

DRAFT

CITY OF ALLEGAN ORDINANCE 415 of 2010 SEPTAGE RECEIVING

Adopted: _____, 2010

Effective: _____, 2010

An ordinance to: provide for disposal of septage waste at a licensed facility; authorize setting fees, charges, or other costs for disposal of septage waste at the Allegan Wastewater Plant by municipal policy; prohibit the application of septage waste to land or waters within the City; and to provide penalties for violation.

WHEREAS, Section 11708 of the Michigan Natural Resources and Environmental Protection Act, Public Act 451 of 1994 (“NREPA”) requires that, “if a person is engaged in servicing in a receiving facility service area, that person shall dispose of the septage waste at that receiving facility or any other receiving facility within whose service area the person is engaged in servicing”;

WHEREAS, the City of Allegan Wastewater Plant is a septage waste receiving facility and, through September 30, 2010, the service area of the City of Allegan Wastewater Plant for receiving septage waste is the entire area within a 15 mile radius from the City of Allegan Wastewater Plant and, beginning on October 1, 2010, the service area of the City of Allegan Wastewater Plant for receiving septage waste shall be the entire area within a 25 mile radius of the City of Allegan Wastewater Plant;

WHEREAS, Section 11715 of NREPA authorizes a local governmental unit such as the City of Allegan to prohibit application of septage waste to land within that governmental unit if a receiving facility is available that can lawfully accept all septage waste generated within that governmental unit that is not lawfully applied to land;

WHEREAS, rates, fees, charges, or other costs for disposal of septage at the City of Allegan Wastewater Treatment Plant shall be established from time to time by resolution of the City Council and such resolutions will be compiled into a municipal policy book; and

WHEREAS, operation of the City of Allegan Wastewater Plant as a septage receiving facility receiving septage waste from within its service area will benefit the public health, safety and welfare of the citizens of Allegan and the surrounding area;

THEREFORE, the City of Allegan, ordains that its Code of Ordinances, Chapter 29, titled “Utilities,” shall be amended by adding a new Article V titled “Septage Receiving” as follows:

ARTICLE V. SEPTAGE RECEIVING

Sec. 29-350. Definitions.

DNRE. The term “DNRE” means the Michigan Department of Natural Resources and Environment, and its predecessor agency the Michigan Department of Environmental Quality.

Receiving Facility. The term “Receiving Facility” means a structure that is designed to receive septage waste for treatment at a wastewater treatment plant or at a research, development, and demonstration project authorized under section 11511b of NREPA to which the structure is directly connected, and that is available for that purpose as provided for in an ordinance of the local unit of government where the structure is located or in an operating plan. Receiving facility does not include either of the following:

(a) A septic tank.

(b) A structure or a wastewater treatment plant at which the disposal of septage waste is prohibited by order of the DNRE under section 11708 or 11715b of NREPA.

Septage Waste. The term “Septage Waste” means the fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin that is removed from a wastewater system. Septage Waste consists only of food establishment septage, domestic septage, domestic treatment plant septage or sanitary sewer cleanout septage, or any combination of these.

Service Area. The term “Service Area” means (a) through September 30, 2010, the entire area within a 15 mile radius of the City of Allegan Wastewater Plant and (b) beginning on October 1, 2010, the entire area within a 25 mile radius of the City of Allegan Wastewater Plant.

Sec. 29-351. Disposal of Septage Waste.

All Septage Waste collected in the City of Allegan shall be disposed at the Allegan Wastewater Plant Septage Receiving Facility. Further, all Septage Waste collected in the portion of the Service Area not within the boundaries of the City of Allegan may be accepted for disposal at the City of Allegan Wastewater Plant Septage Receiving Facility. The City of Allegan Wastewater Plant Septage Receiving Facility is an “available” Receiving Facility for the purpose of receiving Septage Waste from the Service Area, as provided by NREPA Section 11701(r). No load of Septage Waste may be accepted by the City of Allegan Wastewater Plant unless: (a) such Septage Waste has been made available for inspection by personnel of the City of Allegan Wastewater Plant; disposal of such Septage Waste is consistent with the requirements of NREPA, the license of the City of Allegan Wastewater Plant under NREPA, the DNRE-approved Septage Receiving Operational Plan for the City of Allegan Wastewater Plant, and this

Ordinance; and (c) all rates, fees, charges, or other costs for Septage Waste disposal that are established as described in this Ordinance are paid simultaneously with, or in advance of, delivery of that load of Septage Waste at the City of Allegan Wastewater Plant. The City of Allegan Wastewater Plant may reject any load of Septage Waste that is not in conformance with this section. Nothing in this section precludes the lawful disposal of Septage Waste outside the State of Michigan.

Sec. 29-352. Disposal of additional waste at the City of Allegan Wastewater Plant Septage Receiving Facility.

As to any fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin that is removed from a wastewater system and that does not qualify as Septage Waste because its source is not one of those sources identified in the definition of Septage Waste, such waste shall not be disposed of at the City of Allegan Wastewater Plant Septage Receiving Facility unless, prior to disposal, each load of such waste has been inspected, sampled, tested, and documented as requested by staff of the City of Allegan Wastewater Plant in their discretion, and disposal of each load of such waste has been approved in advance by the City of Allegan Wastewater Plant.

Sec. 29-353. Prohibition of deposit of Septage Waste on land or water in the City of Allegan.

No person shall deposit Septage Waste on any land in the City of Allegan, or in or upon any lake, pond, stream, ditch, manhole, river or other body of water in the City of Allegan.

Sec. 29-354. Rates, fees, charges, or other costs.

Rates, fees, charges, or other costs of disposal of Septage Waste at the City of Allegan Wastewater Plant shall be those established from time to time by resolution of the City Council and compiled into a municipal policy book. At the reasonable discretion of the manager of the City of Allegan Wastewater Plant, a person seeking to dispose of Septage Waste at the City of Allegan Wastewater Plant may be required to establish and maintain financial assurance for payment of rates, fees, charges, or other costs of such disposal in an amount not exceeding \$25,000, consisting of a performance bond, cash in escrow, or third-party guarantee satisfactory to the City of Allegan.

Sec. 29-355. Violations and Penalties.

Any person who violates any provision of this article shall be fined an amount not to exceed one thousand dollars (\$1,000.00) for each violation (or such lower limit as may exist by virtue of state law limitations). Fines may be obtained as City of Allegan administrative fines, or through the procedure for municipal civil infractions, or through proceeding in court. If a violation is of a continuing nature, each day the violation occurs is a separate offense. The penalties for violation of this article shall be in addition to any

penalties, fines, forfeiture, injunctions and/or license sanctions that may be imposed by any other ordinance of the City of Allegan or any law or regulation of the state of Michigan or the federal government. Nothing in this article shall be construed to relieve any person from any licensing requirements imposed by any other local, state or federal ordinance, regulation, or law.

Sec. 29-356. Recovery of additional costs incurred by the City of Allegan.

In addition to any other rates, fees, charges, fines, penalties or other costs, a person who has disposed of any material at the City of Allegan Wastewater Plant Septage Receiving Facility or violated any provision of this article shall be responsible for any additional costs incurred by the City of Allegan as a result of such activity, including without limitation expenses for additional monitoring, sampling or analysis, expenses for additional investigation, costs for additional reports, costs for storing, dumping or treating material, costs for damage to or loss of the treatment works, treatment process, or natural resources, or fines or penalties incurred by the City of Allegan. Such person shall be notified of all such charges and shall pay them within thirty (30) days of notification.

Sec. 29-357. Severability.

The sections and/or subsections of this article shall be deemed to be severable. Should any section, subsection, or provision of this article be declared unconstitutional or invalid by a court of competent jurisdiction, the same may be stricken without affecting the validity of the article as a whole or part thereof not declared to be unconstitutional or invalid.

Sec. 29-358. Repealer.

All prior ordinances and/or regulations in conflict with or inconsistent with this article are hereby repealed.

Sec. 29-359 -- 29-370. Reserved.

[In resolution adopting ordinance, include the following:]

This Ordinance shall take effect 30 days after publication.

Copies of the ordinance may be viewed at the City of Allegan Hall located at 112 Locust Street, Allegan, Michigan 49010, Mondays & Fridays, 9:00 a.m. to 5:00 p.m. and Wednesdays, 9:00 a.m. to 1 p.m. or by appointment by calling the City Clerk at 269-686-1102.

Robert Hillard, City of Allegan Clerk.