

CHARTER TOWNSHIP OF ALLENDALE

ORDINANCE NO. 2018 -

SEWER SYSTEM RATE ORDINANCE

AN ORDINANCE to make certain legislative findings; to provide for the connection of sewer customers to the Charter Township of Allendale sewer system; to provide for the imposition, collection and enforcement of charges, rates, and fees for connection to the Township sewer system and the receipt of service therefrom; to provide for other matters relative to the use of the Township sewer system; and to provide for penalties for the violation of this Ordinance, administrative liability and the repeal of conflicting ordinances.

THE CHARTER TOWNSHIP OF ALLENDALE, COUNTY OF OTTAWA, STATE OF MICHIGAN, ORDAINS:

Section 1. Title. This Ordinance shall be known as and may be cited as the "Charter Township of Allendale Sewer System Rate Ordinance."

Section 2. Definitions. For purposes of this Ordinance, the words and phrases defined in subsections (a) through (d), inclusive, shall have the meanings ascribed to them in those subsections. These definitions, unless the context requires otherwise, apply to the use of these defined words and phrases in this Ordinance.

(a) **“Premises”** means a parcel of land and the buildings and/or other improvements thereon that will be or are already connected to the System.

(b) **“Rate Schedule”** The Township Board shall have the power from time to time by resolution duly adopted at any regular meeting to fix just and reasonable rates and such other charges as may be deemed advisable for supplying services pursuant to this Ordinance. This resolution, once duly adopted, shall be the “Rate Schedule.”

(c) “**System**” means all sewer lines, lift stations, pumping facilities, and sewer collection facilities, and their appurtenances, which the Township (i) owns and/or (ii) has or shall have possession of and operating responsibility for, whether owned by the Township or not, and whether located in or outside the Township geographical limits, either now in existence or hereafter acquired or constructed, together with all works, plants, and properties used or useful in connection therewith in collecting sewage and transmitting and conveying such sewage to sewage treatment facilities.

(d) “**Township**” means the Charter Township of Allendale, Ottawa County, Michigan.

(e) “**Township Board**” means the Charter Township of Allendale Township Board.

Section 3. Connection to the System. Connection to the System, directly or indirectly, and the discharge of sewage into the System, shall only be in compliance with this Ordinance, as amended, the Allendale Charter Township Sewer Usage and Administration Ordinance, as amended, and in compliance with all rules, regulations, and standard construction requirements of the Township applicable thereto, as amended.

Section 4. Legislative Findings. The following legislative findings are made:

(a) Sewage Disposal. The Township Board finds that public sanitary sewer systems are essential in order for businesses, industries, farms, schools, government agencies, charitable organizations, and persons to operate in or live in the Township and also are essential to the health, safety, and welfare of the people of the Township. Septic tank disposal systems are subject to failure due to soil conditions and other reasons. Failure or potential failure of septic tank disposal systems poses a threat to the public health, safety, and welfare, presents a potential for ill health, transmission of disease,

mortality, and economic blight, and constitutes a threat to the quality of the surface and subsurface waters of the Township.

(b) Method of Measuring Use. Based on the advice of the Township rate consultant and the Township engineers, the Township Board finds that the most precise method of measuring the sewage discharge by a System user is by the metered water consumption of the user during the two winter quarter billing periods for residential customers and for all quarters for non-residential customers.

(c) Continuity of Service. The Township Board finds that in order to provide and continue to provide sanitary sewage disposal to all users of the System, with capacity adequate for all types of use, it is necessary from time to time to complete repairs, maintenance, reconstruction, and replacement to the System.

(d) Purpose of Charges. The charges, rates, and fees for connection to the System and the discharge of sewage to System are established pursuant to this Ordinance for the purpose of recovering the cost of the construction, reconstruction, replacement, maintenance, repair, and operation of the System and the cost of compliance with all applicable federal and state laws and related rules and regulations, and to provide for the payment of principal and interest on any bonds sold or other indebtedness incurred to finance the construction, reconstruction or other costs of the System. These charges, rates, and fees shall be assessed and be payable in accordance with the provisions of this Ordinance and shall apply to all users of the System. The charges, rates, and fees authorized by this Ordinance shall be established so as to recover costs from the System users in reasonable proportion to the cost of serving those users.

The Township Supervisor, in consultation with the Township rate consultant and Township engineers, as necessary, shall periodically review the charges, rates, and fees of

the System. The results of this review shall be periodically reported to the Township Board with recommendations for adjustments, if any.

(e) Proportionality, Fairness, and Benefits of Rates and Fees. The Township Board finds that the fairest and most reasonable method of providing for System costs is to charge each user, based on the cost of servicing the customer, for: (i) the cost of treating and disposing of the customer's sewage discharge; (ii) ongoing repair, replacement, and reconstruction of the System; and (iii) the operation, administration, and maintenance costs of the System.

(f) Sewer Service Charges. The Township Supervisor, in consultation with the Township rate consultant and the Township engineers, has reviewed various methods of apportioning the costs for the sewer service provided by the System. Based on this investigation, and on the advice of the Township rate consultant and the Township engineers, the Township Board finds that to ensure the stability and viability of the System for the benefit of its users, the fairest and most accurate way to apportion System costs is to charge each user: (i) connection fees when a user's property is first connected to the System; (ii) a customer service charge; and (iii) a commodity rate for sewage discharge based on the water used as measured by a water meter. The Township Board finds that the charges, rates, and fees authorized in this Ordinance fairly and accurately apportion the System fixed and variable costs among the users of the System and that the connection charges, the customer service charges, and the commodity rate provide actual benefits to System users in the form of ready access to sewer service that would not be available if those charges were not imposed.

(g) Cash Reserve. The Township Board finds that it is necessary to maintain a cash reserve for the timely replacement of System assets and to maintain the financial stability of the System.

(h) Connection charges. In addition to the previous findings, the Township Board finds that the connection charge that is assessed upon connection to the System should reflect the investment of the existing sewer customers in the System, and that connection to the System provides an actual benefit to each new user equal to or greater than the amount of this charge. The Township Board also finds that the connection charge should be calculated based on the proportional cost of each user's, both existing and future, share of the existing System's capacity. Further, the Township Board finds that the connection charge to be paid by each Premises connecting to the System should be based on the number of residential equivalent units of sewer usage anticipated on account of the System connection. The Township Board finds that the table of residential equivalent unit factors, a single-family residence being one unit, incorporated as a part of this Ordinance in the Rate Schedule, fairly and reasonably computes, to the extent reasonably possible, the sewer discharge to the System by various types of sewer customers subject, however, to an adjustment for non-residential sewer customers at the time of connection based on the documented use by similar facilities and a retrospective adjustment based on the customer's water usage that is discharged to the System.

(i) Laterals and Service Charges. The Township Board finds that the lateral charge and the other miscellaneous special sewer service charges and fees represent the approximate actual cost of the public lateral and each such service.

Section 5. Connection Fees. All Premises connecting to the System shall pay sewer connection fees. The sewer connection fees shall be the sum of the public lateral charge, and

connection charge. The public lateral charge, and connection charge for each connection to the System shall be calculated and determined as is provided in subsections (a) and (b) in this Section. Any Premises that is already connected to the System which is expanded, altered, and/or requests a larger water meter shall pay an additional connection charge as is provided in subsection (c). The provisions of this section shall not be applicable to existing or potential sewer customers who have entered into a written contract with the Township providing for the payment of connection fees.

(a) Public Lateral Charge. All Premises connecting to the System shall pay a public lateral charge. If the public lateral already exists, the lateral charge shall be as provided in the Rate Schedule. If the public lateral does not already exist, the public lateral charge shall be the Township's third party contractor cost plus 10% (administration fee) to install the public lateral. The public lateral charge is for the installation of the public lateral in the street right-of-way or public easement from the sewer line to the property line. However, a public lateral charge shall not be payable if (i) a public lateral charge has previously been paid or assessed against the Premises to be connected or (ii) the public lateral has previously been constructed by private parties or by the Township on behalf of and at the expense of private parties, except that if the Township has a contractual reimbursement obligation with respect to the public lateral, then a public lateral charge shall nevertheless be payable.

(b) Connection Charge. All Premises connecting to the System shall pay a connection charge per residential equivalent unit as provided in the Rate Schedule unless the Premises has been included in a special assessment district to pay the cost of the sewer line providing service which included a connection charge as part of the special assessment. Those Premises included in a special assessment district where the

connection charge component of the special assessment was determined based on a fewer number of residential equivalent units than will actually be served by the connection, such as if the assessment was based on an unimproved parcel of land, shall pay a connection charge based on the increased number of residential equivalent units to be served.

Those Premises which have previously paid a connection charge as part of a special assessment or as part of a connection fee, and which are already connected, but which (i) are later expanded, (ii) the use thereof is altered so as to increase the amount of sewer discharge, or (iii) a larger water meter is requested, shall pay an additional connection charge. In the case of an expansion or alteration of use, the additional connection charge shall be paid in full at the time a building permit is issued for such expansion or alteration, or, if no building permit is required, at such time as the Premises are expanded or the use thereof is altered. In the case of a larger water meter, the additional connection charge shall be paid in full at the time the larger water meter is requested.

The number of residential equivalent units shall be determined for residential Premises based on a table of residential equivalent unit factors included in the Rate Schedule. The amount of the connection charge shall be determined by multiplying the connection charge times the number of residential equivalent units applicable to the particular residential Premises.

For all nonresidential Premises, the amount of the connection charge shall be determined in accordance with the following procedures:

- (1) At the time of initial application to connect to the System, or at the time of an expansion, alteration, or request for a larger water meter, the Township

shall estimate the number of residential equivalent units based on non-sprinkling water utilization of similar buildings and facilities within the Township or elsewhere provided by the applicant/sewer customer, historical non-sprinkling water utilization by the customer if the connection charges are payable on account of an expansion, alteration, or request for a larger water meter, the schedule of residential equivalent units included in the Rate Schedule, and such other factors as the Township determines are reasonable and appropriate.

(2) The amount of the connection charge shall then be determined by multiplying the residential equivalent unit rate by the number of residential equivalent units estimated by the Township.

(3) The final number of residential equivalent units shall be determined based on the actual non-sprinkling water utilization as determined based on the volume of metered public water utilized less the volume metered out for sprinkling purposes or metered well water that is not separately metered as being used exclusively for sprinkling purposes if the Premises are not connected to public water. To accomplish this, beginning approximately one year after the issuance of the occupancy permit for the particular improvement, expansion or alteration of use which is the basis for the sewer connection charge, or approximately one year after the installation of the larger water meter, the quantity of public water that is utilized (for non-sprinkling purposes) shall be monitored for the next 12 full calendar months. If no occupancy permit is required for the improvement, expansion or alteration of use, the one-year period shall begin as of the date on which the improvement, expansion or alteration of use is first placed in service. At the completion of the 12-month monitoring

period, the total volume of water that is utilized for non-sprinkling purposes shall be determined and this total shall be equated to sewer residential equivalent units by dividing this total by 65,000 gallons per year to equal the number of sewer residential equivalent units. However, in no event shall the number of residential equivalent units be less than one. If there is an expansion, alteration of use, or request for a larger water meter, the total volume of non-sprinkling water utilization shall be calculated by subtracting from the water utilization that is for non-sprinkling purposes during the 12-month monitoring period the total recorded water utilization that is for non-sprinkling purposes for the 12-month period immediately preceding (i) the issuance of the occupancy permit for the expansion or alteration of use or, if no occupancy permit is required, the 12-month period before the expansion or alteration of use is first placed in service or (ii) the request for a larger water meter. The sewer customer shall be notified in writing of the results of such computations.

(4) If, due to a full or partial work stoppage or temporary shutdown, seasonal operation, fire or other casualty, or any other reason, the volume of water usage during the 12-month monitoring period that is for non-sprinkling purposes set forth in subsection (3) above is not, in the reasonable judgment of the Township, fairly representative of the Premises' actual water usage that is for non-sprinkling purposes, the Township shall have the right to select another period which is fairly representative of the Premises' actual water usage for non-sprinkling purposes and to utilize the water usage that is for non-sprinkling purposes during that period to calculate the number of sewer residential equivalent units for purposes of the calculations specified in subsection (3) above.

(5) If the volume of water used for non-sprinkling purposes during the monitoring period is not, in the reasonable judgment of the Township, fairly representative of the Premises' actual water use that is for non-sprinkling purposes because of a discontinuation of the use of the Premises, the number of residential equivalent units shall remain as previously estimated subject, however, to later equitable adjustment based on actual water use that is for non-sprinkling purposes as provided above if and when the Premises are again utilized.

(6) If the number of sewer residential equivalent units is higher than the initial estimate, then the sewer connection charge shall be adjusted accordingly. If the connection charge has previously been paid in full, the difference shall be paid in full by the sewer customer within 30 days of the recomputation. If the sewer connection charge has not been previously paid in full but has, instead, been paid in installments, then the additional amount of sewer connection charges owed shall be added to the current balance and the new balance shall then be re-amortized, with interest, over the remaining number of installments due on the sewer connection charge.

(7) If the number of sewer residential equivalent units is lower than the estimate, then the sewer connection charge shall be adjusted accordingly. If the connection charge has been previously paid in full, the Township shall refund the difference in full within 30 days of the recomputation. If the connection charge has not been paid in full but is, instead, being paid in installments, then the current balance owed shall be reduced based upon the difference between the initial connection charge amount and the recomputed connection charge amount, and the new balance shall then be re-amortized, with interest, over the remaining

number of installments due on the sewer connection charge. If the outstanding balance is less than the difference, then the outstanding balance shall be cancelled in full and any excess paid by the Township to the sewer customer in full within 30 days of the recomputation.

Section 6. Sewer System Connection Fees Payment Terms. At the time application is made to connect to the System, an election shall be made by the applicant as to whether to pay the public lateral, and/or connection components of the sewer system connection fee in full or in ten (10) equal installments. The inspection charge shall always be paid in full at the time of application.

If installment payments are selected, the first installment shall be billed on the first April 1 following the date on which application to connect to the System is made. All subsequent installments shall be billed on each April 1 thereafter. Each installment shall be paid in full no later than the following April 30.

Accrued interest on the unpaid balance shall be due and payable on each principal installment date. Interest shall commence on the first day of the month following the month in which the application to connect is received by the Township. The interest rate shall be the rate provided in the Rate Schedule provided, however, the interest rate per annum for connections to all portions of the System constructed with the proceeds of the sale of bonds (the "Bonds") sold by or on behalf of the Township shall equal the lesser of the rate specified in the Rate Schedule or the average interest rate on the Bonds, rounded to the nearest one hundredth (100th) of one percent (1%), plus one percent (1%). If connection is made to a portion of the System not constructed with the proceeds of the sale of Bonds which is then later financed with the sale of Bonds, then the interest rate per annum shall be adjusted to the lesser of the rate specified in the

Rate Schedule or the average interest rate on the Bonds, rounded to the nearest one hundredth (100th) of one percent (1%), plus one percent (1%).

If an election is made to pay the public lateral, and/or connection component of the connection fees in installments, the charge may be paid in full at any time with interest accrued through the month in which payment is made. Partial prepayments are also permitted but only (i) if a full principal installment(s) is prepaid and (ii) if all interest accrued on the installment(s) being prepaid through the month in which the prepayment is made is paid at the same time. All prepayments shall be applied to the installments payable in inverse order of their due date.

If any installment or any interest due is not paid in a timely manner, then a penalty shall be charged at the rate of one percent (1%) for each month or fraction of a month that any amount remains delinquent.

If the public lateral, and/or connection component of the connection fees is paid in installments, then the unpaid balance, together with any unpaid interest and penalties, shall be a lien on the Premises served.

On or before October 1 of each year the Township Treasurer shall deliver to the Township Supervisor a certified statement of all public lateral, and/or connection charges and all interest and penalties thereon then six (6) months or more past due and unpaid. The Township Supervisor shall then place such charges on the next tax roll and the same shall be collected and such lien shall be enforced in the same manner as is provided for general Township taxes.

At the time of each application to connect to the System, if any portion of the public lateral, and/or connection charges will be paid in installments, as a condition precedent to connection and the privilege to pay the public lateral, and/or connection charges in installments, the owner of the Premises served shall sign an agreement with the Township in recordable form

stating the amount owed, the interest rate and other payment terms, and that the unpaid charges and all interest and penalties thereon shall constitute a lien on the Premises served.

If any installment of a public lateral, and/or connection charge or any interest or penalties thereon is not paid in a timely manner, the Township shall have the right, in addition to any other remedies available to it, to turn off the Township water service to the Premises and water service shall not be restored until all amounts then due and payable are paid in full.

Section 7. Other Charges. The charge for making a service call, including delivering a shut off notice or making a service call to water turn on after a delinquent sewer bill has been paid, shall be as provided in the Rate Schedule. Any special sewer service for which a charge has not been established on the Rate Schedule shall be charged on a time and materials basis.

All such charges shall be paid in full at the time the service is provided.

Section 8. Sewer Rates. The quarterly customer service charge and the rates for the sewer discharge from each Premises connected to the System shall be as provided in the Rate Schedule.

Free sewer service shall not be furnished by the System to the Township or to any person, firm or corporation, public or private, or to any public agency or instrumentality. The Township shall pay for sewage discharged by the Township or by any of its departments or agencies at the rates established pursuant to this Section from time to time.

Section 9. Billing and Enforcement. Charges for sewer service shall be billed quarterly. Bills shall be mailed by the fifteenth (15th) day of the month following the quarter for which the bills are rendered and shall be due and payable on or before the fifteenth (15th) day of the next month. Failure to receive a bill in the mail shall not excuse payment. Customers whose bills are not paid on or before the due date shall have the penalty charge as provided in the rate

schedule added thereto and shall then be mailed a reminder bill, which shall include the penalty amount. If the reminder bill is not paid within ten (10) days after the date of mailing, a seventy-two (72) hour water shut-off notice shall be delivered to the residence with penalty as provided in the Rate Schedule. If the bill is not paid within 72 hours after the date of the shut-off notice, then the customer's public water service shall be turned off immediately and without further notice. Water service shall not be restored until the entire amount of the sewer bill has been paid together with the penalty charge and the water turn on charge as is provided in the Rate Schedule.

Charges for sewer service shall constitute a lien on the Premises served. On or before October 1 of each year, the Township Treasurer shall deliver to the Township Supervisor a certified statement of all sewer charges and penalty charges thereon then six (6) months or more past due and unpaid. The Township Supervisor shall then place such charges on the next tax roll and the same shall be collected and such lien shall be enforced in the same manner as is provided for general Township taxes.

Section 10. Fiscal Year. The System shall be operated on the basis of a fiscal year beginning January 1 and ending December 31 of the same year.

Section 11. Financial Records. The Township shall cause to be maintained and kept proper financial records relating to the operation of the System. These financial records shall be audited annually by a certified public accountant to be designated by the Township Board and a certified copy of the audit shall be filed with the Township Clerk. Such audit may be a part of the general Township audit.

Section 12. Private Party Extensions. The Township may, in its discretion and pursuant to a written development contract in form satisfactory to the Township, permit an extension of the System to be made under the direction and control of a private party. This

extension shall be dedicated to the Township upon completion. All particulars concerning the extension including, but without limitation, location and the construction methods and materials, shall be included in the development contract. The extension shall cover the entire road or public right-of-way frontage of the Premises to be served by the extension or extend entirely through the Premises to be served, extending in each case to the adjoining Premises, unless the Township waives this requirement in writing.

Section 13. Mandatory Extensions. All subdivisions, site condominiums, and other developments shall be served by and connected to the System if required by Township zoning, subdivision, or other applicable ordinance. If an extension is necessary in order to complete the required connection, and that extension will be constructed by a private party, then the extension shall be constructed pursuant to Section 12.

Section 14. System and Use Coordination. All land use approvals under the Township Zoning Ordinance, whether by variance, special use, planned development, contract zoning or ordinance, which includes buildings or other improvements to be connected to the System, shall be conditioned on compliance with all of the terms and provisions of this Ordinance, the Allendale Charter Township Sewer Usage and Administration Ordinance, and all rules and regulations adopted thereunder, as they may be amended.

Section 15. Standard Construction Requirements. The Township may, from time to time, adopt by resolution of its Township Board, standard construction requirements for the System, and establish a reasonable fee for obtaining copies of those requirements from the Township. Violation of any provision of such standard construction requirements shall constitute a violation of this Ordinance.

Section 16. Disruption of Service. The Township shall not be liable for any failure or deficiency in the availability of sewer service to sewer customers whether occasioned by maintenance or repair of the System or any other cause.

Section 17. Administrative Liability. No officer, agent, or employee of the Township shall render himself or herself personally liable for any damages that may accrue to any person as a result of any act required or permitted in the discharge of his or her duties under and in the enforcement of this Ordinance.

Section 18. Penalty. Any violation of, refusal to comply with, or resistance to the enforcement of this Ordinance shall be a municipal civil infraction, and shall be subject to the enforcement procedures set forth in Municipal Civil Infraction Ordinance and a fine of fifty (\$50.00) dollars, plus costs and other sanctions, for each infraction. Each day during which any violation of this Ordinance continues shall be deemed a separate and distinct offense. Increased civil fines shall be imposed for repeated violations of this Ordinance; a repeat violation means a second or subsequent municipal civil infraction violation committed within any 12-month period and for which the violator admits responsibility or is determined to be responsible. The increased civil fine for repeat violations shall be as follows:

(a) The fine for any offense which is a first repeat offense shall be \$250.00, plus costs and other sanctions;

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be \$500.00, plus costs and other sanctions.

Members of the Ottawa County Sheriff's Department assigned to the Township, members of the Ottawa County Sheriff's Department whose services are contracted for by the Township, or other persons designated by the Township Board as Township Ordinance Enforcement Officers for this Ordinance are hereby designated as Authorized Township Officials to issue

municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at Allendale Charter Township Municipal Ordinance Violations Bureau) as provided in the Municipal Civil Infraction Ordinance adopted by the Township.

Section 19. Severability and Captions. This Ordinance and the various sections, subsections, sentences, phrases, and clauses thereof are hereby declared to be severable. If any section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby declared that the remainder of this Ordinance shall not be affected thereby. Pronouns shall be read as masculine, feminine or neuter as may be appropriate. Captions appearing at the beginning of any section shall not be deemed a part of this Ordinance and shall have no independent significance.

Section 20. Repeal. All ordinances or parts thereof which are in conflict in whole or in part with any of the provisions of this Ordinance as of the effective date of this Ordinance, including, but without limitation, Ordinances No. 1991-7, 2005-10, and 2006-26 are hereby repealed to the extent of such conflict.

Section 21. Effective Date. This Ordinance was approved and adopted by the Township Board of the Charter Township of Allendale, Ottawa County, Michigan, on _____, 2018, after introduction and a first reading on December 11, 2017, and publication after first reading as required by Act 359 of the Michigan Public Acts of 1947, as amended. This Ordinance shall be effective on _____, 2018.

Adam Elenbaas, Supervisor

Laurie Richards, Clerk

CERTIFICATE

I, Laurie Richards, Clerk for the Charter Township of Allendale, Ottawa County, Michigan, do hereby certify that the foregoing Sewer System Rate Ordinance was adopted at a regular meeting of the Township Board held on _____, 2018. The following members of the Township Board were present at the meeting:

_____. The following members of the Township Board were absent:
_____. The Ordinance was adopted by the Township Board with members of the Board _____

_____ voting in favor and members of the Board _____

_____ voting in opposition. The Ordinance was published in the _____ on _____, 2018.

Laurie Richards