



PLAINFIELD CHARTER TOWNSHIP
KENT COUNTY, MICHIGAN
616-364-8466

SEWAGE DISPOSAL ORDINANCE

ORDINANCE # ____
RESOLUTION #09- ____

At a regular meeting of the Plainfield Charter Township Board held at the Township Offices, 6161 Belmont Avenue NE, Belmont, Michigan, on the ____ day of _____ 2009, at 7:30 PM, the following resolution was offered by Member _____ and supported by Member _____:

An ordinance to amend in full the Sewage Disposal Ordinance (Chapter 38, Article III, Division 3 of the Plainfield Charter Township Code) to update the ordinance to reflect the new role of the North Kent Sewer Authority and its sewage treatment facility with respect to the vast majority of the sewage entering the public sewer system within the Township, to regulate the use of the public sewer system in the Township, to establish connection requirements, to establish fees and charges, and to provide a means of enforcement and penalties for violators.

THE CHARTER TOWNSHIP OF PLAINFIELD ORDAINS:

1. Division 3 of Article III of Chapter 38 of the Plainfield Charter Township Code is hereby amended in full to read as follows:

Sec. 38-411. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Availability fee and as further defined in section 38-416, means the capital and associated charge imposed for the availability of the sewer main for a sewer connection, regardless of whether a sewer connection is actually made.

Available public sanitary sewer system and *within the area in the Township served by the system* mean a public sanitary sewer system located in a right of way, easement, highway, street or public way which crosses, adjoins or abuts upon the property and passing not more than 200 feet at the nearest point from a structure in which sanitary sewage originates; provided, however, that a sewer lateral connection point must be present on the same side of a paved road as that structure. For the purpose of measuring the 200-foot distance described above, the portion of a lateral located in a right of way, easement, highway, street or public way, regardless of ownership of the lateral, shall be considered a portion of the public sanitary sewer system.

Charges for sewage disposal services or *charges* means the amount charged to each premises in the Township for sewage disposal services, which may include debt service costs and operation and maintenance costs.

Connection fee or *trunkage connection fee* shall mean the amount charged at the time and in the amount hereinafter provided, to each premises for connecting or being connected to the system and represents the proportionate cost allocable to such premises for the construction of the system facilities except those costs that are covered by other charges or fees now or hereinafter contained in this ordinance. As used in this definition, the system facilities costs shall include the lateral system facilities and other facilities which serve only the Township and of which ownership vested in the Township and/or the North Kent Sewer Authority (NKSA) upon expiration of the North Kent Sewage Disposal System (NKSDS) contract with Kent County and shall not include the NKSA joint system costs that are included in the NKSA joint system connection fee.

Debt service costs means a charge to offset all or a portion of the capital costs, including principal and interest, of the installation of sanitary sewer collection and/or treatment facilities.

Industrial user means any nongovernmental user of Publicly Owned [sanitary sewage] Treatment Works that discharges more than 25,000 gallons per day of sanitary waste, or a volume of processed waste, or a combined processed and sanitary waste equivalent to 25,000 gallons per day of sanitary waste.

Inspection and approval fee means the amount charged to each applicant by the Township to connect said premises to the system to cover the cost of inspecting and approving the physical connection to the system and the issuance of a connection permit.

NKSA and North Kent Sewer Authority shall mean the sewer authority established pursuant to Act 233 of the Public Acts of Michigan of 1955, as amended, and whose members include Alpine Township, Cannon Township, Courtland Township, Plainfield Charter Township, and the City of Rockford.

NKSA joint system includes the facilities and components of the former NKSDS system that are jointly used by the members of the NKSA or which may have previously been or hereinafter be constructed or acquired by the NKSA. The definition of the NKSA joint system shall include those system and components referred to in the NKSA Sewage Collection and Treatment Agreement dated September 19, 2005, as may be amended, as the "joint system" or "common components."

NKSA joint system connection fee means the fee imposed by the North Kent Sewer Authority and charged at the time and in the amount hereinafter provided, to each premises for connecting or being connected directly or indirectly to the NKSA joint system and represents the proportionate costs allocable to such premises for the NKSA joint system costs. The NKSA joint system connection fee shall be in addition to the trunkage connection fee and any trunkage connection fee surcharge charged by the Township for use of its own collection system. The NKSA joint system connection fee shall be collected by the Township and forwarded to the NKSA.

Normal domestic sewage means sewage in which the BOD (biological oxygen demand) does not exceed 300 milligrams per liter (mg/l) or 300 milligrams per liter of suspended solids (SS).

Operation and maintenance means and includes all costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters that conform with all related federal, state and local requirements. (These costs include replacement of sewer lines and appurtenant structures.)

Premises means the lands included within the boundaries of a single description as set forth, from time to time, on the general tax rolls of the Township as a single taxable item in the name of the taxpayer or taxpayers at one address, but, in the case of platted lots or site condominiums, shall be limited to a single platted lot or site condominium unit unless an existing building or structure is so located on more than one lot as to make the same a single description for purposes of assessment or conveyance now or hereafter.

POTW (publicly owned treatment works). A treatment works as defined by section 212 of the Clean Water Act, including any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage and industrial waste. The systems include sewers, pipes and equipment used to convey wastewater to the treatment facility. The term also includes the municipality as defined in section 502(4) of the Clean Water Act that has jurisdiction over the indirect discharges to and the discharges from such treatment works. Unless the context clearly indicates otherwise, the POTW, or sewer system, includes only the sewers, pipes and equipment located in the Township that are used to convey wastewater to the sewage treatment facilities.

Replacement costs means expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

Residential equivalent unit, unit or units shall be related to the quantity of sanitary sewage ordinarily arising from the occupancy of a residential building by a single-family and the benefit derived therefrom, and shall be determined from time to time by the Township. Determination of the number of units applied to premises served, or to be served, by the POTW shall be based upon the studies made as to the quantity of sewage generated by different types of use and occupancy of premises and shall be kept up to date and reviewed as needed as new studies are made and through experience gained by the Township and other area local units of government in actual operation. For nonresidential structures, the applicable number of units shall be determined using the unit factor formulas set forth in section 38-124, as may be amended by resolution from time to time, and as consistent with the requirements of the Township's agreement(s) with the NKSA.

Sewage disposal services means the collection, transportation, treatment and disposal of sanitary sewage originating from premises now or hereafter existing.

Sewage disposal system and system mean (i) that portion of the NKSA joint system located in the Township and (ii) the sewage collection system owned by and located within the Township consisting of, but not limited to, local collector lines, trunk and interceptor sewer lines, lift stations and all other appurtenance. The term shall include all current components and all components hereafter extended, enlarged, installed or improved in the Township by or on behalf of the NKSA or the Township, herein called "new construction" or "construction."

Sewer lateral charge means the amount charged to each premises in the system for the actual construction of one or more sewer laterals from the system to the property line of the premises.

Structure in which sanitary sewage originates or *structure* means a building in which toilet, kitchen, laundry, bathing, or other facilities which generate water-carried sanitary sewage, are used or are available for use for household, commercial, industrial or other purposes.

Sec. 38-412. Connection to system; notice of availability.

(a) Except as otherwise provided in subsection (b) or (c) of this section, premises in the Township that have an available public sanitary sewer system as defined in Section 38-411 and in which sanitary sewage originates, shall connect to the sewage disposal system no later than the first to occur of the following events:

- (1) The county health department determines that connection to the available public sanitary sewer system is required due to failure or partial failure of the on-site septic system, as determined by the county health department; or
- (2) Ten years after the date the sewage disposal system first becomes available; or
- (3) A construction or building permit is issued for a new habitable building.

(b) Notwithstanding subsection (a) of this section, premises within the areas in the system served by the sewage disposal system in which sanitary sewage is originating and which are or become under pollution control court orders shall be connected to said system within three months after service is available.

(c) Notwithstanding subsection (a) or (b) of this section, premises in the Township that have an available public sanitary sewer system as defined in Section 38-411, in which sanitary sewage originates, and which is located within an area designated by resolution of the Township Board as a special service area, shall connect to the sewage disposal system no later than the first to occur of the following events:

- (1) The county health department determines that connection to the available public sanitary sewer system is required due to failure or partial failure of the on-site septic system, as determined by the county health department; or
- (2) Twenty years after the date the sewage disposal system first becomes available; or
- (3) A construction or building permit is issued for a new habitable building.

Sec. 38-413. Connection to system; plats, site condominiums; exception.

(a) Where a public sewer is required to be extended or constructed to serve a plat or site condominium, no building intended for any structure for human use or occupancy shall be erected nor shall any building permit be issued on behalf of the Township unless lateral sewers are provided to each lot, parcel, or unit included in said plat or site condominium. The Township Board may, at its discretion, waive the preceding requirement in this subsection if it determines that, due to the size or nature of the development, it is not necessary to have all the lateral sewers installed prior to the issuance of any building permits. As a condition of said waiver, the Township may require a letter of credit or other type of financial guarantee for the completion of the sewer system within the development. Connection of each lot, parcel or unit shall be made to the system when the sewer has been approved and connections thereto are permitted.

(b) Where a public sewer is available within 500 feet of a platted lot or site condominium unit, planned unit development, or developments containing multi-unit dwellings measured along the right-of-way, easement, highway, street, or public way, and the Township engineer determines that said public sewer may be feasibly extended wholly within the public right-of-way or road and utility easement to serve said lot or unit, no building or structure for human use or occupancy may be built without said sewer extension and connection to the system.

(c) The Township Board may, at its discretion, grant a waiver for any requirement of this section if it determines by specific resolution that compliance therewith will work an unreasonable hardship on the owner of the premises involved. In making such determination, the Township Board shall consider such matters as the topography, the density of the proposed development, soil types and conditions, and any other factor it deems to be relevant. (Comp. Ords. 1988, § 90.022; Ord. No. 760, 8-16-2004)

Sec. 38-414. Trunkage connection fee; trunkage connection fee surcharge; NKSA joint system connection fee; premises from which sewage originates.

(a) Owners of premises within the area served by the system from which sanitary sewage originates and any owner of premises within the area served by the system from which sanitary sewage does not originate, who thereafter improves the same by the erection of structures or buildings thereon which have sanitary or industrial sewage facilities, shall pay a trunkage connection fee for connection to the system in such amount as the Township Board shall determine by resolution.

(b) In addition to the trunkage connection fee imposed by this section, the Township Board may impose an additional charge known as a "trunkage connection fee surcharge" for purposes of recouping additional costs specific to certain new or expanded areas of the system and which additional costs are not included in the trunkage connection fee or the NKSA joint system connection fee. The trunkage connection fee surcharges shall be an amount determined by the Township Board by resolution according to the unit basis of the use of the premises, and shall be reviewed from time to time to ensure that it, when combined with the trunkage connection fee, reflects payments in recognition of the cost of previous system improvements. When establishing a trunkage connection fee surcharge, the Township Board shall specify the areas of the system to be covered by the trunkage connection surcharge fee.

(c) Owners of premises within the area in the Township from which sanitary sewage originates who connect to the system after December 14, 2005, shall pay a NKSA joint system connection fee in such amount as may be assessed by the NKSA to the Township for said connection to the NKSA joint system. The NKSA joint system connection fee shall be in addition to the trunkage connection fee and the trunkage connection fee surcharge.

Sec. 38-415. Trunkage connection fees; escalation rate.

When an existing facility, structure or structure in which sanitary sewer originates changes its facilities or operations to result in an increase of REU allocation, an additional trunkage connection fee (and trunkage connection surcharge fee where applicable) as established by resolution shall be imposed. The number of REUs to be assessed in such case shall be calculated pursuant to the tables adopted by the Board by resolution from time to time. A customer which changes its facilities or operations after December 14, 2005 to result in an increase in REU allocation shall not be required to pay an additional trunkage connection fee (or

trunkage connection surcharge fee where applicable) for the first REU of increase. For purposes of applying this exception, changes in the facilities occurring during the past five years shall be considered to be part of a single expansion. The trunkage connection fee (and trunkage connection surcharge fee) shall be paid at the time a construction or building permit is issued or upon commencement of the new operation, whichever occurs first.

Sec. 38-415.1. NKSA joint system connection fee; escalation rate.

When an existing facility, structure or structure in which sanitary sewer originates changes its facilities or operations to result in an increase of REU allocation as determined by the North Kent Sewer Authority sewage collection and treatment agreement, an additional NKSA joint system connection fee shall be imposed. The number of REUs to be assessed in such case shall be calculated pursuant to the REU table as contained in the North Kent Sewer Authority sewage collection and treatment agreement. The NKSA joint system connection fee shall be paid at the time a construction or building permit is issued or upon commencement of the new operation, whichever occurs first.

Sec. 38-416. Availability fee for premises with direct connection.

An availability fee shall be applied with respect to all premises within an area for which the public sanitary sewer service is available. The availability fee shall be as established by resolution of the Township Board. The availability fee charged to each premises shall be an amount determined by resolution of the Township Board or based on the project cost of constructing the sewer extension, if known, and as verified by the Township engineer, plus any deferred interest charges as determined by resolution of the Township Board. The project cost shall include construction costs, design costs, and inspection costs. The project cost may be assigned on a per front foot basis, on an acreage basis, on a proportionate residential equivalent unit (REU) share, or a combination of two or more of these methods. If the project cost is assigned on an REU basis, the then current table of unit factors adopted by the Township shall be used. The availability fee shall be payable on such terms and intervals and at such interest as is established by resolution of the Township Board. Unless otherwise permitted by the Township, the availability fee must be paid in full at the time the Township issues a building or construction permit. Notwithstanding the foregoing, the minimum front footage used in computing the availability fee shall be 75 feet. Notwithstanding any provision of this section to the contrary, owners of premises within an area designated by the Township Board as a special service area, for which area the system is available, shall pay an availability fee in an amount and subject to such terms as the Township Board shall determine by resolution.

Sec. 38-417. Deferral of levy of charges:

Where a parcel becomes subject to an availability fee as a result of new construction of sewers or facilities of the system, the availability fee pertaining shall be deferred as to (i) a vacant parcel or (ii) in the case of an improved parcel, when the public sanitary sewer system is not considered available due to the distance from the structure in which sanitary sewage originates to the public sanitary sewer system. Such deferral shall continue until the time a construction or building permit is issued for a structure from which sanitary sewage originates that is required to connect to the system. In no case, shall an availability fee be deferred beyond the time connection to the system is required. These charges are exclusive of trunkage connection fees, trunkage connection surcharge fees, and NKSA joint system connection fees as outlined in section 38-414. The Township shall maintain records of such deferrals and payments.

Subsequent splits from each parcel may generate another deferred charge if the full availability fee is not paid.

Sec. 38-418. Sewer lateral charge.

Owners of premises within the area served by the system for which premises one or more sewer laterals to the system are to be provided shall pay a sewer lateral charge equal to the amount of costs to construct the lateral. The Township may require the property owner to construct the required sewer lateral at the property owner's expense. A qualified contractor approved by the Township or the state of Michigan shall construct the sewer lateral.

Sec. 38-419. Sewer lateral inspection fee and permit.

All sewer lateral connections shall be inspected and approved by the Township. A permit and sewer lateral inspection fee, as established by resolution of the Township Board, shall be paid to the Township. If, however, unusual circumstances warrant, the Township may charge inspection costs on an hourly basis. The rules and requirements pertaining to sewer laterals as contained in this division are in addition to the rules and requirements contained in division 2 of this article III.

Sec. 38-420. Number of units assigned.

The number of units to be assigned to any particular premises shall be determined by resolution of the Township Board. The Township, if the circumstances justify, may assign more than one unit to a single-family dwelling. No less than one unit shall be assigned to each premises. For purposes of computing the trunkage connection fee and any trunkage connection fee surcharge, units in excess of one may be computed and assigned to the nearest tenth. The Township Board may revise unit factors by resolution, as it deems appropriate. For purposes of the NKSA joint system connection fee, the number of units assigned shall be in accordance with the NKSA Sewage Collection and Treatment Agreement dated September 19, 2005 as may be amended from time to time.

Sec. 38-421. Mobile home parks; charges and fees.

Because of the unique and temporary nature of mobile home parks within the areas served by the system, there shall be charged to a mobile home park only a single availability charge based on the frontage abutting the sewer line to which connection is made, or, if the Township deems appropriate, based on the number of residential units to be served by that connection. The trunkage connection fee and any trunkage connection fee surcharge will be based on the unit factors promulgated by the Township subject to the escalation of such fee as provided in section 38-415. The sewer lateral charge shall be as provided in section 38-418. The NKSA joint system connection fee shall be determined in accordance with the North Kent Sewer Authority sewage collection and treatment agreement.

Sec. 38-422. Charges; no free service.

(a) The owner of the premises served and the occupants thereof shall be jointly and severally liable for the sewage disposal services provided to said premises. At the discretion of the Township, tenants or land contract purchasers requesting sewage disposal services in their name may be required to deposit with the Township the estimated bill for three months in advance of receiving service. Deposits shall be applied to any bill, including penalties and

interest, for sewage disposal services delinquent more than 30 days. Any deposit so applied shall be promptly re-deposited by the user. The deposit, in the case of a tenant, shall be returned, less any balance due, when service is discontinued, unless the depositor wishes to apply the deposit to a new account in the Township's sewage disposal service area.

(b) Charges for sewage disposal services to each premises connected to the sewage disposal system shall be established from time to time by resolution of the Township Board and subject to any obligations and limitations set forth in any agreement pertaining to the system. The Township Board may impose a surcharge for sewage disposal services for any sanitary sewage that originates outside of the Township, as may be agreed upon by the Township Board and such other municipality and as may be permitted by law and any agreement pertaining to the system. No free service shall be furnished by the system to the Township or any person, firm, or corporation, public or private, or any public agency or instrumentality. No availability fee, trunkage connection fee, trunkage connection fee surcharge, NKSA joint system connection fee, sewer lateral fee or any other fee or charged imposed herein shall be waived or reduced by the Township.

(c) Following the period of service, charges for services furnished by the system shall be mailed to users on a quarterly basis, or more frequently at the Township's discretion. All bills shall be paid within 20 days of mailing and shall be payable to the Township. If any bill shall not be paid as required, a late charge of ten percent of the amount billed shall be applied to the current amount past due and collected therewith. Penalty charges will not be compounded. When sewer service is discontinued, any credit or balance due on the account shall not be billed or refunded to the customer if, when combined with any credit or balance due for water services on an account that is being closed, said balance is less than \$5.00.

Secs. 38-423 – 38-424. Reserved

Sec. 38-425. Late payment, charges, penalty, discontinued service.

If charges for sewage disposal service are not paid on or before the due date, a penalty of ten percent shall be added thereto. In the event that the charges for any such services furnished to any premises shall not be paid within 120 days after the due date thereof, then all services furnished by the sewage disposal system may be discontinued by means of discontinuing public water service to the premises. Service so discontinued shall not be restored until all sums then due and owing, including penalties and interest, are paid, plus all expenses incurred by the Township for shutting off and turning on the water service.

Sec. 38-426. Late payment, installment or interest fees; discontinued service.

If any installment of a trunkage connection fee, trunkage connection fee surcharge, NKSA joint system connection fee, availability fee or sewer lateral charge and/or the interest due is not paid on or before the due date, the aggregate thereof shall draw interest at the rate of one percent per month until paid. In the event that any such installment or interest remains unpaid for 120 days or more after the due date, service may be discontinued as provided in section 38-425 and shall not be restored until all amounts due are paid plus the shut-off and turn-on charges so provided are paid.

Sec. 38-427. Unpaid charges, fees; lien.

Charges or fees for sewage disposal services furnished by the system to any premises and any interest and penalties thereon shall become a lien on the premises or property serviced immediately upon the provision of the sewage disposal service. Trunkage connection fees, trunkage connection surcharge fees, NKSA joint system connection fees, and sewer lateral charges and any interest and penalties thereon shall be a lien on the premises or property serviced upon the date of actual connection or the date of mandatory connection, whichever occurs first. The availability fee and any interest and penalties thereon shall become a lien on the premises as of the date the availability fee is applied to the premises. On or about September 1 of each year, the Township treasurer shall certify any such charges, fees and installments and interest which have been delinquent 60 days or more, plus additional interest accrued thereon, plus a penalty of an additional amount of six percent of the aggregate amount, to the Township Board, who shall cause the same to be entered upon the next Township and county tax roll against the premises to which such services shall have been rendered and against the premises such trunkage connection fee, availability fee, NKSA joint system connection fee or sewer lateral charge has been placed, and said unpaid charges and unpaid fees, with penalties and interest accrued thereon, shall be collected, and said lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll.

Sec. 38-428. Operation and maintenance.

The operation, maintenance and management of that portion of the system owned by the Township shall be under the immediate supervision and control of the Township.

Sec. 38-429. Enforcement.

The provisions of this division shall be enforceable through use of the procedures specified in Public Act No. 368 of 1978 (MCL 333.1101 et seq.) or by any other manner permitted by law, including the bringing of appropriate action for injunction, mandamus, or otherwise, in any court having jurisdiction. Any violation of this division is deemed to be a nuisance per se.

Sec. 38-430. Liability.

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

Sec. 38-431. Violation of division a municipal civil infraction.

Any person convicted of disposing sewage in a manner contrary to the provisions of this division, or fails to connect with the available public sanitary sewer system as provided herein and in Public Act No. 368 of 1978 (MCL 333.1101 et seq.), or in any other way violates the provision of this division or of said Act, shall be responsible for a municipal civil infraction.

Sec. 38-432. Repeal; amendment.

The Township specifically reserves the right to amend this division in whole or in part, at one or more times hereafter, or to repeal the same, and by such amendment or repeal to abandon, increase, decrease or otherwise modify any of the fees, charges, or rates herein provided.

2. This Ordinance shall take effect thirty (30) days after publication.

YEAS:

NAYS:

ABSENT:

Motion carried. Ordinance #___ Resolution #09-___ declared adopted.

K. Scott Harvey
Plainfield Charter Township Clerk

CERTIFICATION

I, K. Scott Harvey, the duly qualified and elected Clerk of Plainfield Charter Township hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Plainfield Township Board at a regular meeting held on _____, 2009, and that public notice of said meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1976, including, in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

K. Scott Harvey
Plainfield Charter Township Clerk