

HARBROCREEK TOWNSHIP

Upon motion by Timothy J. May, seconded by Joseph D. Peck, the following Ordinance was duly enacted, 3 voting in favor of enactment, 0 voting against enactment.

ORDINANCE 2011-203

An Ordinance to amend and restate Ordinance No. 55, commonly known as the Sewer Use Ordinance, regulating use and establishing responsibility for maintenance and replacements of sanitary sewers in Harborcreek Township; defining terms; prohibiting certain practices with respect to disposal of sewage; providing for the connection of properties to available public sewers; authorizing the Harborcreek Township Sewer Authority to make such connections and recover costs thereof in the event of neglect or refusal of owners to do so; requiring applications for and issuance of permits to make connections, including execution of bonds and payment of fees in connection therewith; providing for regulation of connections to the public system; imposing duties on owners of property which discharge industrial waste and potentially harmful substances into said sewers; regulating substances that may be introduced into sewers; prohibiting discharge of certain kinds of liquids or wastes, including those not in conformity with the Harborcreek Township Industrial Waste Ordinance (No. 94-156 as amended); imposing penalties and establishing enforcement measures in the event of violation; and including severability and repealor clauses.

WHEREAS, the public sanitary sewer system within Harborcreek Township is owned by the Harborcreek Township Sewer Authority, which maintains and operates the public sanitary sewer system; and

WHEREAS, Harborcreek Township has also enacted an Industrial Waste Ordinance, Ordinance No. 94-156 as amended by Ordinance Nos. 96-156-1, 96-156-3, and 96-156-4 establishing regulations governing discharge of industrial waste; and

WHEREAS, the Board of Supervisors of Harborcreek Township finds that it is in the best interest of the general health, safety and welfare of the Township's residents that the Sewer Use Ordinance be amended to more fully define responsibilities for components of the system, clarify regulations pertaining to connections to the public system and enable regulations to ensure proper operation of the public sewer system.

IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of Harborcreek Township, Erie County, Pennsylvania as follows:

1.01. Definitions

Words used in this Ordinance for which definitions are not established shall be given their usual customary meaning. Terms defined in other ordinances of the Township shall be defined in accordance with said definitions. Unless the context specifically indicates otherwise, the meaning of the following terms when used in this Ordinance shall be set forth below:

Applicant shall mean the owner of the property or, where applicable, the lessee of the property accorded authority under a lease to apply for a permit which pertains to the sanitary sewer system.

Authority shall mean the Harborcreek Township Sewer Authority.

Authority Engineer – shall mean the professional engineer employed by the Authority, his or her assistant or designee, or any consulting engineer retained by the Authority.

Authorized Representative

1. Of a corporation: the president, secretary, treasurer or vice president or other person submitting written confirmation of authority to perform the act for and on behalf of the corporation.
2. Of a partnership or limited partnership: a general partner.
3. Of an individual: the individual or other person submitting a written confirmation of authority to perform the act for and on behalf of said individual, so long as the owner remains ultimately liable for performance.
4. Of a Federal, State or Local governmental entity: a director or highest official appointed or designated to oversee the operation and performance of the activities of the entity, or their designee.

Biochemical Oxygen Demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., milligrams per liter).

Building Sewer shall mean that collection of pipes, clean-outs, small diameter pressure sewers, curb boxes and related appurtenances which transport sewage from a premises on private property to the public sanitary sewer main. The term includes building laterals and building drains and the term “service connection.”

Connection shall mean and extend to the installation, alteration, modification or termination/disconnection of an existing service connection to the sanitary sewer system, unless expressly provided otherwise in this Ordinance. This term refers to the act of effecting or altering a service connection to the sanitary sewer system.

Garbage shall mean solid waste from the preparation of cooking, dispensing of food and/or from the handling, storage and sale of produce.

Grinder Pump shall mean a mechanism that shreds and pressurizes sewage, consisting of motor, pump and shredder as well as housing, wiring and alarms, and usually considered a part of the Building Sewer.

Industrial Waste shall be construed to mean any liquid, gaseous, radioactive, solid or other substance, not ordinary waste or sewage, but including discharges from pretreatment facilities, resulting from any manufacturer or industry or from any establishment including those recovering or processing natural resources, and shall include all such substances, whether or not generally characterized as “waste.”

Natural Outlet shall mean any outlet into a watercourse, ditch, pond, lake or other body of surface or ground water.

Owner shall mean the person, firm, corporation, partnership, association or other entity having an interest as owner, whether legal or equitable, sole or partial, in any premises which is or may be furnished public sanitary sewerage service.

Person shall mean any individual, partnership, firm, company, corporation, association, joint stock company, trust, limited liability company, estate, governmental entity or other legal entity, or their legal representatives, agents or assigns.

Private Sewer System shall mean all or any portion of a sewerage system not owned by the Authority and/or the Township.

Private Well means any well owned by any person for his, her or its private use in providing water for any purpose whatsoever.

Properly Shredded Garbage means garbage which has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

Public Sanitary Sewer System (also **Public System**) Shall mean all sanitary sewers, pumping stations, sewerage treatment works, pressure systems and other facilities owned or operated by the Authority for the collection, conveyance and treatment of sanitary sewage and industrial waste along with their appurtenances and any additions, extensions or improvements that may be made by the Authority and/or its agents or representatives.

Records means and includes books, documents, papers, apparatus, data, readings, records of analysis, graphs, plans, investigative reports and ledgers.

Sanitary Sewer shall mean a sewer which carries sewage and/or industrial wastes and to which storm, surface and ground waters are not intentionally or lawfully admitted.

Service Connection (also **Service Lateral**) shall mean and include the pipe, clean-out, small diameter pressure sewer and related appurtenances that transport sewage, normally from a single premises, from the edge of the public right-of-way and/or easement to and including the attaching connection at the sanitary sewer main.

Sewage shall mean any combination of water-carried wastes from residences, buildings, industrial establishments, commercial establishments, institutions, manufacturing plants, processing plants or other places in which such wastes are produced, together with such ground, surface, storm or other water as may be present. This includes but is not limited to human waste and gray water (dish washing operations, household showers, clothes washing machines and slop sinks, etc.).

Sewage Treatment Plant shall mean and include all devices, facilities and/or structures used for treatment of sewage and/or industrial wastes.

Sewage Works shall mean all facilities for collecting, pumping, transporting, treating and disposal of sewage and industrial wastes.

Sewer shall mean a pipe or conduit for carrying sewage.

Shall, when used in this Ordinance, means a mandatory obligation.

Standard Laboratory Procedure shall mean the procedure prescribed in the latest edition of Standard Methods for the Examination of Water and Wastewater.

Storm Sewer or Storm Drain shall mean and include any sewer or conveyance which carries storm water, surface water, drainage and some industrial water discharges (such as cooling and air conditioning waters), but excludes sewage and polluted industrial waters.

Storm Water shall mean and include any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt. The term shall include but not be limited to flows from sump discharges, detention or retention facilities, downspouts, roof, and other drains and other conveyance facilities.

Suspended Solids mean solids which either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering in accordance with standard laboratory procedure.

Township shall mean Harborcreek Township.

Township Engineer shall mean the professional engineer employed by the Township, his or her assistant or designee, or any consulting engineer retained by the Township.

1.02 Use of Public Sewers Required

1.02.1 The owner of each and every house, building or other property located in Harborcreek Township which is used for human occupancy, employment, recreation or other purpose and abuts on any street, highway, easement or right-of-way in which there has been constructed a sanitary sewer, shall, at the owner's sole expense, install suitable sanitary sewer facilities therein and connect such facilities and industrial waste outlets directly with the public sanitary sewer system in accordance with the provisions of this Ordinance and with the rules and regulations adopted by the Authority governing use and operation of the sanitary sewer system within sixty (60) days after the date of official notice to do so given in the manner provided by law. Notwithstanding the foregoing, if any portion of the house, building or other structure described above shall be located more than 150 feet from the public sanitary sewer, the owner thereof shall not be required to connect to said system as outlined above.

1.02.2 The owner of any property upon which a new, altered or reconstructed building is constructed on or after enactment of this Ordinance shall not occupy or cause or allow to be occupied such building until such time as the building's sanitary facilities and any industrial waste outlets are properly connected to the public sanitary sewer system.

1.03 Alternative to Use of Public Sanitary Sewer

In lieu of introducing untreated or partially treated industrial wastes and polluted waters into the public sanitary sewer system, the owner of premises producing such wastes, upon receiving and complying with all applicable permits and regulations of the Township, the Pennsylvania Department of Environmental Protection, the United States Environmental Protection Agency and/or the Erie County Health Department, may at the owner's sole cost and expense, construct and operate private waste treatment facilities, with the effluent discharged to a natural outlet. The Township and/or the Authority may refuse to allow an on-lot system where it does not meet the Rules and Regulations. Authorized private waste treatment facilities shall be maintained and operated at all times in a satisfactory and effective manner and in accordance with all regulations.

1.04 Application for and Issuance of Permits

1.04.1 Permits Required. No connection or other work to the public or private sanitary sewer system shall be effected, repaired, altered, modified or disconnected unless the owner of the subject premises shall first apply for and obtain a permit. "Connection" and "disconnection" as used in this Section shall include all connections and discharges to the sanitary sewer system, including but not limited to sewer drains and lateral connections.

1.04.2 Application for Permit. Each owner of any premises as set forth in Sections 1.02 and 1.04.1 shall make application in writing to the Authority for a permit to make, alter, repair or terminate a connection to the public or private sanitary sewer. Such application shall be made to the Authority on such forms as are adopted by rules and regulations approved by the Authority.

1.04.3 Application to be Signed. Such application shall be signed by the owner(s), unless the owner(s) shall provide to the Authority, written authorization allowing another person to make application on the owner's behalf and acknowledging that responsibility for compliance with this Ordinance and any permit issued hereunder rests with owner(s). (Note: The Authority often issues permits to the builder or plumber)

1.04.4 Content of Application. In addition to other requirements as established by rules and regulations governing the sewer system, such application shall set forth:

1. The name and mailing address of the property owner(s);
2. The address of the property subject to the permit application;
3. A description of the lot subject to the application, including the subdivision, if any, and the lot's assigned number in said subdivision;
4. The Erie County or Harborcreek Township index number assigned to the property;
5. The street where connection is to be made, altered or disconnected to or from the sewer system;
6. The name and address of the contractor who shall perform the sewer work;
7. The intended use of the property upon connection (i.e., one-family, two-family or multi-family residential, commercial, industrial).

1.04.5 Financial Security Required. For work in a Township road, no permit shall be issued without the applicant(s)'s first executing and tendering financial security in favor of Harborcreek Township in an amount fixed and on forms approved and adopted by rules and regulations approved by resolution of the Township. Said financial security shall serve as security for the proper performance of work subject to the requested permit in full compliance with this Ordinance and rules and regulations governing the sewer system and for repairs to streets and/or sanitary sewer facilities deemed by the Township or Authority to be necessary or appropriate as a consequence of said work.

1.04.6 Permit, Tapping and Other Fees. Each applicant for a permit shall, upon submission of a permit application, pay in full all filing, review, inspection, tapping and other fees as are established therefore by rules and regulations governing the sanitary sewer system as approved by the Authority.

Any developer's agreement or private service agreements required or administered by the Authority or the Township in connection with such application must be concluded prior to issuance of a permit. Any sums due as tapping fees or as reimbursements to a developer who constructed mains to which connection is requested shall be paid in full prior to issuance of a permit.

1.04.7 Issuance or Denial of Permit.

1.04.7.1 No permit to connect to the sanitary sewer system shall be issued until and unless there has been constructed within the adjacent street, highway, easement or right-of-way public sanitary sewer facilities to which such connection can be effected, unless the Authority should otherwise determine, and subject to such conditions as the Sewer Authority Board shall then impose.

1.04.7.2 No permit to connect to the sanitary sewer system (this including alteration or disconnection of existing connections) shall be issued unless all requirements of this Ordinance and of rules and regulations governing the sanitary sewer system have been fully complied with.

1.04.7.3 If an application for permit is denied, the Authority shall in writing state the reason(s) for denial.

104.8 Legal Effect of Permit. A permit issued to authorize a connection shall authorize work as applied for and approved, and shall be valid for one (1) year from the date the permit is issued. Permits shall expire one (1) year after the date of their issuance, unless the applicant, prior to the expiration date, shall have requested an extension and the Authority, for good cause shown, shall in writing have approved an extension.

1.05 Connections to Comply With Regulations

1.05.1 All connections made to any public sanitary sewer of the Harborcreek Township Sewer Authority shall be constructed in compliance with this Ordinance, the standard rules and regulations adopted by the Authority governing the making of connections to the public sanitary sewer, all applicable building and construction codes as well as the permit as issued.

1.05.2 No work may be done to a building sewer, service connection, public sewer main or a private sewer system without a permit therefore first being issued. All such work shall be done in conformity with regulations governing the public sewer system and shall be available for inspection prior to completion of the work.

1.05.3 The Authority is authorized to establish regulations governing connections to the public sewer system, including those in municipalities which are tributary to the system, as deemed necessary or appropriate to comply with the adopted Sewage Facilities Plan, any order or agreement and/or any law or regulation then in force which imposes limitations or other requirements on connections to the public sewer system or upon allowed capacity of flows.

1.05.4 Grease, oil and sand interceptors shall be provided for outlets connected with the public sanitary sewers when, in the opinion of the Authority, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, subject to the following regulations:

1. Interceptors are required for private living quarters or dwelling units when required by applicable codes
2. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature, and shall be of substantial construction, watertight and equipped with easily removable covers which, when secured, shall be gastight and watertight.
3. All interceptors shall be of a type and capacity approved by the Authority and shall be located so as to be readily and easily accessible for cleaning and inspection.
4. All grease, oil and sand interceptors, where required, shall be installed and maintained at the owner's sole cost and expense. Such units shall be operated and maintained so that they shall be continuously efficient and shall be cleaned and repaired as required to maintain such efficient system.

1.06 Remedies in Event of Failure to Connect

1.06.1 In the event the owner of any property required to connect to the public sanitary sewer system shall fail, refuse or neglect to connect with the sewer system prior to occupancy or within the sixty (60) day period specified in Section 1.02.1, the Authority, by its authorized employees, agents, contractors or designees, may enter upon such property and construct such connection.

1.06.2 Such connection may be effected by the Authority at its election at any time following expiration of the sixty (60) day period or unlawful commencement of occupancy, without further notice to the owner being required.

1.06.3 Should the Authority effect and construct a connection pursuant to this Section, it shall, upon completion of the work, send an itemized invoice for the cost of construction of such connection to the owner of the property upon which such connection has been made, which invoice shall be payable forthwith. Such invoice shall constitute a claim and assessment as defined in the general municipal law, 53 P.S. § 7106, et seq., as the same may be amended, and shall constitute a municipal claim from the date of the invoice.

1.06.4 Interest shall accrue on sums not paid within thirty (30) days after the date of the invoice at the rate of ten percent (10%) per year from the invoice date.

1.06.5 In case of failure, neglect or refusal by the owner of the property to pay such invoice in full, the Authority shall cause to be filed a municipal lien for the costs of said construction, together with interest and costs, within six (6) months after the date of completion of the connection, such lien to be subject in all respects to the general law provided for the filing and recovery of municipal liens and claims.

1.07 Work to be Done by Approved Contractors

1.07.1 No contractor shall perform work related to or involving connection or other work to the Harborcreek Township sanitary sewer system unless he or she is listed as an approved contractor by the Harborcreek Township Sewer Authority.

1.07.2 Upon request, plumbers and contractors may submit to the Authority Manager a written request to perform work on the sewer system. The request must be accompanied by a list of projects of a similar nature that the individual has performed satisfactorily. Upon approval of the Harborcreek Township Sewer Authority Board, the plumber or contractor may be added to the list of approved plumbers and contractors.

1.07.3 The Authority Manager may approve a request from a plumber, contractor or homeowner to perform work on the sewer system on a one-time only basis. Work on additional properties needs to be approved by the Board as described above.

1.07.4 The Authority, for good cause shown and pursuant to rules and regulations governing the sewer system, shall have authority to refuse to issue a permit for a connection or other work to the sanitary sewer system where the contractor designated by the applicant for performing said work is not an approved contractor or has had his/her privileges suspended by the Authority as provided for herein.

1.08 Sewage Planning Modules; New Connections to Public System

1.08.1 Approval by the Authority and/or the Township of a sewage planning module under Act 537 of the Commonwealth of Pennsylvania shall generally constitute only approval and acknowledgement that the public sanitary sewer system as to be improved and/or extended under such application can accommodate the proposed development and use. Approval of an Act 537 planning module application shall not constitute a contract authorizing new connections.

1.08.2 All new connections pursuant to an approved Act 537 planning module shall be subject to regulation by the Authority and/or the Township, which may impose limitations on timing of new connections if determined to be necessary to comply with existing agreements or orders, or to ensure proper operation of the system.

1.08.3 If the Authority and/or the Township are obligated under order or agreement to limit the number of new connections to or capacity of flows of the public sewer system, or if it is determined that new connections must be limited to ensure proper operation of the system, the Township and/or Authority shall enact such regulations as are then required.

1.09 Industrial Wastes

1.09.1 This Ordinance is not intended to amend or repeal the Industrial Waste Ordinance, Ordinance No. 94-156 as amended by Ordinance Nos. 96-156-1, 94-156-2, 94-156-3 and 94-156-4.

1.09.2 The admission into the public sewer system of any polluted waters or industrial wastes containing any quantity of substances having the characteristics described in Section 1.14.6 of this Ordinance or those described in the Industrial Waste Ordinance as being subject thereto shall be subject to the provisions of the Industrial Waste Ordinance.

1.09.3 When required by the Authority, the owner of any property served by a building sewer carrying industrial wastes discharging into the sewer system shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed at the owner's sole expense in accordance with plans approved by the Authority, and shall be maintained by the owner so as to be safe and accessible at all times.

1.09.4 Every person and establishment other than residences which discharge industrial and sanitary wastes into the public sewer system or into any sewer connected therewith shall file forthwith a report in accordance with the Harborcreek Township Industrial Waste Ordinance.

1.09.5 Every person discharging industrial waste mixture into the public sewer system or into sewers connected thereto shall keep and maintain records of the data required to be furnished in the questionnaire as defined above and in the Industrial Waste Ordinance, and such records shall be available for inspection during regular business hours by authorized employees or representatives of the Township or the Authority upon their presentation of written credentials of their authority, and such employees or representatives shall be permitted to make and retain copies of such records.

1.09.6 Discharge or introduction of non-domestic pollutants from any source into the public sewer system shall be in accordance with the Industrial Waste Ordinance.

1.10 Preliminary Treatment Facilities

Where preliminary treatment facilities are provided for any waters or wastes, such preliminary facilities shall be maintained continuously in satisfactory and effective operation by the owner at the owner's sole expense.

1.11 Ownership of and Responsibility for Sewer Systems

1.11.1 The Authority shall be responsible for inspections, repairs to, maintenance of and reconstruction of the public sanitary sewer mains.

1.11.2 The owner of a property connected to the public sanitary sewer main shall be responsible for inspections, repairs to, maintenance of and reconstruction of the building or private sewer from the sanitary sewer main to the building and all appurtenances of the building or private sewer system.

1.11.3 In its sole discretion and when it is determined that the same is necessary or appropriate, the Authority shall replace existing service connections attaching to the public sewer main.

1.12 Authority to Test and Supplement Regulations

1.12.1 The Authority may conduct such investigations and tests as are necessary to enforce this Ordinance, and employees of the Authority, or its agents, may enter upon any property for the purpose of taking samples, obtaining information or conducting surveys or investigations relating to such enforcement. Inspections are authorized for any purpose related to proper enforcement and administration of this Ordinance, including but not limited to ensuring proper connections and identifying and disconnecting unauthorized or unlawful connections. Policies and procedures pertaining to investigations, tests and surveys shall be as established by the Authority in its rules and regulations governing the sewer system.

1.12.2 Enforcement of provisions of this Ordinance regarding wastes which will interfere with operation of the Erie waste water treatment plant shall be by the Township or its designated agents, which shall include the Authority.

1.12.3 Limitations on the quality and/or quantity of wastewater discharge in this Ordinance may be supplemented with more stringent limitations if:

1. The Authority determines that those limitations may not be sufficient to protect the operation of the sanitary sewer system or treatment works; or

2. The Authority determines that the limitations are not sufficient to enable the treatment works to comply with water quality standards or effluent limitations specified in permits of the National Pollutant Discharge Elimination System (NPDES) or the Pennsylvania Department of Environmental Protection.

1.13 Administration and Enforcement Authority

1.13.1 The Authority is authorized to establish rules and regulations governing the sanitary sewer system and to adopt regulations and forms for use in implementing and administering this Ordinance. Such rules, regulations and forms shall be as approved by the Authority Board of Directors and may be amended from time to time as is deemed appropriate.

1.13.2 The Authority is authorized to establish and amend fees and other charges for permits, licenses, tapping privileges, reviews, inspections, certifications and other matters subject to this Ordinance and amounts of bonds required by this Ordinance and/or related to proper operation of the sewer system.

1.13.3 Permits, licenses and certifications authorized in this Ordinance shall be received, reviewed, issued, suspended or revoked by the Manger of the Authority or his or her designee.

1.13.4 The Manager of the Authority and other employees or agents authorized by the Authority, bearing proper credentials and identification, shall be permitted to enter upon all properties in Harborcreek Township for the purpose of inspection, observation, measurement, sampling, testing and/or review, inspection and copying of records, in accordance with the provisions of the Ordinance and rules and regulations governing the sewer system.

1.13.5 The Manager of the Authority is vested with authority to issue enforcement notices and commence actions for enforcement of this Ordinance.

1.13.6 Upon written request by the property owner, prospective purchaser or agent or contractor of either, the Authority may inspect a property for the purpose of determining whether its connection(s) to the sanitary sewer system is or are in accordance with this Ordinance and rules and regulations governing the sewer system. Fees for such requests and certifications, and forms to be used therefore shall be as established by rules and regulations governing the sewer system.

1.14 Unlawful Acts. It shall be unlawful and a violation of this Ordinance for any person, directly or indirectly, to do or cause or allow to be done any of the following:

1.14.1 The placement or deposit of sewage, municipal waste or other objectionable wastes upon any public or private property within Harborcreek Township or in any area under the jurisdiction of Harborcreek Township.

1.14.2 The discharge of sewage into any natural outlet within Harborcreek Township.

1.14.3 The discharge of industrial wastes or other polluted water into any natural outlet within Harborcreek Township, unless the person doing so is operating with the prior approval of or under a permit issued by the U.S. Environmental Protection Agency or the Pennsylvania Department of Environmental Protection.

1.14.4 The construction or maintenance of any privy, privy vault or cesspool, other than an on-lot sewage system approved by the Township and constructed in accordance with current regulations of the Erie County Department of Health and/or the Pennsylvania Department of Environmental Protection.

1.14.5 The discharge of any storm water, surface drainage, ground drainage, roof runoff, subsurface drainage or unpolluted industrial process waters into any public sanitary sewer:

1. Storm water and all other unpolluted drainage shall be discharged into such sewers as are specifically designated as storm sewers, if available, or to a natural outlet approved by the Township.
2. Unpolluted process waters shall be discharged into a storm sewer approved by the Township or, with prior approval of the Township, into a natural outlet if such storm sewer or outlet is not available.

1.14.6 Discharge of any of the following described waters or wastes into any public sanitary sewer:

1. Any liquid or vapor having a temperature higher than 150° Fahrenheit; or
2. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas; or
3. Any garbage that has not been properly shredded; or
4. Any ashes, sand, cinders, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance not meeting the definition of properly shredded garbage and/or which is capable of obstruction to the flow in sewers or other interference with the proper operation of the sewage works; or

5. 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; or
6. Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at Authority pump stations or at the sewage treatment plant; or
7. Any noxious or malodorous gas or substance capable of creating a public nuisance; or
8. Water or wastes containing substances which are not in conformance with the provisions and pollutant limitations of the Harborcreek Township Industrial Waste Ordinance, Ordinance No. 94-156 as amended.

1.14.7 Construction or effectuation by any owner(s), themselves or by or through their contractors, agents or assigns, of a connection, alteration to or termination of a connection to the sanitary sewer system in a manner contrary to or not in strict compliance with the terms of an approved permit.

1.14.8 Construction or effectuation by any owner(s), themselves or by or through their contractors, agents or assigns, of a connection, alteration to or termination of a connection to the sanitary sewer system in any manner contrary to or not in strict compliance with the terms of this Ordinance or rules and regulations governing the sewer system.

1.14.9 Performance of any work involving connections to the Harborcreek Township sewer system by a person not approved by the Harborcreek Township Sewer Authority or who has been suspended from performing said work by the Authority per the terms of this Ordinance or rules and regulations adopted by the Authority.

1.14.10 Failure or refusal to connect to the public sewer system within the time authorized by an issued permit or any extension of time allowed after good cause shown.

1.14.11 Failure or refusal to connect to the public sewer system prior to commencement of occupancy of a building constructed, altered or reconstructed under a building permit issued on or after the effective date of this Ordinance.

1.14.12 Failure or refusal to connect to the public sewer system within sixty (60) days after the date of the Township's notice to connect, or within any extension of time allowed after good cause shown.

1.14.13 Failure or refusal to effect repairs or take other prescribed remedial action to a connection effected to the sewer system within the time period specified in writing by a directive from the Township or the Authority.

1.14.14 Failure or refusal to disconnect an unlawful or improper connection to the sanitary sewer system within the time period specified in writing by a directive from the Township or the Authority.

1.14.15 The negligent, willful, malicious or reckless breaking, damage, destruction, uncovering, defacement or tampering of or with any structure, appurtenance or equipment which is a part of the public sanitary sewer system or sewage works.

1.14.16 Violation of any provision of this Ordinance concerning regulation of discharge of industrial wastes.

1.14.17 Failure or refusal to allow the Township or the Authority access to a premises or to records required under this Ordinance or by rules and regulations governing the sewer system.

1.15 Separate and Continuing Violations.

1.15.1 Each separate violation of this Ordinance, or of any portion hereof, shall constitute a separate offense.

1.15.2 Each day a violation occurs shall constitute a separate offense and subject the violator to the prescribed fines for each violation and for each day of violation.

1.16 Penalties for Violation

1.16.1 Any person who violates any provisions of this Ordinance or any rule or regulation governing the sewer system shall be subject to civil enforcement proceedings in accordance with Ordinance No. 96-169

1.16.2 In the event a person does not comply in timely fashion with an enforcement notice directing cessation of a violation or remedial action to comply with this Ordinance or with rules and regulations governing the sanitary sewer system, civil fines are prescribed in the sum of Six Hundred Dollars (\$600.00) for each individual violation of this Ordinance and for each day a violation continues, effective on the date following that established in the enforcement notice for completion of action to remedy the violation. As to prohibited discharges:

1. Each day of a prohibited discharge shall constitute a separate violation and shall subject the violator to the administrative or civil fine prescribed in this section for each day of a continuous prohibited discharge.

2. If a prohibited discharge is intermittent, each occurrence shall be considered a separate violation.

1.16.3 In the event a person does not comply in timely fashion with an enforcement notice by the date therein established for payment, Harborcreek Township Sewer Authority may institute a civil action for enforcement and, upon conviction, the defendant shall pay fines for each separate violation and each day a violation occurs in the sum prescribed in Section 1.16.2.

1.16.4 Harborcreek Township Sewer Authority shall be entitled to recover, in any administrative or civil action for enforcement of this Ordinance and/or action to collect fines for violation, all expenses, losses and damage occasioned by the violation(s), together with filing and other litigation costs and all attorneys' fees incurred by the Authority in enforcement and collection proceedings, in accordance with Ordinance No. 96-168.

1.16.5 In the event the owner or other responsible party for a premises served by the public sanitary sewer system fails or refuses to allow representatives of the Authority access to the property to conduct inspection after prior request, then the Authority shall be authorized to conduct the inspection from the public sewer mains, if possible. Additional costs for personnel and equipment arising from such inspection from the main shall be invoiced to the property owner and, if not paid within thirty (30) days after the invoice date, shall constitute additional sewer rental to be imposed against the property.

1.17 Enforcement Actions

1.17.1 When the Authority determines that a violation of this Ordinance, rules and regulations governing the sewer system or of any permit or any damage to the public sanitary sewer system is threatened or has occurred, the Authority may take one or more of the following actions, at its election:

1. Issue an order to cease and desist any such violation and direct the violator(s) to comply with the Ordinance and/or notice forthwith or in a time schedule established by the Authority or to take appropriate remedial preventive action in the event of a threatened violation.
2. Require the person to submit a detailed time schedule setting forth the specific proposed actions to prevent or correct a violation, in which event the Authority may issue an implementation schedule to the person containing or modifying such specific actions and time schedule or requiring other actions by such date as the Authority deems appropriate.

3. Issue an administrative enforcement notice directing the person to cease or correct a violation by a date established in such notice.
4. Report to any governmental entity or agency having issued a permit a violation thereof and request enforcement by such entity or agency.
5. Prohibiting an approved plumber from performing work affecting the public sewer system in Harborcreek Township.
6. Prohibit an unlicensed contractor from performing work affecting the public sewer system or being eligible for a license for up to one (1) year.
7. Disconnect from the public sewer system and/or sewage works the building or property of any person violating the discharge provisions of this Ordinance, and/or effect a connection to the public sewer system and/or effect correction of an existing connection to the public sewer system if the owner fails to do the same within the time specified in an enforcement notice, all costs incurred in effecting such disconnection, connection and/or correction of a connection to be collected from the owner as a municipal claim (at the discretion of the Authority, by assessment of said costs as sewer rental or as a separate municipal claim) or in a civil action in the manner provided in Section 1.06 and the general municipal law.
8. Issue enforcement notices citing violation of this Ordinance or of rules and regulations governing the sewer system.
9. Commence and prosecute actions for enforcement of this Ordinance and/or collection of fines, costs, damages and attorneys' fees.
10. Institute and maintain one or more actions at law to enforce this Ordinance and rules and regulations governing the sewer system and/or actions in equity to compel compliance with this Ordinance and/or rules and regulations, these including but not limited to injunctions and orders compelling connection to and/or disconnection from the sewer system.

1.17.2 In the event a person fails or refuses to effect disconnection of an unlawful connection to the sanitary sewer system by the date required in an enforcement notice and the Authority has been assessed surcharges or fines by the City of Erie Sewer System because of sewage flows in excess of the Authority's allocation, the Authority, in addition to other enforcement remedies, shall be authorized to maintain an action at law against the owner of the property, seeking recovery of such surcharges and fines from the owner, together with attorneys' fees and expenses.

1.17.3 The Authority is authorized by resolution to establish such specific procedures for enforcement as it shall deem appropriate.

1.18 Declaration of Nuisances; Action to Abate Nuisances

1.18.1 The following actions or omissions, defined above to be unlawful and a violation of this Ordinance, are declared to be public nuisances:

1. The placement or deposit of sewage, municipal waste or other objectionable wastes upon any public or private property within Harborcreek Township or any area under jurisdiction of Harborcreek Township;
2. The discharge of any sewage into any natural outlet within the Township;
3. The discharge of industrial wastes or other polluted water into any natural outlet within Harborcreek Township, unless the person doing so is operating with the prior approval of or under a permit issued by the U.S.E.P.A. or the PaDEP;
4. The construction or maintenance of any privy, privy vault or cesspool, other than an on-lot sewage system approved by the Township and constructed in accordance with current regulations of PaDEP and/or the Erie County Department of Health;
5. The discharge of any storm water, surface drainage, ground drainage, roof runoff, subsurface drainage or unpolluted industrial process waters into any public sanitary sewer;
6. Discharge of any of the waters described in Section 1.14.6 into the sanitary sewer system.

1.18.2 The Township shall have authority, in its discretion, to take action to abate nuisances declared under this Section, in accordance with provisions of the Second Class Township Code and general municipal law. In the event the Township incurs expenses in the abatement of a nuisance and such expenses are not reimbursed by the property owner or violator within thirty (30) days, such expenses shall be recovered pursuant to the general municipal law governing municipal claims.

1.19 Appeals

Any person who receives from the Authority an enforcement notice for violation of the terms of this Ordinance or notice of removal from the approved contractor list or

rejection of application to be included on the approved contractor list, may file an appeal to the Harborcreek Township Board of Supervisors within 30 days after said notice is issued.

The Board of Supervisors shall conduct hearings on said appeals and make decisions in accordance with the following requirements:

(1) Public notice shall be given and written notice shall be given to the appellant, the Authority, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the Board.

(1.1) The Board of Supervisors may prescribe reasonable fees with respect to hearings held before it pursuant to this Ordinance. Fees for said hearings may include compensation for the secretary and members of the Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Board, expenses for engineering, architectural or other technical consultants or expert witness.

(1.2) The first hearing before the Board or hearing officer shall be commenced within 60 days from the date of receipt of the appellant's appeal, unless the appellant has agreed in writing to an extension of time. Each subsequent hearing before the Board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the appellant in writing or on the record.

(2) The hearings shall be conducted by the Board or the board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final.

(3) The parties to the hearing shall be the appellant, the Authority, any person affected by the application who has made timely appearance of record before the board, and any other person permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

(4) The chairman or acting chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

(5)The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

(6)Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

(7)The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

(8)The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

(9)The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this ordinance or any rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.

(10)A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the appellant or applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

1.20 Severability

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person, property or circumstances is for any reason held invalid or unconstitutional by any court, such holding shall not be construed to affect the validity of any of the remaining provisions of this Ordinance or its application, for such portion shall be deemed as a separate, distinct and independent provision from the remaining provisions which shall be and remain in full force and effect. It is hereby declared the legislative intent that this Ordinance would have been adopted had such valid or unconstitutional provision of its application not been included herein.

1.21 Repealor

All Ordinances or parts of any Ordinances inconsistent herewith are hereby repealed. This Ordinance shall not be construed to amend or repeal the Industrial Waste Ordinance, as amended.

BE IT ENACTED THIS DAY OF March 16, 2011.

HARBORCREEK TOWNSHIP SUPERVISORS

Dean S. Pepicello, Chairperson

Joseph D. Peck, Supervisor

Timothy J. May, Supervisor

ATTEST:

Cynthia S. Williams, Assistant Secretary

I hereby certify that the foregoing ordinance was advertised in the Erie Times on Friday, March 4, 2011, a newspaper of general circulation in the municipality and was duly enacted and approved as set forth at a regular meeting of the Harborcreek Township Board of Supervisors held on Wednesday, March 16, 2011.