

ORDINANCE #119
SEWER RATE

Adopted: 10/14/80
Effective: 11/22/80

AN ORDINANCE TO PRESCRIBE THE RATES TO BE CHARGED FOR THE OPERATION AND CONNECTION TO THE WEST BAY COUNTY REGIONAL WASTEWATER SYSTEM; TO PROVIDE FOR THE OPERATION OF SAID SYSTEM ON A PUBLIC UTILITY BASIS PURSUANT TO THE PROVISIONS OF ACT 94, PUBLIC ACTS OF MICHIGAN, 1933, AS AMENDED; AND TO PROVIDE FOR OTHER MATTERS RELATIVE TO SAID SYSTEM.

THE CHARTER TOWNSHIP OF BANGOR, BAY COUNTY, MICHIGAN, HEREBY ORDAINS:

SECTION 1. SHORT NAME. This Ordinance shall be known as the Charter Township of Bangor Sewer Rate Ordinance.

SECTION 2. DEFINITIONS. The following terms shall, for purposes of this Ordinance, have the meanings stated below unless the context indicates that a different meaning was intended.

- A. BOARD shall mean the Township Board of the Charter Township of Bangor.
- B. CONTRACT shall mean the contract executed between the Townships of Bangor, Frankenlust, Kawkawlin, Monitor, Williams, City of Auburn and the County of Bay, dated March 1, 1978, and as amended.
- C. "EPA REGIONAL ADMINISTRATOR" shall mean the Regional Administrator, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.
- D. HARDSHIP shall mean a financial hardship which shall make it difficult or financially harsh upon a landowner or land contract vendee to pay the connection charges imposed by this Ordinance.
- E. INDUSTRIAL COST RECOVERY means a charge Imposed on an industrial user to reflect its share of the amount of grant funds received to construct the Sewerage System as provided under United States Public Law 92-500, and the regulations promulgated thereunder.
- F. "LOCAL UNIT" shall mean the Charter Township of Bangor.
- G. "MICHIGAN DNR" shall mean the Municipal Wastewater Division, Michigan Department of Natural Resources, Lansing, Michigan 48909.
- H. NOTIFICATION shall mean mailing by first class United States mail, postage prepaid, addressed to the owner of the subject premises as reflected on the most recent tax roll of

the Local Unit.

- I. PUBLIC SEWER shall mean a sewer in which all owners of abutting properties have equal rights, if any, and which is controlled by public authority.
- J. *RESIDENTIAL EQUIVALENT USE FACTOR (REU) shall mean the ratio of sewage use by a premises equated to the normal single-family residence as reflected in Appendix A which is attached to the Sewer Fee/Rate Schedule and amended by resolution of the Township Board. If metered water service is provided to premises, the historical annual water consumption divided by 75,000 gallons shall be used in lieu of the aforementioned Appendix A to determine the equivalent REU. (Amended by Ordinance #374, effective 04/25/19)*
- K. SEWAGE shall mean a combination of water carried waste from residences, business buildings, Institutions and industrial establishments, together with such sub-surface, surface and storm water as may be present.
- L. SEWER shall mean a pipe or conduit for carrying sewage.
- M. SEWERAGE SYSTEM shall mean all properties, structures, manholes, pipes, equipment and conduits for the purpose of collecting, treating, testing, and dispensing of domestic wastewater and/or industrial or other wastewaters, as existing now or hereafter added to, expanded or improved, and within the West Bay County Regional Wastewater System.
- N. USER shall mean any person that discharges wastes into the Sewerage System.

SECTION 3. OPERATION AND MAINTENANCE. *The operation and maintenance of the Sewerage System shall be under the supervision and control of the Board of County Road Commissioners for the County of Bay, Department of Water and Sewer, subject however to the terms of the contract wherein the Local Unit after giving due notice may opt to operate and maintain the local collecting sewer system, including billing and collecting of all charges thereof. (Amended by Ordinance #124, effective 07/02/81)*

SECTION 4. CONNECTION TO SYSTEM. It is hereby determined and declared that public sanitary sewers are essential to the health, safety, and welfare of the people of the Local Unit; that all premises in the Local Unit upon which there exists presently or at any time hereafter, a building or structure in which sanitary sewage originates, shall be connected to a public sewer if such public sewer is available to such premises. Such connection shall be made, in the case of premises upon which such a building or structure presently exists, within ninety (90) days from the date of notification from the Board which shall not be sent prior to the date when the public sewer becomes available to such premises. Such connection shall be made, in the case of future improvement of the premises prior to occupancy or use of the building or structure. When a public sewer is available, no plat of a new subdivision shall hereafter be approved unless the developer or subdivider shall agree to install in such subdivision, at his own expense, an approved system of lateral sewers and to connect the same to a public sewer. A public sewer shall be deemed to be available to any premises if it is located in a right-of-way, easement, highway, street or public way which crosses, adjoins, or abuts upon the premises and

which right-of-way, easement, highway, street or public way passes not more than 200 feet distant from the building or structure on such premises from which sanitary sewage originates.

SECTION 5. SEWER CONNECTION CHARGES

Each user whose premises are hereafter connected to the Sewerage System shall pay to the Local Unit a connection charge as provided in this Section and based on the user's REU.

A. DIRECT CONNECTION

1. *Each user whose premises are connected to the Sewerage System shall pay the direct connection fee in an amount established by resolution of the Township Board (Amended by Ordinance #374, effective 04/25/19).*

B. INDIRECT CONNECTION

(Amended by Ordinance #374, effective 04/25/19)

1. *Each user whose premises are connected to the Sewerage System shall pay the indirect connection fee in the amount established by resolution of the Township Board.*
2. *An indirect connection shall be defined as a connection which is made to a sewer added to the Sewerage System after its original construction, the costs of installation of said sewer being paid from special assessments or private funds and not at the expense of the Local Unit.*

C. PAYMENT OF CONNECTION CHARGES. *Upon application for a building permit for (i) any new structure, or (ii) any addition or alteration to any existing structure which will, after completion of the construction, then be required to be connected to the Sewerage System, the foregoing connection charges shall be due and payable in full at the time of application for a building permit.*

For any structure which has the Sewerage System become available to serve the structure after the structure is built, the user shall have the option of paying the connection fee in full or amortized over not more than fifteen (15) annual installments together with interest at seven (7%) percent per annum on the declining balance. If the connection fee is not paid in full, not less than ten (10%) percent of the total computed connection fee shall be paid when the connection permit is issued by the Local Unit. The balance shall, at the election of the user, be amortized over not more than fifteen (15) years. The first installment of principal and accrued interest shall be due and payable on the next December 1 which is more than three (3) months after the date when the connection permit is issued.

Subsequent installments of principal and accrued interest shall be due and payable on December 1 annually thereafter. All installments of principal and accrued interest shall be certified to the tax-assessing officer of the Local Unit, shall be entered upon the tax roll as a charge against such premises, and shall be collected, and the lien thereof enforced, in the same manner as general property taxes against such premises are collected and the lien thereof enforced. The balance of the charge from time to time remaining unpaid may nevertheless be paid in full at any time before the same becomes

due together with accrued interest to the date of payment. Interest on the unpaid balance shall commence as of the date of issuance of the connection permit. ((Amended by Ordinance #141, effective 07/10/84; Amended by Ordinance #244, effective 12/11/97))

D. REU APPEAL. Any user other than a single-family residence user who is aggrieved by the determination of the REU shall have the right to appeal the REU to the Board for a final determination. Such appeal shall be in writing, addressed to the Clerk of the Local Unit, and shall state specifically the following and shall be heard only after payment of the connection charge and connection to the Sewerage System:

- 1. Name and address of user.*
- 2. Address of premises connected*
- 3. Type of user.*
- 4. REU assessed to the user at the premises.*
- 5. REU desired.*
- 6. Specific factual determinations upon which the REU desired is based.*
- 7. Actual water consumption for the past one (1) year.*
- 8. Any other relevant data.*

Before a final determination on the REU is made, the Board shall notify the applicant of the time, place, and date of a public hearing at which time the applicant can be heard in person or by agent. (Amended by Ordinance #130, effective 11/18/82)

SECTION 6. SEWER USE CHARGES

A. Each user whose premises are connected to a public sewer shall pay a quarterly charge for sewage disposal and treatment and administrative service fees to the Township as adopted by resolution of the Township Board.

B. In addition to the charges described in subsection (a) of this Section, any user who discharges wastes into the sewer system exceeding the following listed limits shall be surcharged as set forth in subsection (c) of this Section.

- 1. A five-day BOD greater than 300 milligrams per liter.*
- 2. Suspended solids greater than 300 milligrams per liter.*
- 3. An average daily flow exceeding two percent of the total average daily flow of the sewer system.*
- 4. A total phosphorous quantity greater than 8 milligrams per liter.*
(Amended by Ordinance #164, effective 02/12/87)

C. Those users exceeding the listed limits set forth in subsection (b) of this Section shall be surcharged to the user at the rates as adopted by resolution of the Township Board.
(Amended by Ordinance #164, effective 02/12/87)

D. In addition to the charges described in subsection (a), (b) and (c) of this Section, any user who had a footing drain or sump pump connected to an existing sanitary sewer as of the effective date of the ordinance from which this division is derived shall be allowed to continue such connection at a charge as adopted by resolution of the Township Board. The charge shall be multiplied by the REU for the user. (Amended by Ordinance #173, effective

05/12/88)

- E. *The charges for services which are under the provisions of section 21 of Public Act No. 94 of 1933 (MCL 141.121) are made a lien on all premises served thereby, unless a notice is given that a tenant is responsible, and are hereby recognized to constitute a lien, and whenever any such charge against any premises shall be delinquent for six (6) months, the officials in charge of the collection thereof shall certify annually, on August 1 of each year, to the tax-assessing officer of the Township the facts of such delinquency, whereupon such charge shall be entered by him upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced, in the same manner as general property taxes against such premises are collected, and the lien thereof enforced; provided, however, that where notice is given that a tenant is responsible for such charges and service as provided by such section 21 of Public Act No. 94 of 1933 (MCL 141.121), no further service shall be rendered such premises until a cash deposit in the amount as adopted by resolution of the Township Board shall have been made as security for payment of such charges and service. In addition, if such charges are not paid within 21 days, a ten percent (10%) late payment fee shall be added thereto. If the charges for any billing period shall not be paid within 41 days following the billing date, all water and/or sewer services to such premises may be discontinued, provided that at least five (5) days' notice of intent to terminate such service is provided in writing to such premises. The water and/or sewer service so discontinued shall not be reestablished until all charges, including late payment fees, shall be paid, plus a water turn-off and turn-on charge which shall be determined by resolution of the Township Board.*

(Amended by Ordinance #191, effective 08/29/90; Amended by Ordinance #301, effective 11/17/05)

SECTION 7. INDUSTRIAL COST RECOVERY

- A. The Local Unit hereby establishes a system of industrial cost recovery charges applicable to any user of the Sewerage System consistent with the terms and conditions of the Federal Grant financing part of the cost of the Sewerage System, which charges shall be collected, held and used in the manner required by said Federal Grant. Said charges are as follows:
1. For the Wastewater treatment plant
 - a. 1.66 cents per pound of five (5) day B.O.D.;
 - b. 0.89 cents per pound of suspended solid;
 - c. 0.38 cents per pound of phosphorus;
 - d. 6.39 cents per 1000 gallons, and;
 2. For interceptors
 - a. With equalized pretreatment - 3.59 cents per 1000 gallons;
 - b.. Without equalized pretreatment - 13.4 cents per 1000 gallons.
 3. For collectors constructed after March 1, 1978
 - a. With equalized pretreatment - 5 cents per 1000 gallons;
 - b. Without equalized pretreatment -21 cents per 1000 gallons.
 4. All industrial users paying said ICR charges shall be entitled to an annual

domestic wastewater allowance for each employee of such industry as follows:

- a. 7.8 pounds per year of Five (5) day B.O.D.;
- b. 9.5 pounds per year of suspended solid;
- c. .3 pounds per year of phosphorus;
- d. 4420 gallons per year.

- B. Any user aggrieved by the reasonableness of the Industrial cost recovery assessment imposed upon it shall have a right to appeal to the Board. The user shall set forth specifically and in writing the reasons the user feels aggrieved and the relief requested by it within forty-five (45) days after the assessment is determined. Upon receipt of the notice of appeal from the user, the Board shall cause to be set a date for hearing of the appeal not less than thirty (30) days after notifying the EPA Regional Administrator, the Michigan DNR, the Bay County DPW Director, the Plant Superintendent, and the other municipal units who are signatory to the contract. Following the hearing the decision of the Board shall be in writing and shall be final.

SECTION 8. SPECIAL RATES. For miscellaneous or special services for which a special rate shall be established, such rates shall be fixed by resolution of the Board, notwithstanding Sections 5 and 6 above.

SECTION 9. OPERATING YEAR. The Sewerage System shall be operated on the basis of an operating year commencing on January 1 , and ending on the 31st day of December next following.

SECTION 10. REVENUES. The revenues of the Sewerage System shall be set aside, as collected, and deposited in a separate depository account in a bank duly qualified to do business in Michigan, in an account to designated SEWER SYSTEM RECEIVING FUND (hereinafter, for brevity, referred to as the "Receiving Fund"), and said revenues so deposited shall be transferred from the Receiving Fund periodically in the manner and at the times hereafter specified.

A. **OPERATION AND MAINTENANCE FUND**

Out of the revenues in the Receiving Fund there shall be first set aside quarterly into a depository account, designated OPERATION AND MAINTENANCE FUND, a sum sufficient to provide for the payment of the next quarter's current expenses of administration and operation of the Sewerage System and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.

B. **CONTRACT PAYMENT FUND**

There shall next be established and maintained a depository account, to be designated CONTRACT PAYMENT FUND, which shall be used solely for the payment of the Local Unit's obligations to the County of Bay pursuant to the contract. There shall be deposited in said fund quarterly, after requirements of the Operation and Maintenance Fund have been met, such sums as shall be necessary to pay said contractual obligations when due. Should the revenues of the Sewerage System prove insufficient for this purpose, such revenues may be supplemented by any other funds of the Local Unit legally available for such purpose.

C. REPLACEMENT FUND

There shall next be established and maintained a depository account, designated REPLACEMENT FUND, which shall be used solely for the purpose of making major repairs and replacements to the Sewerage System if needed. There shall be set aside into said fund, after provision has been made of the Operation and Maintenance Fund and the Contract Payment Fund, such revenues as the Board shall deem necessary for this purpose.

D. IMPROVEMENT FUND

There shall next be established and maintained an Improvement Fund for the purpose of making improvements, extensions and enlargements to the Sewerage System. There shall be deposited into said fund, after providing for the foregoing fund, such revenues as the Board shall determine.

E. INDUSTRIAL COST RECOVERY FUND

All moneys recovered as a result of charges applicable to any user of the Sewerage System shall be collected, held and used in the manner required by the Federal Grant and shall be separated from other moneys collected.

F. SURPLUS MONEYS

Moneys remaining in the Receiving Fund at the end of any operating year, after full satisfaction of the requirements of the foregoing funds, may, at the option of the Board, be transferred to the Improvement Fund or used in connection with any other project of the Local Unit reasonably related to purposes of the Sewerage System.

G. BANK ACCOUNTS

All moneys belonging to any of the foregoing funds or accounts may be kept in one bank account, in which event the moneys shall be allocated on the books and records of the Local Unit within this single bank account, in the manner above set forth.

H. INSUFFICIENT FUNDS

In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund, any moneys and/or securities in other funds of the Sewerage System, except sums in the Contract Payment Funds derived from tax levies, shall be transferred to the Operation and Maintenance Fund, to the extent of any deficit therein.

SECTION 11. INVESTMENTS. Moneys in any fund or account established by the provisions of this Ordinance may be invested in obligations of the United States of America in the manner and subject to the limitations provided in Act 94, Public Acts of Michigan, 1933, as amended. In the event such investments are made, the securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds from which such purchase was made. Income received from such investments shall be credited to the fund from which said investments were made.

SECTION 12. DEFERMENT OF PAYMENT

- A. A "Hardship Committee" is hereby established which shall consist of three (3) members recommended by the Supervisor and appointed by the Board. Each member of the committee shall be a resident of the Local Unit and shall hold office for three (3) years, except that the first member appointed shall be for one year, the second member appointed shall be for two years, and they shall serve until the first regular meeting of the Board in January of each year hereafter or until a successor is appointed whichever is later.
- B. Any landowner who is required to connect to the Sewerage System as defined by State Law or Local Unit Ordinance and who shall believe that he or she is financially unable to pay the costs of connection, may apply to the "Hardship Committee" by application provided for by such committee through the Office of the Local Unit Clerk, for deferment of connection fees. Such application shall be signed by the applicant under oath or by an adult child on behalf of a parent.
1. The Committee may establish a date of hearing which shall be a private hearing between the committee and the applicant and the committee may decide at such hearing or any adjourned date to grant a total or partial deferment of the connection fees under such conditions as the committee shall deem advisable and reasonable.
 2. *The Committee may provide for temporary deferment of any or all costs of connection or may provide for deferment of any and all costs of connection until death, sale or transfer of the applicant's parcel and may take a lien and mortgage security on the real property of the application for whom the deferment of payment of the costs of connection is granted. Additionally, the Committee may provide for a deferment of connection for up to six (6) month following the expiration of the initial notice of connection as set forth in Section 4 of Ordinance No. 119. (Amended by Ordinance #128, effective 12/25/81)*
 3. If the applicant shall be purchasing the property under land contract or if the property shall be subject to a first mortgage, then the "Hardship Committee" may require the applicant to obtain the consent of the vendor of the land contract or the mortgagee of the mortgage to the imposition of the lien and require that the lien shall be paramount security or equal security to the interests of the vendor or the mortgagee; or the "Hardship Committee" may waive such requirement and not require the applicant to obtain the consent of the land contract vendor or mortgagee in which event any lien of the Local Unit for the advancement of connection fees will be secondary to the interest of such vendor or mortgagee. Interest shall run on all such deferments at the rate of seven (7%) percent per annum unless the "Hardship Committee" shall reduce or waive such interest as it shall deem advisable and reasonable.
 4. The hardship application and the findings of the committee shall be transmitted to the Local Unit Treasurer and shall not be open for inspection of the public unless released by Court Order or consent of the applicant.
- C. *Following the determination of the Committee the applicant, unless granted a temporary*

time deferment to connect by the committee, will promptly arrange to make the connection to the Sewerage System regardless of what decision the Committee shall make, either in favor or a payment deferment or not. Unless specifically authorized by the Committee for a time deferment to connect to the system, the filling of an application of "hardship" shall not avoid or delay the obligation to make connection to the Sewerage System as required by State Law or Local Unit Ordinance. (Amended by Ordinance #128, effective 12/25/81)

SECTION 13. INVALIDITY. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

SECTION 14. ORDINANCES REPEALED. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed, including but not limited to Ordinance No. 96 and 98.

SECTION 15. PENALTY. Every person who violates or refuses to comply with Section 4 of this Ordinance shall be guilty of a misdemeanor. Upon conviction thereof, he or she shall be punishable by a fine of not to exceed One Hundred (\$100.00) Dollars, or by imprisonment for not to exceed ninety (90) days, or both, in the discretion of the sentencing Judge. Each day during which a violation continues shall be deemed a separate offense. In addition to the criminal sanctions herein provided, the Local Unit specifically reserves the right and shall have the authority to proceed In any court of competent Jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate civil proceedings to prevent, enjoin, abate or remove any violation of this Ordinance.

SECTION 16. PUBLICATION. This ordinance shall be published once, in full, in the Bay City Democrat, a newspaper circulating within the boundaries of the Charter Township of Bangor and qualified under State Law to publish legal notices, promptly after its adoption, and the same shall be recorded in the Ordinance Book of the Charter Township of Bangor and such recording authenticated by the signature of the Township Clerk.

SECTION 17. EFFECTIVE DATE. This Ordinance shall become effective on November 22, 1980, and shall be published once (1) in the Bay City Democrat on or before the 22nd day of October, 1980.

(Amended by Ordinance #374, effective 04/25/19)