

April 26, 2011

The Regular meeting of the Otsego County Board of Commissioners was held in the County Building at 225 West Main Street, Room 100. The meeting was called to order at 9:30 a.m. by Vice-Chairman Paul Liss. Invocation by Commissioner Clark Bates, followed by the Pledge of Allegiance led by Commissioner Richard Sumerix.

Roll Call:

Present: Clark Bates, Paul Liss, Lee Olsen, Erma Backenstose, Richard Sumerix, Doug Johnson, Ken Borton, Bruce Brown.

Excused: Paul Beachnau.

Motion by Commissioner Clark Bates, to approve the Regular minutes of April 12, 2011 with attachments were approved via unanimous consent.

Consent Agenda:

Motion to approve the 2011 General Fund/Capital Projects budget amendment. Ayes: Unanimous. Motion carried. (see attached)

Motion to approve the 2011 General Fund/Court budget amendment. Ayes: Unanimous. Motion carried. (see attached)

Motion to approve the 2011 Courthouse Restoration/Capital Projects budget amendment. Ayes: Unanimous. Motion carried. (see attached)

Motion to approve the 2011 Public Improvement/Building Department loan and budget amendment. Ayes: Unanimous. Motion carried. (see attached)

Motion to approve OCR-11-10 MERS POAM Hybrid Resolution.

Roll Call Vote:

Ayes: Clark Bates, Paul Liss, Lee Olsen, Erma Backenstose, Richard Sumerix, Doug Johnson, Ken Borton, Bruce Brown.

Nays: None.

Excused: Paul Beachnau.

Motion carried/Resolution adopted. (see attached)

Special Presentation:

Larry Monshor 2011 Great Lakes Energy candidate addressed the Board.

Department Head Report:

Matt Barresi the Airport Director reported to the Board.

Motion by Commissioner Erma Backenstose, to adopt the updated Otsego County Fee Schedule. Ayes: Unanimous. Motion carried.

Roberta Tholl from the Road Commission reported on the upcoming road projects.

Correspondence:

The March 2011 Financial Reports were discussed.

New Business:

Motion by Commissioner Richard Sumerix, to approve the April 19, 2011 Warrant in the amount of \$278,699.26 as presented. Ayes: Unanimous. Motion carried.

Motion by Commissioner Bruce Brown, to approve the April 26, 2011 Warrant in the amount of \$310,770.54 as presented. Ayes: Unanimous. Motion carried.

Motion by Commissioner Ken Borton, to adopt Ordinances 2011-2, 2011-3, 2011-4, 2011-5, 2011-6 and 2011-7 becoming effective 45 days after newspaper publication. Ayes: Unanimous. Motion carried. (see attached)

Motion by Commissioner Lee Olsen, to approve OCR-11-09 NMSAS Position Paper Support.

Roll Call Vote:

Ayes: Clark Bates, Paul Liss, Lee Olsen, Erma Backenstose, Richard Sumerix, Doug Johnson, Ken Borton, Bruce Brown.

Nays: None.

Excused: Paul Beachnau.

Motion carried/Resolution adopted. (see attached)

Motion by Commissioner Clark Bates, to approve the FY 2011 General Fund/Capital Projects budget amendment in the amount of \$37,500 as presented. Ayes: Unanimous. Motion carried. (see attached)

Board Remarks:

Commissioner Erma Backenstose: Thanked Roberta Tholl from the Road Commission.

Commissioner Lee Olsen: Annual 4<sup>th</sup> of July dinner dance fundraiser.

Commissioner Richard Sumerix: S.A.N.E meeting.

Commissioner Clark Bates: City Council meeting.

Commissioner Doug Johnson: Health Department meeting.

Commissioner Paul Liss:

Update on Community Mental Health.  
Vanderbilt.

Marie Frick from Community Corrections presented to the Board a fiscal year summary for 2010.

Meeting adjourned at 10:27 a.m. at the call of the Vice-Chair.

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Paul L. Liss, Vice-Chairman

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Susan I. DeFeyter, Otsego County Clerk



**OTSEGO COUNTY  
BUDGET AMENDMENT**

**FUND/DEPARTMENT: General Fund, Capital Projects Fund**

As provided for in the Uniform Budget and Accounting Act of 1978, as amended, and consistent with Otsego County Policy, the Administrator and Finance Director are hereby authorized to record the following adjustments to the budget.

Fund Type:  General     Special Revenue     Debt Service     Capital Project     Business-Type (Enterprise or Internal Svc)

**REVENUE To fund soil testing & the removal of 2 barrels buried at 540 S. Illinois, former DNR property.**

Account Number	Decrease	Increase
499-030-699.030 Transfer In	\$	\$7,000
	\$	\$
-	\$	\$
-	\$	\$
<b>Total</b>	\$	\$

**EXPENDITURE**

Account Number	Increase	Decrease
101-941-999.990 Contingency	\$	\$7,000
101-969-999.000 Transfer To Capital Projects Fund	\$7,000	\$
499-901-970.300 Property Improvements	\$7,000	\$
-	\$	\$
-	\$	\$
-	\$	\$
<b>Total</b>	\$	\$

Department Head Signature \_\_\_\_\_

Date \_\_\_\_\_

<b>Finance Department</b>	
Entered:	
By:	

Administrator's Signature \_\_\_\_\_

Date \_\_\_\_\_

4/26/11

Board Approval Date (if necessary) \_\_\_\_\_

Budget Adjustment # \_\_\_\_\_

Posting Number \_\_\_\_\_



## OTSEGO COUNTY BUDGET AMENDMENT

### FUND/DEPARTMENT: General Fund

As provided for in the Uniform Budget and Accounting Act of 1978, as amended, and consistent with Otsego County Policy, the Administrator and Finance Director are hereby authorized to record the following adjustments to the budget.

Fund Type:  General     Special Revenue     Debt Service     Capital Project     Business-Type (Enterprise or Internal Svc)

**REVENUE**    To add funds to the Tri-County court budget to cover staffing costs.

Account Number	Decrease	Increase
	\$	\$
	\$	\$
-	\$	\$
-	\$	\$
<b>Total</b>	\$	\$

**EXPENDITURE**

Account Number	Increase	Decrease
101-941-999.990 Contingency	\$	\$6,589
101-131-940.111 Tri-County Court Expenses	\$6,589	\$
-	\$	\$
-	\$	\$
-	\$	\$
-	\$	\$
<b>Total</b>	\$	\$

<b>Finance Department</b>
Entered:
By:

Department Head Signature \_\_\_\_\_

Date \_\_\_\_\_

Administrator's Signature \_\_\_\_\_

Date \_\_\_\_\_

4/26/11

Board Approval Date (if necessary) \_\_\_\_\_

Budget Adjustment # \_\_\_\_\_

Posting Number \_\_\_\_\_



**OTSEGO COUNTY  
BUDGET AMENDMENT**

**FUND/DEPARTMENT: Courthouse Restoration Fund**

As provided for in the Uniform Budget and Accounting Act of 1978, as amended, and consistent with Otsego County Policy, the Administrator and Finance Director are hereby authorized to record the following adjustments to the budget.

Fund Type: General    Special Revenue     Debt Service     Capital Project     Business-Type (Enterprise or Internal Svc)

**REVENUE To fund improvements at the Alpine Center building.**

Account Number	Decrease	Increase
497-050-400.001 Budgeted Use of Fund Balance	\$	\$20,000
	\$	\$
- -	\$	\$
- -	\$	\$
<b>Total</b>	\$	\$

**EXPENDITURE**

Account Number	Increase	Decrease
497-901-970.300 Property Improvements	\$20,000	\$
	\$	\$
	\$	\$
- -	\$	\$
- -	\$	\$
- -	\$	\$
<b>Total</b>	\$	\$

Department Head Signature

Date

<b>Finance Department</b>	
Entered:	
By:	

Administrator's Signature

Date

4/26/11

Board Approval Date (if necessary)

Budget Adjustment #

Posting Number



## OTSEGO COUNTY BUDGET AMENDMENT

### FUND/DEPARTMENT: Land Use Svcs, Capital Projects Funds

As provided for in the Uniform Budget and Accounting Act of 1978, as amended, and consistent with Otsego County Policy, the Administrator and Finance Director are hereby authorized to record the following adjustments to the budget.

Fund Type:    General     Special Revenue     Debt Service     Capital Project     Business-Type (Enterprise or Internal Svc)

**REVENUE**    To fund the cost of improvements for the Cross Street building.

Account Number	Decrease	Increase
499-050-400.001 Budgeted Use of Fund Balance	\$	\$56,250
249-050-400.001 Budgeted Use of Fund Balance	\$	\$18,750
-	\$	\$
-	\$	\$
<b>Total</b>	<b>\$</b>	<b>\$75,000</b>

**EXPENDITURE**

Account Number	Increase	Decrease
499-901-970.300 Property Improvements	\$56,250	\$
249-901-970.300 Property Improvements	\$18,750	\$
-	\$	\$
-	\$	\$
-	\$	\$
-	\$	\$
<b>Total</b>	<b>\$75,000</b>	<b>\$</b>

Department Head Signature \_\_\_\_\_

Date \_\_\_\_\_

<b>Finance Department</b>
Entered: _____
By: _____

Administrator's Signature \_\_\_\_\_

Date \_\_\_\_\_

4/26/11

Board Approval Date (if necessary) \_\_\_\_\_

Budget Adjustment # \_\_\_\_\_

Posting Number \_\_\_\_\_



## MERS Restated Uniform Hybrid Program (Benefit Program H) Resolution

1134 Municipal Way Lansing, MI 48917 | 800.767.2308 | Fax 517.703.9711

www.mersofmich.com

**WHEREAS**, under the Municipal Employees Retirement Act of 1984, section 36(2)(a); MCL 38.1536(2)(a); Plan Document Section 36(2)(a), provides the Retirement Board (effective August 15, 1996):

[s]hall determine and establish all of the provisions of the retirement system affecting benefit eligibility, benefit programs, contribution amounts, and the election of municipalities, judicial circuit courts, judicial district courts, and judicial probate courts to be governed by the provisions of the retirement system ... [and] to establish additional programs including but not limited to: defined benefit, defined contribution, ancillary benefits, health and welfare benefits, and other post employment benefit programs (as amended by 2004 PA 490).

**WHEREAS**, pursuant to the Board's powers, the MERS Plan Document of 1996 was adopted effective October 1, 1996, and the Plan has been amended periodically by the Board.

**WHEREAS**, the MERS Plan, an agent, multiple employer, public employee pension plan, has been determined by the Internal Revenue Service to be a governmental plan that is tax qualified as a trust under Code section 401(a) and exempt from taxation under section 501(a) (Letter of Favorable Determination dated June 15, 2005; and letter dated July 8, 1997).

**WHEREAS**, on March 14, 2006, the Retirement Board has authorized establishment of a Hybrid Plan, with a defined benefit (DB) and defined contribution (DC) component.

**WHEREAS**, new Section 19B, Benefit Program H, and related plan amendments, create a new Hybrid Program that a participating municipality or court may adopt for MERS members to be administered in whole or in part under the discretion of the Municipal Employees' Retirement Board as trustee and fiduciary, directly by (or through a combination of) MERS or MERS duly-appointed third-party administrator for the DC component.

**WHEREAS**, this Uniform Hybrid Program Resolution has been approved by the Retirement Board under the authority of MCL 38.1536(2)(a); Plan section 36(2)(a) declaring that the Retirement Board "shall determine . . . and establish" all provisions of the retirement system. Under this authority, the Retirement Board authorized Section 19B, Benefit Program H, which shall not be implemented unless in strict compliance with the terms and conditions of this Resolution as provided under section 19B(2):

- In the event any alteration of any provision of this section 19B, or other sections of the Plan Document related to the provisions of Benefit Program H, is made or occurs, under section 43B of the Plan Document concerning collective bargaining or under any other plan provision or law, adoption of Benefit Program H shall not be recognized, other than in accordance with this section and other sections of the Plan Document related to the provisions of Benefit Program H.
- In the event any alteration of the terms or conditions stated in this Uniform Resolution is made or occurs, it is expressly recognized that MERS and the Retirement Board, as sole trustee and fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have

# MERS Restated Uniform Hybrid Program (Benefit Program H) Resolution

no obligation or duty: to administer (or to have administered) the Benefit Program H; to authorize the transfer of any Plan assets to the Hybrid Program; or to continue administration by MERS directly or indirectly, or by any third-party administrator.

**WHEREAS**, concurrent with this Resolution, and as a continuing obligation, this governing body has completed and approved, and submitted to MERS, documents necessary for adoption and implementation of MERS Benefit Program H.

**NOW, THEREFORE, BE IT RESOLVED** that the governing body adopts MERS Benefit Program H (Hybrid Program) as provided below.

## I. NEW EMPLOYEES (Plan Sec 19B(4) – (12))

Effective the first day of January 1, 2011, (to be known as the ADOPTION DATE), the

Otsego County hereby adopts Benefit Program H for

(MERS municipality/court)

POAM - Division 11

(specify division numbers)

first hired or rehired to the division at any time on and after the Adoption Date, and optional participation for any employee or officer of this municipality otherwise eligible to participate in MERS under Section 2B(3)(a) of the Plan Document who has previously elected to not participate in MERS. The employer shall establish the transfer rule for transferred employees in the Employer Resolution Establishing a Uniform Transfer Provision. **ONLY THOSE EMPLOYEES ELIGIBLE FOR MERS MEMBERSHIP (SECTIONS 2B(3) AND 3 OF THE PLAN DOCUMENT) SHALL BE ELIGIBLE TO PARTICIPATE.**

### (A) HYBRID PLAN CONTRIBUTIONS

- The DB Component shall be exclusively funded by the employer, with no member contributions permitted.
- For the DC Component, employee and employer contributions shall be required as allowed and specified in Plan section 19B(8) and the MERS Uniform Hybrid DC Component Adoption Agreement ("Adoption Agreement," Attachment 1, completed and approved and a certified copy submitted to MERS concurrent with and incorporated by reference in this Resolution). A member is immediately 100% vested in any employee contributions, and is vested in employer contributions under the employer vesting schedule.

### (B) COMPENSATION AND EARNINGS

- For the DB Component, earnings shall include items of "Compensation" under Section 2A(6) of the MERS Plan Document, with the exception of the last sentence, which shall not apply.
- For the DC Component, earnings shall include items of "Compensation" under Section 2A(6) of the MERS Plan Document as provided for Benefit Program DC, which equals the Medicare taxable wages as reported by the employer on the member's federal form W-2, wage and tax statement.

## MERS Restated Uniform Hybrid Program (Benefit Program H) Resolution

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### (C) HYBRID PLAN VESTING

- For the DB Component, 6 year vesting is mandatory (Plan Sec 19B(5)(b)).
- For the DC Component, employee and employer contributions shall be required as allowed and specified in Plan section 19B(8) and the Adoption Agreement (Attachment 1, completed and approved and a certified copy submitted to MERS concurrent with and incorporated by reference in this Resolution). A member is immediately 100% vested in any employee contributions, and is vested in employer contributions under the employer vesting schedule.
- As provided in Section 19B(3):

Where a member has previously acquired in the employ of any participating municipality or participating court:

- (a) not less than 1 year of defined benefit service in force (including Hybrid Program) with any participating municipality or participating court;
- (b) eligible credited service where the participating municipality or participating court has adopted the Reciprocal Retirement Act, 1961 PA 88;
- (c) at least 12 months in which employer contributions by a participating municipality or participating court have been made on behalf of the member under Benefit Program DC or Hybrid Program, such service shall be applied toward satisfying the vesting schedule for the DB Component, and for the DC Component, for employer contributions.

### (D) BENEFITS UNDER HYBRID PLAN

- For the DB component:
  - (1) The Benefit Multiplier (Plan Section 19B(4)) **initially selected shall be irrevocable, shall not later be changed and** shall be the one here specified (select only one of the following):
    - (a) 1.0 % times (x) years of service times (x) FAC
    - (b) 1.25% times (x) years of service times (x) FAC
    - (c) 1.5% times (x) years of service times (x) FAC
  - (2) Final Average Compensation (FAC) shall be FAC-3 (Plan Section 19B(6)).
  - (3) The Benefit shall be payable at age 60 (Plan Section 19B(5)(b)).
  - (4) Credited Service shall be comprised solely of the sum of (a) the total of the member's credited service (if any) under the previous DB program on the effective date of coverage under the Hybrid Plan (Plan Section 19B(16)(b)(ii); see II (E)(b)(ii) below); plus (b) credited service earned by the member after the effective date of coverage under the Hybrid Plan (Plan Section 19B(17)(b)).
- For the DC Component (Plan Section 19B(12)):

## **MERS Restated Uniform Hybrid Program (Benefit Program H) Resolution**

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Upon termination of membership, a vested former member or a beneficiary, as applicable, shall elect one or a combination of several of the following methods of distribution of the vested former member's or beneficiary's accumulated balance, to the extent allowed by federal law and subject to Plan Section 19B(11)(b) and procedures established by the Retirement Board:

- (1) Lump sum distribution to the vested former member or beneficiary.
- (2) Lump sum direct rollover to another eligible retirement plan, to the extent allowed by federal law.
- (3) Annuity for the life of the vested former member or beneficiary, or optional forms of annuity as determined by the Retirement Board.
- (4) No distribution, in which case the accumulated balance shall remain in the retirement system, to the extent allowed by federal law.

<b>STOP</b> If covering new employees only, skip II and III and go to IV on page 9. <b>STOP</b>
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## MERS Restated Uniform Hybrid Program (Benefit Program H) Resolution

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**II. OPTIONAL PROVISION FOR CURRENT MERS DEFINED BENEFIT MEMBERS WHERE HYBRID PROGRAM FOR NEW EMPLOYEES ESTABLISHED (FOR TRANSFERS FROM MERS DEFINED CONTRIBUTION PROGRAM, SEE SECTION III)**

(Plan Sec 19B(13)-(16))

***THIS OPTIONAL SECTION SHALL ONLY BE SELECTED WHERE THE TOTAL FUNDED PERCENT OF AGGREGATE ACCRUED LIABILITIES AND VALUATION ASSETS OF ALL RESERVES SPECIFIED IN TABLE 13 (OR SUCCESSOR TABLE) FOR THE PARTICIPATING MUNICIPALITY OR COURT, AND FOR THE AFFECTED MEMBER BENEFIT PROGRAM CLASSIFICATION(S) (DIVISION(S)) SPECIFIED IN THE MOST RECENT MERS ANNUAL ACTUARIAL VALUATION REPORT IS AT LEAST EIGHTY PERCENT (80%).***

IT IS ADDITIONALLY RESOLVED, as provided in each of the following paragraphs:

**(A) Effective on the Adoption Date, pursuant to Plan Section 19B(13):**

all current MERS defined benefit members who are members of the same employee classification described in Section I above on the Adoption Date shall be offered the opportunity to irrevocably elect coverage under Benefit Program H. Section 19B(14) specifies an employee's written election to participate shall be filed with MERS: (a) not earlier than the last day of the third month after this Resolution is adopted and received by MERS; and (b) not later than the first day of the first calendar month that is at least six months after MERS receives this Resolution. This means each eligible employee will have about 90 days to make the decision.

After MERS receives this Resolution, this governing body's authorized official and eligible employees will be advised by MERS of the election window timelines and other information to consider in making the irrevocable decision whether to participate in Benefit Program H.

Participation for those electing coverage shall be effective the first day of the first calendar month at least six (6) months after MERS' receipt of the Resolution, here designated as being the month of November 1, 2011, (insert month and year) which shall be known as the "**CONVERSION DATE.**"

The opportunity for current employees on the **Adoption Date** to participate in the Hybrid Program shall (select 1 of the following 2 choices):

- apply to all employees who separate from or terminate employment with this municipality **after the Adoption Date** and **before the Conversion Date**, so long as the employee does not receive a retirement allowance (including distributions from Benefit Programs DC or H) from MERS based on service for this municipality.
- not apply to any employee who separates from or terminates employment with this municipality after the Adoption Date.

## MERS Restated Uniform Hybrid Program (Benefit Program H) Resolution

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- (B) **CONTRIBUTIONS** shall be as provided in Section I (A) above.
- (C) **COMPENSATION AND EARNINGS** shall be as provided in Section I (B) above.
- (D) **HYBRID PLAN VESTING** shall be as provided in Section I (C) above.
- (E) For each employee irrevocably electing to participate in Benefit Program H, then under Plan Section 19B(16), the Retirement Board shall transfer the following amounts from the reserve for employee contributions and the reserve for employer contributions and benefit payments to the reserve for defined contribution plan:
- (a) The member's accumulated contributions, if any, as of 12:01 a.m. on the day the member becomes covered by Benefit Program H shall be transferred from the reserve for employee contributions to the member's credit in the reserve for Benefit Program H Defined Contribution component.
  - (b) The funded excess present value shall be computed as the excess, if any, of the actuarial present value of the accrued benefit associated with the member's coverage under the previous benefit program, over the actuarial present value of the accrued benefit associated with the member's coverage under the defined benefit component of Benefit Program H, after such excess is multiplied by the funded level percentage selected by the governing body in subparagraph(F)(2) below (which shall not be less than 80% nor exceed 100% funded level percentage in any case). The excess, if any, of the funded excess present value over the amount specified in sub-paragraph (a) shall be transferred from the reserve for employer contributions and benefit payments to the member's credit in the reserve for Benefit Program H Defined Contribution component. For purposes of this subparagraph:
    - (i) The actuarial present values shall be computed as of 12:01 a.m. on the day the member becomes covered by Benefit Program H and shall be based on the actuarial assumptions adopted by the Retirement Board.
    - (ii) On the effective date of the change of the benefit program the member's credited service under Benefit Program H shall be equal to the member's credited service under the previous benefit program.
    - (iii) In determining final average compensation there shall not be included any accrued annual leave.
    - (iv) The earliest retirement date (for an unreduced benefit) assumption under the defined benefit program in effect on the effective date of the change of the benefit program shall be utilized. Likewise the earliest retirement date assumption under Benefit Program H shall be utilized.
    - (v) For purposes of the actuarial present value calculation, any future benefit otherwise payable under Benefit Program E or E-1 shall be disregarded.

The transfer shall be made approximately 30 calendar days after the **Conversion Date**, and the transfer amount shall include pro-rated regular interest at the regular Board-established rate for crediting of interest on member's accumulated contributions in the defined benefit program, measured from the **Conversion Date** to the actual transfer date.

## MERS Restated Uniform Hybrid Program (Benefit Program H) Resolution

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(F) Per Plan Section 19B(16)(b), the Retirement Board has established the assumptions for calculation of the actuarial present value of a member's accrued benefit that may be transferred. The assumptions are:

- (1) **The interest rate in effect as of the Adoption Date, to determine actuarial present value, shall be the Board-established investment earnings rate assumption (currently eight percent (8.00%)).**
- (2) **The funded level for the member's specific MERS division (total funded percentage of the present value of accrued benefits which shall be determined using Termination Liability under Table 12 or successor table and valuation assets of all reserves using Table 13) as of the Adoption Date from the most recent MERS annual actuarial valuation report data provided by MERS actuary. In the APV calculation, the funded level used shall be (select one of the following):**
  - Table 12 Termination Liability funded level for the division (not less than 80% nor to exceed 100% funded level).**
  - If greater than the division's funded level but not more than 100% funded level, then MERS is directed to compute the funded percentage for the transfer calculation on \_\_\_\_\_% funded basis (insert number greater than the division's Table 12 Termination Liability funded level percentage but not more than 100%). Where less than 100% funded level exists, this governing body recognizes that such direction shall increase its pension funding liability. MERS shall not implement such direction unless the governing body forwards to MERS sufficient cash up to the funded level selected for all members prior to the **Conversion Date**; if sufficient cash is not forwarded, then the governing body expressly covenants with MERS and directs, as a condition of this selection, to MERS billing and the governing body remitting to MERS all contributions necessary to fund the unfunded liability occasioned by the aggregate transfer of the difference between the actual funded level for the division and funded level directed above over a period of four (4) years.**

### III. TRANSFER OF CURRENT MERS DEFINED CONTRIBUTION PROGRAM MEMBERS WHERE HYBRID PROGRAM FOR NEW EMPLOYEES ESTABLISHED Plan Sec 19B(13) – (15), (17)

IT IS ADDITIONALLY RESOLVED, as provided in each of the following paragraphs:

- (A) Effective on the **Adoption Date**, pursuant to Plan Section 19B(13) all current MERS defined contribution members who are members of the same employee classification described in Section I above on the **Adoption Date** shall be offered the opportunity to irrevocably elect coverage under Benefit Program H. Section 19B(14) specifies an employee's written election to participate shall be filed with MERS: (a) not earlier than the last day of the third month after this Resolution is adopted and received by MERS; and (b) not later than the first day of the first calendar month that is at least six months after MERS receives this Resolution. This means each eligible employee will have about 90 days to make the decision.

After MERS receives this Resolution, this governing body's authorized official and eligible employees will be advised by MERS of the election window timelines and other information to consider in making the irrevocable decision whether to participate in Benefit Program H.

## MERS Restated Uniform Hybrid Program (Benefit Program H) Resolution

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Participation for those electing coverage shall be effective the first day of the first calendar month at least six (6) months after MERS' receipt of the Resolution, here designated as being the month of November 1, 2011, (insert month and year), which shall be known as the "CONVERSION DATE."

The opportunity for current employees on the **Adoption Date** to participate in the Hybrid Program shall (select 1 of the following 2 choices):

- apply to all employees who separate from or terminate employment with this municipality after the Adoption Date and before the Conversion Date, so long as the employee does not receive a retirement allowance (including distributions from Benefit Programs DC or H) from MERS based on service for this municipality.
- not apply to any employee who separates from or terminates employment with this municipality after the Adoption Date.

(B) **CONTRIBUTIONS** shall be as provided in Section I (A) above.

(C) **COMPENSATION AND EARNINGS** shall be as provided in Section I (B) above.

(D) **HYBRID PLAN VESTING** shall be as provided in Section I (C) above.

(E) For each employee irrevocably electing to participate in Benefit Program H, then under Plan Section 19B(17), the following shall apply:

- (a) The member's accumulated balance in the reserve for defined contribution plan under Benefit Program DC, if any, as of 12:01 a.m. on the day the member becomes covered by Benefit Program H shall be transferred to the member's credit in the reserve for defined contribution plan under Benefit Program H Defined Contribution component.
- (b) For purposes of calculating benefit amounts under the defined benefit component of Benefit Program H, only credited service earned after 12:01 a.m. on the day the member becomes covered by Benefit Program H shall be recognized.

#### IV. THIRD PARTY ADMINISTRATION

The Municipal Employees' Retirement Board retains full and unrestricted authority over the administration of MERS Benefit Program H, including but not limited to the appointment and termination of the third-party administrator, or MERS self-administration of the defined contribution program in whole or in part.

# MERS Restated Uniform Hybrid Program (Benefit Program H) Resolution

## V. EFFECTIVENESS OF THIS RESOLUTION

**BE IT FINALLY RESOLVED:** This Resolution shall have no legal effect under the MERS Plan Document until a certified copy of this adopting Resolution shall be filed with MERS, and MERS determines that all necessary requirements under Plan Document Section 19B, this Resolution, and other applicable requirements have been met. All dates for implementation of Benefit Program H under Section 19B shall be determined by MERS from the date of filing with MERS of this Resolution in proper form and content. Upon MERS determination that all necessary documents have been submitted to MERS, MERS shall record its formal approval upon this Resolution, and return a copy to the Employer's Hybrid Program Plan Coordinator identified in Section IV (D) above.

In the event an amendatory Resolution or other action by this Governing Body is required, such Resolution or action shall be deemed effective as of the date of the initial Resolution or action where concurred in by this governing body and MERS (and the third-party administrator if necessary). Section 54 of the Plan Document shall apply to this Resolution and all acts performed under its authority. The terms and conditions of this Resolution supersede and stand in place of any prior resolution, and its terms are controlling.

I hereby certify that the above is a true copy of a Resolution adopted at the official meeting held

on April 26, 2011

\_\_\_\_\_  
(Signature of authorized official)

Please send MERS fully executed copy of:

- MERS 2010 Restated Uniform Hybrid Program (Benefit Program H) Resolution (this form, MD-043)
- MERS Restated Hybrid Plan (Defined Contribution Component) Adoption Agreement (form MD-044)
- Declaration of Trust and certified minutes stating governing body approval, and/or union contract language

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
(Authorized MERS signatory)

# MERS Restated Hybrid Plan (Defined Contribution Component) Adoption Agreement



1134 Municipal Way Lansing, MI 48917 | 800.767.2308 | Fax 517.703.9711

www.mersofmich.com

The Employer, a participating municipality or participating court ("court") within the State of Michigan that has adopted MERS coverage, hereby establishes the following MERS Benefit Program: **Hybrid under MERS Plan Document ("MERS Hybrid DC")** as authorized by Section 19B of the Municipal Employees' Retirement System of Michigan Plan Document. All references to "Plan Document" are to sections of the MERS Plan Document; any reference to "Plan," the "MERS Plan," "Plan Participant," "Participant," or "Program," shall mean the MERS Hybrid DC Plan, unless otherwise specified.

This Adoption Agreement, together with Section 19B of the MERS Plan Document and the MERS Restated Uniform Hybrid Resolution ("Resolution"), constitute the entire MERS Benefit Program Hybrid Plan Document.

I. EMPLOYER: Otsego County  
Name of municipality or court

## II. EFFECTIVE DATE

1. If this is the initial Adoption Agreement relating to the MERS Defined Contribution Plan for this Division, the Effective Date of the Benefit Program here adopted shall be the first day of:  
January 1, 2011  
Month and Year

2. If this is an amendment and restatement of an existing adoption agreement relating to the MERS Hybrid DC Plan for this Division, the effective date of this amendment and restatement shall be the first day of: \_\_\_\_\_ This adoption agreement is  
Month and Year

intended to replace and serve as an amendment and restatement of the Employer's preexisting plan, which was originally effective on the first day of: \_\_\_\_\_  
Month and Year

## III. ELIGIBILITY REQUIREMENTS

Only those Employees eligible for MERS Membership (Section 3 of the MERS Plan Document) shall be eligible to participate in the MERS Hybrid DC Plan. A copy of ALL employee enrollment forms must be submitted to MERS. The following group(s) of Employees are eligible to participate in the Plan:

POAM Unit Employees - Division 11 - new hires, rehires, or transferred employees into the POAM division on or after the

adoption date of January 1, 2011.

\_\_\_\_\_  
Specify employee classification and division numbers

# MERS Restated Hybrid Plan (Defined Contribution Component) Adoption Agreement

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## IV. CONTRIBUTION PROVISIONS

1. The Employer shall contribute on behalf of each Participant 1 % of Earnings or \$ \_\_\_\_\_ for the calendar year (subject to the limitations of Sections 415(c) of the Internal Revenue Code).
2. Each Participant is required to contribute 1, 2 or 3 % of Earnings for the calendar year as a condition of participation in the Plan. (Write "0" if no contribution is required.) \*If other contribution options are provided, please list on separate sheet of paper and attach to Adoption Agreement.

If Employee contributions are required, an Employee shall not have the right to discontinue or vary the rate of such contributions after becoming a Plan Participant.

The Employer hereby elects to "pick up" the Mandatory/Required Employee contribution. The "pick-up" provision allows the employer to direct mandatory employee contributions to be pre-tax.

Yes

No

**[Note to Employer:** Picked up contributions are excludable from the Employee's gross income under Section 414(h)(2) of the Internal Revenue Code of 1986 only if they meet the requirements of Rev. Rul. 2006-43, 2006-35 I.R.B. 329. Those requirements are (1) that the Employer must specify that the contributions, although designated as Employee contributions, are being paid by the Employer in lieu of contributions by the Employee; and (2) the Employee must not have the option of receiving the contributed amounts directly instead of having them paid by the Employer to the Plan. The execution of this Adoption Agreement by the Employer shall constitute the official action required by Revenue Ruling 2006-43.]

3. Each Employee may make a voluntary (unmatched), after-tax contribution, subject to the limitations of Section 415 of the Internal Revenue Code.
4. Employer contributions and Employee contributions shall be contributed to the Trust in accordance with the following payment schedule:

Weekly

Bi-weekly

Monthly

## V. EARNINGS

Earnings shall be defined as "compensation" under Section 2A(6) of the MERS Plan Document, being the Medicare taxable wages reported on the Employee's W-2 statement.

# MERS Restated Hybrid Plan (Defined Contribution Component) Adoption Agreement

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## VI. VESTING PROVISION FOR EMPLOYER CONTRIBUTIONS AND NORMAL RETIREMENT AGE

The Employer hereby specifies the following vesting schedule (choose one):

- Immediate vesting upon participation
- Cliff vesting: The participant is 100% vested upon a stated number of years. Stated year may not exceed maximum 5 years of service:

Stated Year:       1    2    3    4    5

- Graded vesting percentage per year of service: Employers can select the percentage of vesting with the corresponding years of service, however the scale cannot exceed a maximum of six years of service to reach 100% vesting, nor less than the stated minimums below:

\_\_\_\_\_ % after 1 year of service.  
\_\_\_\_\_ % after 2 years of service.  
25 % (not less than 25%) after 3 years of service.  
50 % (not less than 50%) after 4 years of service.  
75 % (not less than 75%) after 5 years of service.  
100 % (not less than 100%) after 6 years of service.

Notwithstanding the above, a member shall be vested in his/her entire employer contribution account, to the extent that the balance of such account has not previously been forfeited, if he/she is employed on or after his/her Normal Retirement Age. "Normal Retirement Age" shall be presumed to be age 60 (unless a different normal retirement age is here specified: \_\_\_\_\_).

In addition, notwithstanding the above, in the event of disability or death, a member or his/her beneficiary shall be vested in his/her entire employer contribution account, to the extent that the balance of such account has not previously been forfeited as described in Section 19A(7) of the MERS Plan Document.

- VII. Loans (not more than two) are permitted under the Program. MERS recommendation is "No," not to allow loans: loans permit your employees to borrow against their retirement account.

Yes                       No

- VIII. The Plan will accept an eligible rollover distribution from an eligible retirement plan described in Section 401(a) (including "401(k)") or 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, an eligible deferred compensation plan described in Section 457(b) of the Code maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code, including after-tax employee contributions, as applicable. The Plan will account separately for pre-tax and post-tax contributions and earnings thereon.

**MERS Restated Hybrid Plan (Defined Contribution Component)  
Adoption Agreement**

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- IX. The Employer hereby agrees to the provisions of the MERS Uniform Defined Contribution Plan and agrees that in the event of any conflict between MERS Plan Document Section 19B and the MERS Hybrid Plan, the provisions of Section 19B shall control.
- X. The Employer hereby appoints MERS as the Plan Administrator pursuant to the terms and conditions of the Plan.
- XI. The Employer hereby agrees to the provisions of the Plan.
- XII. The Employer hereby acknowledges It understands that failure to properly fill out this Adoption Agreement may result in the ineligibility of the Plan in the DC component of the Hybrid Plan.

In Witness Whereof, the Employer hereby causes this Agreement to be executed on this 26 day of April, 2011.

Employer: Otsego County

By: Paul M. Beachnau

Title: Chair, Board of Commissloners

Attest: \_\_\_\_\_

**OTSEGO COUNTY ORDINANCE FOR THE ADOPTION  
OF THE STATE OF MICHIGAN BUILDING CODE**

Ordinance Number 2011-2

An ordinance to designate an enforcing agency to discharge the responsibility of OTSEGO COUNTY, MICHIGAN under the provisions of The Stille-DeRossett Hale Single State Construction Code Act, 1972 PA 230.

**OTSEGO COUNTY, MICHIGAN** ordains:

Section 1. ENFORCING AGENCY DESIGNATED. Pursuant to Section 8b(6) of The Stille-DeRossett Hale Single State Construction Code Act, 1972 PA 230, MCL 125.1508b(6), OTSEGO COUNTY, MICHIGAN hereby elects to administer and enforce the 1972 PA 230 and the Michigan Building Code. OTSEGO COUNTY, MICHIGAN shall also administer and enforce the respective provisions of the Michigan Residential, Rehabilitation, and Uniform Energy Codes and all applicable laws and ordinances. A government official registered in accordance with 1986 PA 54 shall be appointed to receive all fees, issue permits, plan reviews, notices, orders, and certificates of use and occupancy. All personnel performing plan reviews and inspections shall be registered in accordance with 1986 PA 54.

Section 2. REPEALS. All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

Section 3. PUBLICATION. This ordinance shall be effective after legal publication and in accordance with provisions of the Act governing same.

This ordinance duly adopted on \_\_\_\_\_ at a regular meeting of the OTSEGO COUNTY BOARD OF COMMISSIONERS and will become effective \_\_\_\_\_.

Signed:

BY: \_\_\_\_\_  
Paul Beachnau, County Board Chairman

BY: \_\_\_\_\_  
Susan I. DeFeyter, County Clerk

**OTSEGO COUNTY ORDINANCE FOR THE ADOPTION  
OF THE STATE OF MICHIGAN ELECTRICAL CODE**

Ordinance Number 2011-3

An ordinance to designate an enforcing agency to discharge the responsibility of OTSEGO COUNTY, MICHIGAN under the provisions of The Stille-DeRossett Hale Single State Construction Code Act, 1972 PA 230.

**OTSEGO COUNTY, MICHIGAN** ordains:

Section 1. ENFORCING AGENCY DESIGNATED. Pursuant to Section 8b(6) of The Stille-DeRossett Hale Single State Construction Code Act, 1972 PA 230, MCL 125.1508b(6), OTSEGO COUNTY hereby elects to administer and enforce the 1972 PA 230 and the Michigan Electrical Code. OTSEGO COUNTY shall also administer and enforce the respective provisions of the Michigan Residential, Rehabilitation, and Uniform Energy Codes and all applicable laws and ordinances. A government official registered in accordance with 1986 PA 54 shall be appointed to receive all fees, issue permits, plan reviews, notices, orders, and certificates of use and occupancy. All personnel performing plan reviews and inspections shall be registered in accordance with 1986 PA 54.

Section 2. REPEALS. All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

Section 3. PUBLICATION. This ordinance shall be effective after legal publication and in accordance with provisions of the Act governing same.

This ordinance duly adopted on \_\_\_\_\_ at a regular meeting of the OTSEGO COUNTY BOARD OF COMMISSIONERS and will become effective \_\_\_\_\_.

Signed:

BY: \_\_\_\_\_  
Paul Beachnau, County Board Chairman

BY: \_\_\_\_\_  
Susan I. DeFeyter, County Clerk

**OTSEGO COUNTY ORDINANCE FOR THE ADOPTION  
OF THE STATE OF MICHIGAN MECHANICAL CODE  
Ordinance Number 2011-4**

An ordinance to designate an enforcing agency to discharge the responsibility of OTSEGO COUNTY, MICHIGAN under the provisions of The Stille-DeRossett Hale Single State Construction Code Act, 1972 PA 230.

**OTSEGO COUNTY, MICHIGAN** ordains:

Section 1. ENFORCING AGENCY DESIGNATED. Pursuant to Section 8b(6) of The Stille-DeRossett Hale Single State Construction Code Act, 1972 PA 230, MCL 125.1508b(6), OTSEGO COUNTY, MICHIGAN hereby elects to administer and enforce the 1972 PA 230 and the Michigan Mechanical Code. OTSEGO COUNTY, MICHIGAN shall also administer and enforce the respective provisions of the Michigan Residential, Rehabilitation, and Uniform Energy Codes and all applicable laws and ordinances. A government official registered in accordance with 1986 PA 54 shall be appointed to receive all fees, issue permits, plan reviews, notices, orders, and certificates of use and occupancy. All personnel performing plan reviews and inspections shall be registered in accordance with 1986 PA 54.

Section 2. REPEALS. All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

Section 3. PUBLICATION. This ordinance shall be effective after legal publication and in accordance with provisions of the Act governing same.

This ordinance duly adopted on \_\_\_\_\_ at a regular meeting of the OTSEGO COUNTY BOARD OF COMMISSIONERS and will become effective \_\_\_\_\_.

Signed:

BY: \_\_\_\_\_  
Paul Beachnau, County Board Chairman

BY: \_\_\_\_\_  
Susan I. DeFeyter, County Clerk

**OTSEGO COUNTY ORDINANCE FOR THE ADOPTION  
OF THE STATE OF MICHIGAN PLUMBING CODE**

Ordinance Number 2011-5

An ordinance to designate an enforcing agency to discharge the responsibility of OTSGEO COUNTY, MICHIGAN under the provisions of The Stille-DeRossett Hale Single State Construction Code Act, 1972 PA 230.

The OTSEGO COUNTY, MICHIGAN ordains:

Section 1. ENFORCING AGENCY DESIGNATED. Pursuant to Section 8b(6) of The Stille-DeRossett Hale Single State Construction Code Act, 1972 PA 230, MCL 125.1508b(6), OTSEGO COUNTY, MICHIGAN hereby elects to administer and enforce the 1972 PA 230 and the Michigan Plumbing Code. OTSEGO COUNTY, MICHIGAN shall also administer and enforce the respective provisions of the Michigan Residential, Rehabilitation, and Uniform Energy Codes and all applicable laws and ordinances. A government official registered in accordance with 1986 PA 54 shall be appointed to receive all fees, issue permits, plan reviews, notices, orders, and certificates of use and occupancy. All personnel performing plan reviews and inspections shall be registered in accordance with 1986 PA 54.

Section 2. REPEALS. All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

Section 3. PUBLICATION. This ordinance shall be effective after legal publication and in accordance with provisions of the Act governing same.

This ordinance duly adopted on \_\_\_\_\_ at a regular meeting of the OTSEGO COUNTY BOARD OF COMMISSIONERS and will become effective \_\_\_\_\_.

Signed:

BY: \_\_\_\_\_

Paul Beachnau, County Board Chairman

BY: \_\_\_\_\_

Susan I. DeFeyter, County Clerk

**ORDINANCE FOR ADOPTION OF  
THE INTERNATIONAL FIRE CODE  
ORDINANCE NO. 2011-6**

An ordinance of OTSEGO COUNTY, MICHIGAN adopting the International Fire Code, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in OTSEGO COUNTY; providing for the issuance of permits and collection of fees therefore;

The BOARD OF COMMISSIONERS of OTSEGO COUNTY, MICHIGAN does ordain as follows:

Section 1. That a certain document, One (1) copy of which are on file in the office of the OTSEGO COUNTY CLERK of OTSEGO COUNTY, MICHIGAN, being marked and designated as the International Fire Code, including Appendix Chapters, B, C, D, E, F AND G as published by the International Code Council, be and is hereby adopted as the Fire Code of OTSEGO COUNTY, in the State of MICHIGAN regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Code on file in the office of the OTSEGO COUNTY CLERK are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2. That the following sections are hereby revised:

Section 101.1 Insert: OTSEGO COUNTY, MICHIGAN

Section 109.3. Insert: CIVIL INFRACTION, \$500.00 AND \$0.00

Section 111.4. Insert: \$50.00 AND \$500.00

Section 3. That the geographic limits referred to in certain sections of the International Fire Code are hereby established as follows:

Section 3204.3.1.1 Not permitted in R1, R2, R3, RR, FR, B1 or B2 zoning districts.

Section 3404.2.9.5.1 Not permitted in R1, R2, R3, RR, FR, B1 or B2 zoning districts.

Section 3406.2.4.4 Not permitted in R1, R2, R3, RR, FR, B1 or B2 zoning districts.

Section 3804.2 Not permitted in any zoning district without a special use permit approved by the Otsego County Planning Commission.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The OTSEGO COUNTY, BOARD OF COMMISSIONERS hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That nothing in this ordinance or in the Fire Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 6. That the OTSEGO COUNTY CLERK is hereby ordered and directed to cause this ordinance to be published.

Section 7. This ordinance duly adopted on \_\_\_\_\_ at a regular meeting of the OTSEGO COUNTY BOARD OF COMMISSIONERS and will become effective \_\_\_\_\_.

Signed:

BY: \_\_\_\_\_

Paul Beachnau, County Board Chairman

BY: \_\_\_\_\_

Susan I. DeFeyer, County Clerk

# CHAPTER 1

## ADMINISTRATION

### SECTION 101 GENERAL

**101.1 Title.** These regulations shall be known as the *Fire Code* of [NAME OF JURISDICTION], hereinafter referred to as "this code."

**101.2 Scope.** This code establishes regulations affecting or relating to structures, processes, premises and safeguards regarding:

1. The hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices;
2. Conditions hazardous to life, property or public welfare in the occupancy of structures or premises;
3. Fire hazards in the structure or on the premises from occupancy or operation;
4. Matters related to the construction, extension, repair, alteration or removal of fire suppression or alarm systems.

**101.2.1 Appendices.** Provisions in the appendices shall not apply unless specifically adopted.

**101.3 Intent.** The purpose of this code is to establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises and to provide safety to fire fighters and emergency responders during emergency operations.

**101.4 Severability.** If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**101.5 Validity.** In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions hereof, which are determined to be legal; and it shall be presumed that this code would have been adopted without such illegal or invalid parts or provisions.

### SECTION 102 APPLICABILITY

**102.1 Construction and design provisions.** The construction and design provisions of this code shall apply to:

1. Structures, facilities and conditions arising after the adoption of this code.
2. Existing structures, facilities and conditions not legally in existence at the time of adoption of this code.
3. Existing structures, facilities and conditions when identified in specific sections of this code.

4. Existing structures, facilities and conditions which, in the opinion of the fire code official, constitute a distinct hazard to life or property.

**102.2 Administrative, operational and maintenance provisions.** The administrative, operational and maintenance provisions of this code shall apply to:

1. Conditions and operations arising after the adoption of this code.
2. Existing conditions and operations.

**102.3 Change of use or occupancy.** No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this code and the *International Building Code*. Subject to the approval of the fire code official, the use or occupancy of an existing structure shall be allowed to be changed and the structure is allowed to be occupied for purposes in other groups without conforming to all the requirements of this code and the *International Building Code* for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.

**102.4 Application of building code.** The design and construction of new structures shall comply with the *International Building Code*, and any alterations, additions, changes in use or changes in structures required by this code, which are within the scope of the *International Building Code*, shall be made in accordance therewith.

**102.5 Historic buildings.** The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings or structures do not constitute a distinct hazard to life or property. Fire protection in designated historic buildings and structures shall be provided in accordance with an approved fire protection plan.

**102.6 Referenced codes and standards.** The codes and standards referenced in this code shall be those that are listed in Chapter 45 and such codes and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between the provisions of this code and the referenced standards, the provisions of this code shall apply.

**102.7 Subjects not regulated by this code.** Where no applicable standards or requirements are set forth in this code, or are contained within other laws, codes, regulations, ordinances or bylaws adopted by the jurisdiction, compliance with applicable standards of the National Fire Protection Association or other nationally recognized fire safety standards, as approved, shall be deemed as prima facie evidence of compliance with the intent of this code. Nothing herein shall derogate from the authority of the fire code official to determine compliance with

## SECTION 109 VIOLATIONS

**109.1 Unlawful acts.** It shall be unlawful for a person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize a building, occupancy, premises or system regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

**109.2 Notice of violation.** When the fire code official finds a building, premises, vehicle, storage facility or outdoor area that is in violation of this code, the fire code official is authorized to prepare a written notice of violation describing the conditions deemed unsafe and, when compliance is not immediate, specifying a time for reinspection.

**109.2.1 Service.** A notice of violation issued pursuant to this code shall be served upon the owner, operator, occupant, or other person responsible for the condition or violation, either by personal service, mail, or by delivering the same to, and leaving it with, some person of responsibility upon the premises. For unattended or abandoned locations, a copy of such notice of violation shall be posted on the premises in a conspicuous place at or near the entrance to such premises and the notice of violation shall be mailed by certified mail with return receipt requested or a certificate of mailing, to the last known address of the owner, occupant or both.

**109.2.2 Compliance with orders and notices.** A notice of violation issued or served as provided by this code shall be complied with by the owner, operator, occupant or other person responsible for the condition or violation to which the notice of violation pertains.

**109.2.3 Prosecution of violations.** If the notice of violation is not complied with promptly, the fire code official is authorized to request the legal counsel of the jurisdiction to institute the appropriate legal proceedings at law or in equity to restrain, correct or abate such violation or to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant hereto.

**109.2.4 Unauthorized tampering.** Signs, tags or seals posted or affixed by the fire code official shall not be mutilated, destroyed or tampered with or removed without authorization from the fire code official.

**109.3 Violation penalties.** Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**109.3.1 Abatement of violation.** In addition to the imposition of the penalties herein described, the fire code official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or

to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

## SECTION 110 UNSAFE BUILDINGS

**110.1 General.** If during the inspection of a premises, a building or structure or any building system, in whole or in part, constitutes a clear and inimical threat to human life, safety or health, the fire code official shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section and shall refer the building to the building department for any repairs, alterations, remodeling, removing or demolition required.

**110.1.1 Unsafe conditions.** Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by Section 311 shall be deemed unsafe.

**110.1.2 Structural hazards.** When an apparent structural hazard is caused by the faulty installation, operation or malfunction of any of the items or devices governed by this code, the fire code official shall immediately notify the building code official in accordance with Section 110.1.

**110.2 Evacuation.** The fire code official or the fire department official in charge of an incident shall be authorized to order the immediate evacuation of any occupied building deemed unsafe when such building has hazardous conditions that present imminent danger to building occupants. Persons so notified shall immediately leave the structure or premises and shall not enter or re-enter until authorized to do so by the fire code official or the fire department official in charge of the incident.

**110.3 Summary abatement.** Where conditions exist that are deemed hazardous to life and property, the fire code official or fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code.

**110.4 Abatement.** The owner, operator, or occupant of a building or premises deemed unsafe by the fire code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

## SECTION 111 STOP WORK ORDER

**111.1 Order.** Whenever the fire code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the fire code official is authorized to issue a stop work order.

**111.2 Issuance.** A stop work order shall be in writing and shall be given to the owner of the property, or to the owner's agent, or

to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work is authorized to resume.

**111.3 Emergencies.** Where an emergency exists, the fire code official shall not be required to give a written notice prior to stopping the work.

**111.4 Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars.

**3204.2.1.3 Ventilation.** Storage areas for stationary containers shall be ventilated in accordance with the *International Mechanical Code*.

**3204.2.2 Portable containers.** Indoor storage of portable containers shall comply with the provisions applicable to the type of fluid stored and Sections 3204.2.2.1 through 3204.2.2.3.

**3204.2.2.1 Containers.** Portable containers shall comply with Section 3203.1.

**3204.2.2.2 Construction of indoor areas.** Cryogenic fluids in portable containers stored indoors shall be stored in buildings, rooms or areas constructed in accordance with the *International Building Code*.

**3204.2.2.3 Ventilation.** Storage areas shall be ventilated in accordance with the *International Mechanical Code*.

**3204.3 Outdoor storage.** Outdoor storage of containers shall be in accordance with Sections 3204.3.1 through 3204.3.2.2.

**3204.3.1 Stationary containers.** The outdoor storage of stationary containers shall comply with Section 3203 and this section.

**3204.3.1.1 Location.** Stationary containers shall be located in accordance with Section 3203.6. Containers of cryogenic fluids shall not be located within diked areas containing other hazardous materials.

Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited (see Section 3 of the Sample Ordinance for Adoption of the *International Fire Code* on page v).

**3204.3.1.2 Areas subject to flooding.** Stationary containers located in areas subject to flooding shall be securely anchored or elevated to prevent the containers from separating from foundations or supports.

**3204.3.1.3 Drainage.** The area surrounding stationary containers shall be provided with a means to prevent accidental discharge of fluids from endangering personnel, containers, equipment and adjacent structures or to enter enclosed spaces. The stationary container shall not be placed where spilled or discharged fluids will be retained around the container.

**Exception:** These provisions shall not apply when it is determined by the fire code official that the container does not constitute a hazard, after consideration of special features such as crushed rock utilized as a heat sink, topographical conditions, nature of occupancy, proximity to structures on the same or adjacent property, and the capacity and construction of containers and character of fluids to be stored.

**3204.3.2 Portable containers.** Outdoor storage of portable containers shall comply with Section 3203 and this section.

**3204.3.2.1 Location.** Portable containers shall be located in accordance with Section 3203.6.

**3204.3.2.2 Drainage.** The area surrounding portable containers shall be provided with a means to prevent accidental discharge of fluids from endangering adjacent containers, buildings, equipment or adjoining property.

**Exception:** These provisions shall not apply when it is determined by the fire code official that the container does not constitute a hazard.

**3204.4 Underground tanks.** Underground tanks for the storage of liquid hydrogen shall be in accordance with Sections 3204.4.1 through 3204.5.3.

**3204.4.1 Construction.** Storage tanks for liquid hydrogen shall be designed and constructed in accordance with *ASME Boiler and Pressure Vessel Code* (Section VIII, Division 1) and shall be vacuum jacketed in accordance with Section 3204.5.

**3204.4.2 Location.** Storage tanks shall be located outside in accordance with the following:

1. Tanks and associated equipment shall be located with respect to foundations and supports of other structures such that the loads carried by the latter cannot be transmitted to the tank.
2. The distance from any part of the tank to the nearest wall of a basement, pit, cellar or lot line shall not be less than 3 feet (914 mm).
3. A minimum distance of 1 foot (1525 mm), shell to shell, shall be maintained between underground tanks.

**3204.4.3 Depth, cover and fill.** The tank shall be buried such that the top of the vacuum jacket is covered with a minimum of 1 foot (305 mm) of earth and with concrete a minimum of 4 inches (102 mm) thick placed over the earthen cover. The concrete shall extend a minimum of 1 foot (305 mm) horizontally beyond the footprint of the tank in all directions. Underground tanks shall be set on firm foundations constructed in accordance with the *International Building Code* and surrounded with at least 6 inches (152 mm) of noncorrosive inert material, such as sand.

**Exception:** The vertical extension of the vacuum jacket as required for service connections.

**3204.4.4 Anchorage and security.** Tanks and systems shall be secured against accidental dislodgement in accordance with this chapter.

**3204.4.5 Venting of underground tanks.** Vent pipes for underground storage tanks shall be in accordance with Sections 2209.5.4 and 3203.3.

**3204.4.6 Underground liquid hydrogen piping.** Underground liquid hydrogen piping shall be vacuum jacketed or protected by approved means and designed in accordance with this chapter.

**3204.4.7 Overfill protection and prevention systems.** An approved means or method shall be provided to prevent the overfill of all storage tanks.

**3204.5 Vacuum jacket construction.** The vacuum jacket shall be designed and constructed in accordance with Section VIII of *ASME Boiler and Pressure Vessel Code* and shall be designed

**3404.2.9.5.1 Locations where above-ground tanks are prohibited.** Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited (see Section 3 of the Sample Ordinance for Adoption of the *International Fire Code* on page v).

**3404.2.9.5.1.1 Location of tanks with pressures 2.5 psig or less.** Above-ground tanks operating at pressures not exceeding 2.5 psig (17.2 kPa) for storage of Class I, II or IIIA liquids, which are designed with a floating roof, a weak roof-to-shell seam or equipped with emergency venting devices limiting pressure to 2.5 psig (17.2 kPa), shall be located in accordance with Table 4.3.2.1.1(a) of NFPA 30.

**Exceptions:**

1. Vertical tanks having a weak roof-to-shell seam and storing Class IIIA liquids are allowed to be located at one-half the distances specified in Table 4.3.2.1.1(a) of NFPA 30, provided the tanks are not within a diked area or drainage path for a tank storing Class I or II liquids.
2. Liquids with boilover characteristics and unstable liquids in accordance with Sections 3404.2.9.5.1.3 and 3404.2.9.5.1.4.
3. For protected above-ground tanks in accordance with Section 3404.2.9.6 and tanks in at-grade or above-grade vaults in accordance with Section 3404.2.8, the distances in Table 4.3.2.1.1(b) of NFPA 30 shall apply and shall be reduced by one-half, but not to less than 5 feet (1524 mm).

**3404.2.9.5.1.2 Location of tanks with pressures exceeding 2.5 psig.** Above-ground tanks for the storage of Class I, II or IIIA liquids operating at pressures exceeding 2.5 psig (17.2 kPa) or equipped with emergency venting allowing pressures to exceed 2.5 psig (17.2 kPa) shall be located in accordance with Table 4.3.2.1.2 of NFPA 30.

**Exception:** Liquids with boilover characteristics and unstable liquids in accordance with Sections 3404.2.9.5.1.4 and 3404.2.9.5.1.5.

**3404.2.9.5.1.3 Location of tanks for boilover liquids.** Above-ground tanks for storage of liquids with boilover characteristics shall be located in accordance with Table 4.3.2.1.3 of NFPA 30.

**3404.2.9.5.1.4 Location of tanks for unstable liquids.** Above-ground tanks for the storage of unstable liquids shall be located in accordance with Table 4.3.2.1.4 of NFPA 30.

**3404.2.9.5.1.5 Location of tanks for Class IIIB liquids.** Above-ground tanks for the storage of Class IIIB liquids, excluding unstable liquids, shall be located in accordance with Table 4.3.2.1.5

of NFPA 30, except when located within a diked area or drainage path for a tank or tanks storing Class I or II liquids. Where a Class IIIB liquid storage tank is within the diked area or drainage path for a Class I or II liquid, distances required by Section 3404.2.9.5.1.1 shall apply.

**3404.2.9.5.1.6 Reduction of separation distances to adjacent property.** Where two tank properties of diverse ownership have a common boundary, the fire code official is authorized to, with the written consent of the owners of the two properties, apply the distances in Sections 3404.2.9.5.1.2 through 3404.2.9.5.1.5 assuming a single property.

**3404.2.9.5.2 Separation between adjacent stable or unstable liquid tanks.** The separation between tanks containing stable liquids shall be in accordance with Table 4.3.2.2.1 of NFPA 30. Where tanks are in a diked area containing Class I or II liquids, or in the drainage path of Class I or II liquids, and are compacted in three or more rows or in an irregular pattern, the fire code official is authorized to require greater separation than specified in Table 4.3.2.2.1 of NFPA 30 or other means to make tanks in the interior of the pattern accessible for fire-fighting purposes.

**Exception:** Tanks used for storing Class IIIB liquids are allowed to be spaced 3 feet (914 mm) apart unless within a diked area or drainage path for a tank storing Class I or II liquids.

The separation between tanks containing unstable liquids shall not be less than one-half the sum of their diameters.

**3404.2.9.5.3 Separation between adjacent tanks containing flammable or combustible liquids and LP-gas.** The minimum horizontal separation between an LP-gas container and a Class I, II or IIIA liquid storage tank shall be 20 feet (6096 mm) except in the case of Class I, II or IIIA liquid tanks operating at pressures exceeding 2.5 psig (17.2 kPa) or equipped with emergency venting allowing pressures to exceed 2.5 psig (17.2 kPa), in which case the provisions of Section 3404.2.9.5.2 shall apply.

An approved means shall be provided to prevent the accumulation of Class I, II or IIIA liquids under adjacent LP-gas containers such as by dikes, diversion curbs or grading. When flammable or combustible liquid storage tanks are within a diked area, the LP-gas containers shall be outside the diked area and at least 10 feet (3048 mm) away from the centerline of the wall of the diked area.

**Exceptions:**

1. Liquefied petroleum gas containers of 125 gallons (473 L) or less in capacity installed adjacent to fuel-oil supply tanks of 660 gallons (2498 L) or less in capacity.
2. Horizontal separation is not required between above-ground LP-gas containers

2. Well drilling and operating.
3. Bulk plants or terminals.
4. Bulk transfer and process transfer operations utilizing tank vehicles and tank cars.
5. Tank vehicles and tank vehicle operation.
6. Refineries.
7. Vapor recovery and vapor-processing systems.

**3406.2 Storage and dispensing of flammable and combustible liquids on farms and construction sites.** Permanent and temporary storage and dispensing of Class I and II liquids for private use on farms and rural areas and at construction sites, earth-moving projects, gravel pits or borrow pits shall be in accordance with Sections 3406.2.1 through 3406.2.8.1.

**Exception:** Storage and use of fuel oil and containers connected with oil-burning equipment regulated by Section 603 and the *International Mechanical Code*.

**3406.2.1 Combustibles and open flames near tanks.** Storage areas shall be kept free from weeds and extraneous combustible material. Open flames and smoking are prohibited in flammable or combustible liquid storage areas.

**3406.2.2 Marking of tanks and containers.** Tanks and containers for the storage of liquids above ground shall be conspicuously marked with the name of the product which they contain and the words: **FLAMMABLE—KEEP FIRE AND FLAME AWAY**. Tanks shall bear the additional marking: **KEEP 50 FEET FROM BUILDINGS**.

**3406.2.3 Containers for storage and use.** Metal containers used for storage of Class I or II liquids shall be in accordance with DOTn requirements or shall be of an approved design.

Discharge devices shall be of a type that do not develop an internal pressure on the container. Pumping devices or approved self-closing faucets used for dispensing liquids shall not leak and shall be well-maintained. Individual containers shall not be interconnected and shall be kept closed when not in use.

Containers stored outside of buildings shall be in accordance with Section 3404 and the *International Building Code*.

**3406.2.4 Permanent and temporary tanks.** The capacity of permanent above-ground tanks containing Class I or II liquids shall not exceed 1,100 gallons (4164 L). The capacity of temporary above-ground tanks containing Class I or II liquids shall not exceed 10,000 gallons (37 854 L). Tanks shall be of the single-compartment design.

**Exception:** Permanent above-ground tanks of greater capacity which meet the requirements of Section 3404.2.

**3406.2.4.1 Fill-opening security.** Fill openings shall be equipped with a locking closure device. Fill openings shall be separate from vent openings.

**3406.2.4.2 Vents.** Tanks shall be provided with a method of normal and emergency venting. Normal vents shall also be in accordance with Section 3404.2.7.3.

Emergency vents shall be in accordance with Section 3404.2.7.4. Emergency vents shall be arranged to discharge in a manner which prevents localized overheating or flame impingement on any part of the tank in the event that vapors from such vents are ignited.

**3406.2.4.3 Location.** Tanks containing Class I or II liquids shall be kept outside and at least 50 feet (15 240 mm) from buildings and combustible storage. Additional distance shall be provided when necessary to ensure that vehicles, equipment and containers being filled directly from such tanks will not be less than 50 feet (15 240 mm) from structures, haystacks or other combustible storage.

**3406.2.4.4 Locations where above-ground tanks are prohibited.** The storage of Class I and II liquids in above-ground tanks is prohibited within the limits established by law as the limits of districts in which such storage is prohibited (see Section 3 of the Sample Ordinance for Adoption of the *International Fire Code* on page v).

**3406.2.5 Type of tank.** Tanks shall be provided with top openings only or shall be elevated for gravity discharge.

**3406.2.5.1 Tanks with top openings only.** Tanks with top openings shall be mounted as follows:

1. On well-constructed metal legs connected to shoes or runners designed so that the tank is stabilized and the entire tank and its supports can be moved as a unit; or
2. For stationary tanks, on a stable base of timbers or blocks approximately 6 inches (152 mm) in height which prevents the tank from contacting the ground.

**3406.2.5.1.1 Pumps and fittings.** Tanks with top openings only shall be equipped with a tightly and permanently attached, approved pumping device having an approved hose of sufficient length for filling vehicles, equipment or containers to be served from the tank. Either the pump or the hose shall be equipped with a padlock to its hanger to prevent tampering. An effective antisiphoning device shall be included in the pump discharge unless a self-closing nozzle is provided. Siphons or internal pressure discharge devices shall not be used.

**3406.2.5.2 Tanks for gravity discharge.** Tanks with a connection in the bottom or the end for gravity-dispensing liquids shall be mounted and equipped as follows:

1. Supports to elevate the tank for gravity discharge shall be designed to carry all required loads and provide stability.
2. Bottom or end openings for gravity discharge shall be equipped with a valve located adjacent to the tank shell which will close automatically in the event of fire through the operation of an effective heat-activated releasing device. Where this valve cannot be operated manually, it shall be supplemented by a second, manually operated valve.

## SECTION 3804 LOCATION OF CONTAINERS

**3804.1 General.** The storage and handling of LP-gas and the installation and maintenance of related equipment shall comply with NFPA 58 and be subject to the approval of the fire code official, except as provided in this chapter.

**3804.2 Maximum capacity within established limits.** Within the limits established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested areas, the aggregate capacity of any one installation shall not exceed a water capacity of 2,000 gallons (7570 L) (see Section 3 of the Sample Ordinance for Adoption of the *International Fire Code* on page v).

**Exception:** In particular installations, this capacity limit shall be determined by the fire code official, after consideration of special features such as topographical conditions,

nature of occupancy, and proximity to buildings, capacity of proposed containers, degree of fire protection to be provided and capabilities of the local fire department.

**3804.3 Container location.** Containers shall be located with respect to buildings, public ways, and lot lines of adjoining property that can be built upon, in accordance with Table 3804.3.

**3804.3.1 Special hazards.** Containers shall also be located with respect to special hazards such as above-ground flammable or combustible liquid tanks, oxygen or gaseous hydrogen containers, flooding or electric power lines as specified in NFPA 58, Section 6.4.5.

**3804.4 Multiple container installation.** Multiple container installations with a total water storage capacity of more than 180,000 gallons (681 300 L) [150,000-gallon (567 750 L) LP-gas capacity] shall be subdivided into groups containing

**TABLE 3804.3  
LOCATION OF LP-GAS CONTAINERS**

CONTAINER CAPACITY (water gallons)	MINIMUM SEPARATION BETWEEN CONTAINERS AND BUILDINGS, PUBLIC WAYS OR LOT LINES OF ADJOINING PROPERTY THAT CAN BE BUILT UPON		MINIMUM SEPARATION BETWEEN CONTAINERS <sup>b, c</sup> (feet)
	Mounded or underground containers <sup>a</sup> (feet)	Above-ground containers <sup>b</sup> (feet)	
Less than 125 <sup>d</sup>	10	5'	None
125 to 250	10	10	None
251 to 500	10	10	3
501 to 2,000	10	25 <sup>e</sup>	3
2,001 to 30,000	50	50	5
30,001 to 70,000	50	75	(0.25 of sum of diameters of adjacent containers)
70,001 to 90,000	50	100	
90,001 to 120,000	50	125	

For SI: 1 foot = 304.8 mm, 1 gallon = 3.785 L.

- a. Minimum distance for underground containers shall be measured from the pressure relief device and the filling or liquid-level gauge vent connection at the container, except that all parts of an underground container shall be 10 feet or more from a building or lot line of adjoining property which can be built upon.
- b. For other than installations in which the overhanging structure is 50 feet or more above the relief-valve discharge outlet, in applying the distance between buildings and ASMB containers with a water capacity of 125 gallons or more, a minimum of 50 percent of this horizontal distance shall also apply to all portions of the building which project more than 5 feet from the building wall and which are higher than the relief valve discharge outlet. This horizontal distance shall be measured from a point determined by projecting the outside edge of such overhanging structure vertically downward to grade or other level upon which the container is installed. Distances to the building wall shall not be less than those prescribed in this table.
- c. When underground multicontainer installations are comprised of individual containers having a water capacity of 125 gallons or more, such containers shall be installed so as to provide access at their ends or sides to facilitate working with cranes or hoists.
- d. At a consumer site, if the aggregate water capacity of a multicontainer installation, comprised of individual containers having a water capacity of less than 125 gallons, is 500 gallons or more, the minimum distance shall comply with the appropriate portion of Table 3804.3, applying the aggregate capacity rather than the capacity per container. If more than one such installation is made, each installation shall be separated from other installations by at least 25 feet. Minimum distances between containers need not be applied.
- e. The following shall apply to above-ground containers installed alongside buildings:
  1. Containers of less than a 125-gallon water capacity are allowed next to the building they serve when in compliance with Items 2, 3 and 4.
  2. Department of Transportation (DOT) specification containers shall be located and installed so that the discharge from the container pressure relief device is at least 3 feet horizontally from building openings below the level of such discharge and shall not be beneath buildings unless the space is well ventilated to the outside and is not enclosed for more than 50 percent of its perimeter. The discharge from container pressure relief devices shall be located not less than 5 feet from exterior sources of ignition, openings into direct-vent (sealed combustion system) appliances or mechanical ventilation air intakes.
  3. ASMB containers of less than a 125-gallon water capacity shall be located and installed such that the discharge from pressure relief devices shall not terminate in or beneath buildings and shall be located at least 5 feet horizontally from building openings below the level of such discharge and not less than 5 feet from exterior sources of ignition, openings into direct vent (sealed combustion system) appliances, or mechanical ventilation air intakes.
  4. The filling connection and the vent from liquid-level gauges on either DOT or ASMB containers filled at the point of installation shall not be less than 10 feet from exterior sources of ignition, openings into direct vent (sealed combustion system) appliances or mechanical ventilation air intakes.
- f. This distance is allowed to be reduced to not less than 10 feet for a single container of 1,200-gallon water capacity or less, provided such container is at least 25 feet from other LP-gas containers of more than 125-gallon water capacity.

**ORDINANCE FOR ADOPTION OF  
THE INTERNATIONAL PROPERTY MAINTENANCE CODE  
ORDINANCE NO. 2011-7**

An ordinance of Otsego County, Michigan adopting the International Property Maintenance Code, regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in Otsego County, Michigan providing for the issuance of permits and collection of fees therefore.

The County Board of Commissioners of Otsego County, Michigan does ordain as follows:

Section 1. That a certain document, One (1) copy of which is on file in the office of the Otsego County Clerk of Otsego County, Michigan being marked and designated as the International Property Maintenance Code, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of Otsego County, in the State of Michigan for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the Otsego County Clerk are hereby referred to, adopted, and made apart hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this ordinance.

Section 2. The following sections are hereby revised:

Section 101.1. Insert: Otsego County, Michigan

Section 103.5. Insert: As approved by the Otsego County Board of Commissioners, \$35.00 application fee and \$50.00 per inspection.

Section 112.4. Insert: \$50.00 & \$500.00 in accordance with the Otsego County Civil infraction ordinance.

Section 302.4. Insert: Eight inches

Section 304.14. Insert: May 1<sup>st</sup> to October 31<sup>st</sup>

Section 602.3. Insert: January 1<sup>st</sup> to December 31<sup>st</sup>

Section 602.4. Insert: January 1<sup>st</sup> to December 31<sup>st</sup>

Section 3. All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

Section 4. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Otsego County Board of Commissioners hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. That nothing in this ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 6. That the Otsego County Clerk's office is hereby ordered and directed to cause this ordinance to be published.

Section 7. This ordinance duly adopted on \_\_\_\_\_ at a regular meeting of the OTSEGO COUNTY BOARD OF COMMISSIONERS and will become effective \_\_\_\_\_.

Signed:

BY: \_\_\_\_\_

Paul Beachnau, County Board Chairman

BY: \_\_\_\_\_

Susan I. DeFeyter, County Clerk

**101.1 Title.** These regulations shall be known as the *International Property Maintenance Code* of [NAME OF JURISDICTION], hereinafter referred to as "this code."

**SECTION 103  
DEPARTMENT OF PROPERTY  
MAINTENANCE INSPECTION**

**103.1 General.** The department of property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the *code official*.

**103.2 Appointment.** The *code official* shall be appointed by the chief appointing authority of the jurisdiction.

**103.3 Deputies.** In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the *code official* shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the *code official*.

**103.4 Liability.** The *code official*, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The *code official* or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

**103.5 Fees.** The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule.

[JURISDICTION TO INSERT APPROPRIATE SCHEDULE.]

**112.4 Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars.

**302.4 Weeds.** All *premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of (jurisdiction to insert height in inches). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.

**304.14 Insect screens.** During the period from [DATE] to [DATE], every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every screen door used for insect control shall have a self-closing device in good working condition.

**Exception:** Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

**602.3 Heat supply.** Every *owner* and *operator* of any building who rents, leases or lets one or more *dwelling units* or *sleeping units* on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall supply heat during the period from [DATE] to [DATE] to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*.

**Exceptions:**

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.
2. In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained

**602.4 Occupiable work spaces.** Indoor occupiable work

spaces shall be supplied with heat during the period from [DATE] to [DATE] to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

**Exceptions:**

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

**OCR 11-09**  
**NMSAS Position Paper Support**  
Otsego County Board of Commissioners  
April 26, 2011

**WHEREAS**, the Otsego County Board of Commissioners is a member of the Northern Michigan Substance Abuse Services (NMSAS); and

**WHEREAS**, NMSAS is the Regional Abuse Coordinating Agency (CA) for the development of treatment and prevention services, technical assistance to communities and provider services related to prevention, outpatient, and inpatient services for the abuse of alcohol, drugs, and gambling; and

**WHEREAS**, the Michigan Department of Public Health (MDCH) plans to eliminate Coordinating Agencies and transfer the administration of substance abuse disorder services into the Prepaid Inpatient Health Plans (PIHP); and

**WHEREAS**, by law (Public Health Code) counties must currently approve designation of the CA for their county and MDCH with this action would remove the authority from the county; and

**WHEREAS**, NMSAS is effectively and efficiently fulfilling its statutory and contractual responsibilities for its clients; and

**WHEREAS**, the PIHP boundary issues are minimized in the current configuration of the 30 counties served by NMSAS with the consolidated approach allowing for more efficiencies in contract management better enabling NMSAS to provide services for its clients; and

**WHEREAS**, it is the position of NMSAS that when there comes compelling evidence that the integration of NMSAS into other organizations would result in significant administrative savings and improvement in access to care and enhanced quality of care for clients, NMSAS would actively engage in a process to explore such integration; and

**WHEREAS**, it is the position of NMSAS that if, despite objective evidence to the contrary, the State of Michigan were to forcibly reassign the NMSAS functions to other organizations, NMSAS would work with these organizations and other community stakeholders to continue the mission of NMSAS to maximize their success in continuing the mission of NMSAS; now, therefore, be it

**RESOLVED**, that the Otsego County Board of Commissioners, as a county member of the NMSAS Board of Directors, strongly supports the mission and position of the NMSAS Board of Directors and urges careful consideration of the potential for increased cost and reduced service prior to splitting the NMSAS region or altering other elements of the service provided to clients for Otsego County; and be it further

**RESOLVED**, that copies of this resolution be forwarded to Governor Rick Snyder, Senator John Moolenaar, Representative Greg MacMaster, and the Michigan Association of Counties.