

## SEWAGE DISPOSAL ORDINANCE

### ORDINANCE NO. 824 RESOLUTION NO. 10-05

An ordinance to amend the Sewage Disposal Ordinance (Chapter 38, Article III, Division 3 of the Plainfield Charter Township Code) to provide for sewage disposal services surcharge within certain areas of the Township based on higher than usual operation and maintenance costs of providing sewage disposal services to certain designated areas within the Township, and to provide for a notice and claim procedure applicable to overflow or backup of the sewage disposal system.

#### THE CHARTER TOWNSHIP OF PLAINFIELD ORDAINS:

**1. Section 38-422 of Division 3, Article III of Chapter 38 of the Plainfield Charter Township Code is hereby amended in full to read as follows:**

Sec. 38-422. Charges; surcharges; 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. In addition to the regular charges for sewage disposal services, the Township Board may also impose a sewage disposal services surcharge for areas within the Township for purposes of recouping exceptional or unique costs specific to certain portions of the system. In determining whether "exceptional or unique costs" exist, the Township may consider, among other factors, whether sewer was permitted to be constructed in a manner that was inconsistent with the Township's Sanitary Sewer Master Plan, thereby resulting in costs that would not otherwise be present in the operation and maintenance of the system. The sewage disposal services surcharge shall be an amount determined by the Township Board by resolution according to the unit basis of the use of the premises (base rate) and/or according to the amount of usage (usage rate), and shall be reviewed from time to time to ensure that it, when combined with the regular charges for sewage disposal services, reasonably reflects the additional operation and maintenance costs specific to the area covered by the sewage disposal services surcharge. When establishing a sewage disposal services surcharge, the Township Board shall specify the areas of the system, to include individual parcels, to be covered by the sewage disposal services surcharge. Prior to the establishment of the designated area, the Township shall notify the affected property owners, as determined by the assessing records, within the proposed designated area by first class mail. 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 charge 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.

**2. Section 38-423 is hereby added to Division 3, Article III of Chapter 38 of the Plainfield Charter Township Code to read as follows:**

Section 38-423. Notice and Claim Procedures Applicable to Overflow or Backup.

This section has been adopted in accordance with Act 222 of the Public Acts of Michigan of 2001, as may be amended from time to time ("Act 222"), to set forth the notice and claim procedures applicable to an overflow or backup of the sewage disposal system, which, as defined in Act 222, shall be referred to for purposes of this Section as a "sewage disposal system event." To afford property owners, as well as the township greater efficiency, certainty and consistency in the provision of relief for damages or physical injuries caused by a sewage disposal system event, the township and any person making a claim for economic damages, which, as defined in Act 222, shall be referred to for purposes of this Section as a "claimant," shall follow the following procedure:

- (a) A claimant is not entitled to compensation unless the claimant notifies the township of a claim of damage or physical injury, in writing, within forty-five (45) days after the date the damage or physical injury was discovered by the claimant, or in the exercise of reasonable diligence should have been discovered by the claimant.
- (b) The written notice under subsection (a) shall contain the claimant's name, address, and telephone number, the address of the affected property, the date of the discovery of any property damage or physical injuries, and a brief description of the claim. As part of the description of the claim, the claimant shall submit an explanation of the sewage disposal system event and reasonable proof of ownership and the value of any damaged personal property. Reasonable proof of ownership and the purchase price or value of the property may include testimony or records. Reasonable proof of value of the property may also include photographic or similar evidence.
- (c) The written notice under subsection (a) shall be sent to the township clerk.
- (d) If a claimant who owns or occupies affected property notifies the township orally or in writing of a sewage disposal system event before providing a notice of a claim that complies with subsections (a), (b) and (c), the township clerk shall provide the claimant with a written explanation of the notice requirements of subsections (a), (b) and (c) sufficiently detailed to allow the claimant to comply with said requirements.
- (e) If the township is notified of a claim under subsection (a) and believes that a different or additional governmental agency may be responsible for the claimed property damages or physical injuries, the township shall notify the contacting agency of each additional or different governmental agency of that fact, in writing, within fifteen (15) business days after the date the township receives the claimant's notice under subsection (a).
- (f) If the township receives a notice from the claimant or a different or additional governmental agency that complies with this section, the township may inspect the damaged property or investigate the physical injury. A claimant or the owner or occupant of affected property shall not unreasonably refuse to allow the township or its duly authorized representatives to inspect damaged property or investigate a physical injury.
- (g) Prior to determination of payment of compensation by the township, the claimant shall provide to the township additional documentation and proof that:
  - (1) At the time of the sewage disposal system event, the township owned or operated, or directly or indirectly discharged into, that portion of the sewage disposal system that allegedly caused damage or physical injury.
  - (2) The sewage disposal system had a defect.
  - (3) The township knew, or in the exercise of reasonable diligence, should have known, about the defect in the sewage disposal system.
  - (4) The township, having the legal authority to do so, failed to take reasonable steps in a reasonable amount of time to repair, correct or remedy the defect in the sewage disposal system.
  - (5) The defect in the sewage disposal system was a proximate cause that was fifty percent (50%) or more the cause of the sewage disposal system event and the property damage or physical injury.
- (h) Prior to a determination of payment of compensation by the township, the claimant shall also provide to the township additional documentation and proof that none of the following were a proximate cause that was fifty percent (50%) or more of the cause of the sewage disposal system event:
  - (1) An obstruction in a service connection, a building sewer or building drain that was not caused by the township; or,
  - (2) A connection on the affected premises, including, but not limited to, a footing drain, sump system, surface drain, gutter, down spout or connection of any other sort that discharged any storm water, surface water, ground water, roof runoff, sub-surface drainage, cooling water, unpolluted air-conditioning water or unpolluted industrial process waters to the sewage disposal system.
  - (3) An act of war, whether the war is declared or undeclared, or an act of terrorism.
- (i) If the township and a claimant do not reach an agreement on the amount of compensation for the property damages or physical injury within forty-five (45) days after the receipt of notice under subsection (a), the claimant may institute a civil action in accordance with Act 222.
- (j) The notice and claim procedures set forth in this section shall be applicable to a sewage disposal system event involving the sewage disposal system.
- (k) In the event of a conflict between the notice and claim procedures set forth in this section and the specific requirements of Act 222, the specific requirements of Act 222 shall control.

- (l) As provided in section 19(7) of Act 222, the notice and claim procedures of this section do not apply to claims for non-economic damages (as defined in Act 222) arising out of a sewage disposal system event.
  - (m) Any word, term or phrase used in this section, if defined in Act 222, shall have the same meaning provided under Act 222.
3. In all other respects, Division 3, Article III of Chapter 38 of the Plainfield Charter Township Code is hereby affirmed.
  4. This Ordinance shall take effect thirty (30) days after its publication or a summary thereof.

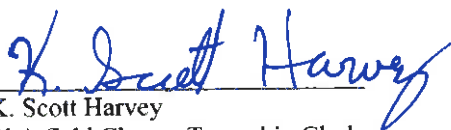
Ayes: Meek, Stover, Harvey, Borek, Hagedorn, Matthews, and Weldon

Nays: none

Abstain: none

Absent: none

Motion carried. Ordinance #824 / Resolution #10-05 declared adopted.

  
K. Scott Harvey  
Plainfield Charter Township Clerk

#### CERTIFICATION

The undersigned, as the duly elected and acting clerk of the township, hereby certifies that the foregoing is a true and accurate copy of Ordinance #824 / Resolution #10-05 as adopted by the Township Board of Plainfield Charter Township at a regular meeting held on February 16, 2010, at which a quorum was present.

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Plainfield Charter Township Clerk

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Date