costs of analyzing samples taken during the emergency action;
- f) Medical expenses incurred as a result of response activities;
- g) Costs of any contract labor;
- h) Costs to supervise or verify the adequacy of the cleanup or abatement by others; and
- i) Legal expenses that may be incurred as a result of the release or threatened release, including actions for recoverable costs pursuant to this Article.

51005.4 Costs recovered related to the emergency action incurred by the City's Designee shall be transferred to the Designee as soon as possible.

Section 51006. Civil Suit. The City or its Designee may bring a civil action for payment of the recoverable costs against any and all persons liable under this Article. All costs of such suit, including actual attorney fees, shall also be a recoverable cost within the same civil action.

Section 51007. Conflict with State or Federal Law. Nothing in this Article shall be construed to conflict with State or federal laws requiring persons causing or responsible for release or threatened releases from engaging in remediation activities or paying the cost thereof, or both.

Section 51008. Nonexclusive Remedy. The remedies provided by this Article shall be in addition to any other remedies available in equity or at law and such penalties as provided by law or ordinance.

CHAPTER 5: PUBLIC HEATH, SAFETY, AND WELFARE

Article 11. MISCELLANEOUS

Section 51101 Animals

51101.1 Definitions. As used in this Article:

“Animal” means any live creature other than human beings.

“Cat” means an animal of any age of the species *Felis Catus*.

“Dog” means an animal of any age **solely** of the species *Canis Familiaris*.

“Domesticated animal” means any of a species of animals which have traditionally, through a long association with humans, lived in a state of dependence upon humans or under dominion and control of humans, or have been traditionally kept as household pets, raised as livestock, or used for commercial breeding.

“Exotic animal” means any wild animal that is not indigenous to Michigan.

“Farm animal” means any horse, mule, donkey, pig, cattle, sheep, goat, llama, duck, chicken, turkey, or any animal (other than a dog or cat) raised for commercial profit or slaughter.

“Ferret” means any member of the species *Mustela Furo*.

“Wild animal” mean any animal that is not a “domesticated animal”, any crossbreeds of these animals with “domesticated animals”, or any descendent of any such crossbreed.

51101.2 Prohibitions.

- a) No person shall keep any farm animals within the City, provided that this Section shall not apply to any person who has kept a farm animal for at least thirty (30) days prior to the effective date this Section.
- b) No person, except veterinarians or DNR licensed caregivers to wild animals in the course of their occupations, shall keep any wild or exotic animals within the City. Any person who keeps an exotic or wild animal on the effective date of this Section shall remove the animal from the City within thirty (30) days.
- c) No person, except veterinarians and pet grooming facilities in the course of their business, shall keep more than six (6) cats, dogs, ferrets, any animal other than farm, wild or exotic animals, or any combination thereof; provided that any person may keep a female animal and its offspring for up to three (3) months after the birth of the offspring.

51101.3 Exceptions. The Superintendent may permit the keeping of animals which would otherwise violate this Section, if he/she concludes:

- a) That adequate facilities and space permit the keeping of animals in a manner which is humane and sanitary.
- b) The animals will be adequately screened from public view.
- c) The keeping of these animals will not unreasonably interfere with the quiet enjoyment of neighboring premises.
- d) The animals will not present a threat to public health or safety.

If any person is not satisfied with the decision rendered by the Superintendent, an appeal may be made in writing to the City Council within ten (10) working days from the date of the decision by the Superintendent. Appeals will be heard by the City Council within thirty (30) days after filing the appeal or at the next regularly scheduled meeting of the Council.

Section 51102. Hunting and Trapping

51102.1 Except as provided in Sections 51102.2 and 51102.3, no person shall hunt, trap, or pursue wildlife within the City, except with prior written approval of the City Superintendent or the Chief of Police; nor shall any person carry a firearm or hunting weapon upon the land of another within the City without the landowner's written consent.

51102.2 Section 51102.1 shall not apply to the trapping of rats, mice, and moles, or the humane live trapping of squirrels, raccoons, chipmunks, or any other wild or domestic animals which may have caused damage to property or which have entered a building within the City.

51102.3 Any dog, cat, or domestic animal caught in a live trap shall be turned over to the Benzie County Animal Control Officer if the owner of the animal is unknown. Any other animal caught in a live trap shall be released into its natural habitat. No animal (or any part thereof) trapped within the City shall be sold or offered for sale.

51102.4 This section shall not apply to a law enforcement officer acting to enforce the law or to control or dispose of dangerous or seriously injured wild or domestic animals.

Section 51103. Yard Maintenance and Duty of Owner

51103.1 Every owner of property within the City shall maintain his/her property in a safe condition and free of debris and rubbish. Except for trees, gardens, and other landscaping, all growth shall be cut and maintained to a height of not more than eight (8) inches.

51103.2 If any owner does not comply with this Section, the Superintendent may issue a corrective order as provided by Section 3403. Should the owner fail to comply with this order, the City may perform the necessary work. The cost of the work may be collected by suit or in any other manner permitted by law.

**ARTICLE 12. REGULATION OF PRIVATE WATER WELLS IN AREAS OF CONTAMINATED
UNDERGROUND WATER**

Section 51201 Purpose and findings. An area of underground water within the City (the "restricted zone" described below) is contaminated with petroleum-related compounds. These contaminants are regulated substances, as defined in Section 21303(d) of Part 213, Act 451 of the Public Acts of 1994, and pose a hazard to the safety, and welfare of the citizens of Frankfort. There is no need to install private water wells in the restricted zone, because the City operates its own water service. Therefore, in order to protect the public, health, safety and welfare, it is in the public interest to prohibit private water wells in the restricted zone.

This regulatory ordinance is a feasible method for protecting the public health. A consultant, as defined in Section 21302(b) of Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, has determined that exposure to the regulated substance in groundwater may be reliably restricted by means other than restrictive covenants. Imposition of restrictive covenants to restrict exposure is impractical as multiple properties are included in the restricted zone defined below.

Section 51202 Definitions. As used in this Article:

"City" means the City of Frankfort.

"City water service" means the water supplied by the City of Frankfort.

"Restricted zone" means land located within the City of Frankfort, Benzie County, Michigan described as:

Lots 15 and 16 of Block 16; all of Blocks 17, 18 and 19; Sixth Street Reserve and Seventh Street Reserve (between the south right of way line of Main Street and the waters' edge); and all of Main Street between the east right of way line of Fifth Street and the east right of way line of Seventh Street; including the Ann Arbor Railroad right of way.

"Well" means an opening in the surface of the earth for the purpose of removing water through non-mechanical or mechanical means for any purpose.

Section 51203 Private water wells prohibited. No person, firm, association, corporation, or any other entity shall install, construct, maintain or use a water well within the restricted zone for any purpose whatsoever, except for the following:

- a) Wells installed and maintained for the purpose of groundwater monitoring and/or remediation as part of a response activity approved or required by the Michigan Department of Environmental Quality.
- b) Wells installed for construction de-watering, provided that water generated by that activity is handled and disposed of in accordance with all applicable laws and regulation. Exacerbation, as defined by MCL 324.20101, caused by the use of wells under this exception shall be the responsibility of the person operating the de-watering well, as provided in Part 201 of 1994 PA 451, the Natural Resources and Environmental Protection Act (NREPA).
- c) The Type II municipal well (commonly known as the artesian well) located in Mineral Springs Park, provided that this well is subject to groundwater monitoring pursuant to Part 7 Rules promulgated under this part, being MAC 325.10701 to 325.10717a, inclusive, under the oversight of the Michigan Department of Environmental Quality (MDEQ) Drinking Water and Radiological Protection Division (DWRPD) and/or its designee, in accordance with Act 399 of 1976, the Michigan Safe Drinking Water Act, being MCL 325.1001 through 325.1023 et seq.

Section 51204 Connection to city water service required. The owner or occupant of any property or structure within the restricted zone that is currently serviced by a private water well shall remove or properly abandon the water well and connect to the City water service within thirty (30) days of the effective date of this ordinance. The abandoned water well shall be plugged pursuant to State of Michigan Administrative Rule R 325.1663 or other applicable administrative rule or law. The owner or occupant of any property or structure within the restricted zone that desires water service at the property or structure shall connect to the City water service.

Section 51205 Notification to Department of Environmental Quality. The City shall notify the Director of DEQ thirty (30) days prior to the modification, lapsing, or revocation of the ordinance.

Section 51206 Nuisance per se. A violation of this ordinance is hereby declared to be a public nuisance or nuisance per se, and is declared to be offensive to the public health, safety, and welfare.

Section 51207 Court action for abatement of nuisance. The City may take civil action requesting injunctive relief against any person, firm, association, corporation, or other entity found to be in violation of this ordinance. This abatement action shall be in addition to any penalty imposed by Section 51208.

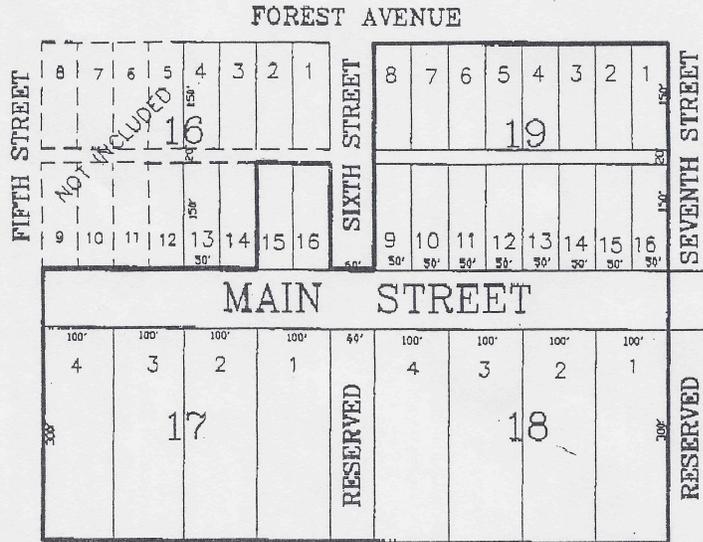
Section 51208 Civil infraction. Any person, firm, association, corporation, or other entity who violates any provision of this ordinance shall be responsible for a municipal infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than One Hundred Dollars (\$100.00). Each day this ordinance is violated shall be a separate violation. Any action taken under this Section shall not prevent civil proceedings for abatement or termination of the prohibited activity pursuant to Sections 51206 and 51207.

Section 51209 Severability and Notice to the Michigan Department of Environmental Quality. If any article, section, subsection, sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of remaining portions of this ordinance, it being the intent of the City that this ordinance shall be fully severable. The City shall promptly notify the Department of Environmental Quality (DEQ) upon the occurrence of any event described in this Section.

Section 51210 Filing of Ordinance with County Register of Deeds. No more than thirty (30) days after this ordinance becomes effective, the City shall file a certified copy of this ordinance with the Benzie County Register of Deeds, as an ordinance affecting multiple properties.

CERTIFICATE:
 I HEREBY CERTIFY THAT THE SKETCH BELOW IS AN EXACT COPY OF THE ORIGINAL PLAT OF THE VILLAGE OF FRANKFORT AND THAT THE DESCRIPTION IS ACCURATE.

PLAT OF THE VILLAGE of FRANKFORT



PROPERTY DESCRIPTION

A tract of land situated in the NW1/4 of Section 27, T26N, R16W, City of Frankfort, Michigan, described as follows: Lots 15 and 16 of Block 16, Blocks 17, 18, and 19, Sixth Street Reserve, Main Street and the Ann Arbor Railroad Right-of-way between the east line of Fifth Street and the west line of Seventh Street, all within the Plat of the Village of Frankfort, recorded in Liber 1, Page 642.

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|------------------|--|--------------------|
| | FOR City of Frankfort SEC. 27, T26N, R16W CITY OF FRANKFORT BENZIE COUNTY, MICHIGAN | |
| | INLAND SEAS ENGINEERING 1755 BARLOW STREET, TRAVERSE CITY, 49686, 231-933-4041 P.O. BOX 6820, TRAVERSE CITY, 49696-6820 1449 E. PIERSON ROAD, SUITE A, FLUSHING 810-487-0555 | |
| | DATE: 5-10-01 | DRAWN: S.K.S. |
| REVISED 3-15-02 | SCALE: 1" = 200' | FIELD: NONE |
| SHEET NO. 1 OF 1 | | CHECKED: T.D.R. |
| | | JOB NO. 9824214907 |