

ORDINANCE NO. 40

AN ORDINANCE TO REPEAL ORDINANCE NO. 36 OF CHIKAMING TOWNSHIP ADOPTED ON NOVEMBER 9, 1978, AND TO PROVIDE FOR THE MANDATORY CONNECTION NOW OR HEREAFTER OF PREMISES TO THE SEWAGE DISPOSAL SYSTEM IN THE TOWNSHIP OF CHIKAMING, BERRIEN COUNTY, MICHIGAN; TO PROVIDE FOR THE IMPOSITION, COLLECTION AND ENFORCEMENT OF FEES AND CHARGES FOR CONNECTION THERETO AND FOR CHARGES FOR SEWAGE DISPOSAL SERVICES THEREFROM: TO REQUIRE SEWERS FOR PREMISES HEREAFTER OCCUPIED OR PLATTED; AND TO PROVIDE FOR OTHER MATTERS RELATIVE TO SAID SYSTEM AND TO THE USE THEREOF FOR THE PRESERVATION OF THE PUBLIC HEALTH, SAFETY AND CONVENIENCE.

THE TOWNSHIP OF CHIKAMING ORDAINS:

Section 1.01. Ordinance No. 36 of Chikaming Township adopted Nov. 9, 1978 shall be repealed in its entirety on the effective date of this ordinance.

Section 1.02. Whenever used in this ordinance, except when otherwise indicated by the context:

(a) The term "Municipality" shall be construed to mean the Township of Chikaming and the term "County" shall be construed to mean the County of Berrien, both in the State of Michigan.

(b) The term "Legislative Body" shall be construed to mean the Township Board of said Township of Chikaming, the legislative and governing body thereof.

(c) The term "sewage disposal system" and "system" shall be construed to mean the collecting portion of the Berrien County Sewage Disposal System No. 7 (Galien River Sanitary District) within the corporate boundaries of the Municipality, established and constructed by the County under Contract with the Municipality and other members of said Sanitary District dated October 13, 1971, and leased to the Municipality, and all extensions, enlargements and improvements thereto.

(d) The term "sewage disposal services" shall be deemed to refer to the collection, transportation, treatment and disposal of sanitary sewage emanating from premises now or hereafter connected, directly or indirectly, to the sewage disposal system.

(e) The term "unit" or "units" shall be related to the quantity of sanitary sewage ordinarily arising from the occupancy of a residence building by a single family of ordinary size, as shall from time to time be defined by the Municipality.

(f) The term "direct connection fee" shall be deemed to mean the amount charged at the time and in the amount hereinafter provided, to premises in the Municipality for connection to a part of the system financed by municipal bonds. The term "indirect connection fee" shall be deemed to mean the amount charged at the time and in the amount hereinafter provided, to premises in the Municipality for connection to a part of the system not financed by municipal bonds.

(g) The term "debt service charge" shall be charged to each premises connected directly or indirectly to the system, said charge being payable for the fair share of capital improvements of the system such as the treatment plant and collecting facilities.

(h) The term "charges for sewage disposal services" or "charges" shall be deemed to mean the amount charged to each premises in the Municipality connected to the system for sewage disposal services.

(i) The term "inspection and approval fee" shall be deemed to mean the amount charged to each applicant by the Municipality at the time an application is made to the Municipality to connect, directly or indirectly, said premises to the system to cover the cost of inspecting and approving the physical connection to the system or other sewer line and the issuance of a connection permit.

(j) The term "premises" shall mean any parcel of land and structure or structures thereon connected or connecting to the system, or required to be connected to the system.

(k) The term "available public sanitary sewer" shall be construed to mean a public sanitary sewer system, whether publicly or privately financed, which passes not more than 200 feet from the premises measured from the nearest point of the lateral connection provided for the property in question and the nearest point of the structure from which sanitary sewer originates. In the event no lateral line has been provided for the property, a connection to the available sanitary sewer shall be required if the distance from the juncture of the property line and the street or easement right-of-way line, in which the public sewer lies, and the nearest point of the structure from which sanitary sewage originates is not more than 200 feet. Provided, however, in the event a state agency shall require connection to the system, the aforesaid restriction of 200 feet shall be inapplicable and the term "available public sanitary sewer" shall include the public sanitary sewer system at the nearest point from a structure in which sanitary sewer originates.

(l) The term "structure in which sanitary sewage originates" or "structure" shall be construed to mean 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.

Section 2.01. Public sanitary sewage systems are essential to the health, safety and welfare of the people of the state and the municipality. Septic tank disposal systems are subject to failure due to soil conditions or 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 potential economic blight and constitutes a threat to the quality of surface and sub-surface waters of the state and the municipality. The connection to available public sanitary sewer systems at the earliest, reasonable date is a matter for the protection of the public health, safety and welfare and necessary in the public interest which is declared as a matter of legislative determination.

Section 2.02. Structures in which sanitary sewage originates located in the municipality in the area served by the system for which there is an available public sanitary sewer of the system shall not be used or occupied, after the effective date hereof, unless said structures are connected to the sewage disposal system; Provided, that structures within the municipality in which sanitary sewage is originating on the effective date hereof or in which sanitary sewage originates

before availability of the system or any part thereof to serve said structures shall be initially connected to said system within ninety (90) days after publication of a notice by the municipality in the Galien River Gazette, a newspaper of general circulation in the municipality of the availability of the system. Subsequent connections may be ordered from time to time by the Township Board as the sewer system is extended in the future. Plats for premises in the area served by the system subdivided into three or more lots or parcels, after the effective date hereof, shall not be approved on behalf of the municipality and none of said lots or parcels shall be improved by the erection of a structure thereon unless lateral sewers to serve all of said lots or parcels and to connect same to the system are available as part of the system or shall be installed at private cost (or the estimated cost thereof deposited with the Municipality) in the manner, size and location approved by the municipality. Where a structure in which sanitary sewage originates has not been connected to an available public sanitary sewer within the time period provided above, the municipality shall require the connection to be made forthwith after notice, which may be by first class or certified mail or posting on the property, to the owner of the property on which the structure is located. The notice shall give the approximate location of the public sanitary sewer system which is available for connection of the structure involved and shall advise the owner of the requirements and of the enforcement provisions of this ordinance and other applicable law.

Section 3.01. Owners of premises within the municipality which are used or occupied by persons, firms or corporations and for which connection to the system is available shall pay the following fees and charges at the time or times specified herein, to-wit:

- (a) at the time application is made for a permit to connect, the sum of \$25.00 for a permit fee.
- (b) for premises to be connected to an available public sanitary sewer, a direct connection fee at the time of connection of \$1500 per unit for each of the first 2 units and \$500 for each additional unit thereafter, the number of such units to be determined by the municipality, which sum shall be paid in cash in whole or in part, in advance, or said sums may be paid with a cash down payment calculated by multiplying 1/25th of the whole charge times the number of years having elapsed beginning with the year 1978 to and including the year the connection is made. The balance of the charges remaining, after the cash down payment, may be spread on the tax roll in equal annual installments, representing 1/25th of the whole charge, commencing with the year following the year the connection is made and ending with the year 2003. Interest at 7.4% per annum on balances from time to time outstanding shall be paid annually.
- (c) all persons required to connect to the sewer system after due notice by first class mail, given to the person whose name appears on the tax roll for the subject property, who fail to make specific arrangements at the Township Office on or before Jan. 1, 1979, for such connections by cash payments, as hereinabove provided, or make arrangements at the Township Office for the spread of such charges on the tax roll, as hereinabove provided, are deemed to have authorized the Township to spread such charges on the tax roll in 25 equal annual installments with interest thereon at 7.4% per annum.

- (d) for premises connecting to a privately financed part of the system, an indirect connection fee of \$500 per unit shall be paid in cash at the time of connection to the system;
- (e) a charge for sewage disposal services of \$8.78 per month, per unit, and a debt service charge of \$3.77 per month, per unit, or the total sum of \$12.55, per unit, per month, with such charges being payable monthly. All monthly charges for sewage disposal services and debt service charges shall become due and payable when connection is made to the system or when notice by first class mail is given to the person whose name appears on the tax roll for the subject property, at the address shown thereon, indicating that the system is ready to serve the subject property and the time for making voluntary arrangements to pay for the connection at the Township Office has run. Thereafter, from the date of said notice, charges for monthly sewage disposal services and debt service charges shall be billed against the subject property and collected, as herein provided, whether or not an actual physical connection has been made by the owner to the sanitary sewer system.
- (f) all rates, fees, permits, connection charges and any other charges or costs established herein shall become operative on January 1, 1980, the effective date of this Ordinance, provided however, all such rates, fees and charges are subject to change from time to time by resolution duly adopted by the Chikaming Township Board after a public hearing held thereon.
- (g) in those cases involving new construction where a lateral connection has not been provided for the property in question, the owner shall make application to the municipality for the installation of a lateral connection. The municipality shall proceed with the installation of the lateral connection when the owner deposits the sum of \$1000, or such other sum as may be determined by the Township as being necessary to cover the estimated cost of installing the lateral connection including all surface restoration and repair and replacement of pavement that may be necessary, said sum, or sums, to be deposited with the Township are to be applied to the actual cost of installing said lateral connection. The Township shall arrange for the installation of the lateral, providing all labor and materials and upon the completion thereof present an itemized statement to the owner showing the charges accrued based on time and material supplied. The money on deposit shall be used to pay the actual charges accrued and the unused deposit money, if any, shall be returned forthwith to the owner. All sums expended by the Township in installing the lateral in excess of the deposit shall be promptly paid by the owner. Failure of the owner to promptly pay any charges not covered by the deposit for installing a lateral connection shall result in a creation of a lien on the premises subject to collection and enforcement as provided in Section 7.01 of this Ordinance. All charges for the physical installation of a new lateral connection are in addition to the permit fee and the direct connection fee provided in subsections (a) and (b) above.

- (h) an owner of property who by reason of hardship is unable to make a cash payment required hereunder may have such cash payment deferred by application to the assessing officer. Upon receipt of evidence of hardship the Township Board may defer cash payments, in whole or in part, required under this ordinance as provided by statute.

Section 4.01 The number of units to be assigned to any particular premises used for other than single residence purposes shall be determined by the Township Board of the Municipality and its decision shall be final. Said Township Board, 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 but units in excess of one may be computed and assigned to the nearest tenth. Once any premises has been connected to the system and has been assigned one or more units, subsequent changes in the character of the use or type of occupancy of said premises (including destruction, removal or abandonment of any or all improvements thereon) shall not abate the obligation to continue the payment of the fees and charges imposed against said premises pursuant to Section 3.01 hereof in the amount and for the period therein provided for the number of units assigned to said premises at the time of connection or for such lesser number of units as the changed character of the use or type of occupancy of the premises will justify but in no event for less than one unit. If subsequent changes at any time increase the amount of sanitary sewage emanating from any premises, the Municipality through its Township Board may increase the number of units assigned to said premises and thereupon the fees and charges specified in Section 3.01 hereof, as applicable, shall be paid for each additional unit so assigned at the time a construction or other permit is issued by the Municipality for such changes in use or occupancy or at the time such change in use occurs, if no permit is issued or required.

Section 5.01 Charges for sewage disposal services to each premises within the municipality connected with the sewage disposal system, as determined herein by the legislative body of the municipality as provided in the said contract with the County, may be amended by ordinance or resolution adopted and amended from time to time by the legislative body and subject to any obligations and limitations set forth in such agreement pertaining to the system between the municipality and the County, or any amendments thereto. No free service shall be furnished by the system, to the municipality or to any person, firm or corporation, public or private, or to any public agency or instrumentality. Charges for services, furnished by the system shall be billed and collected monthly.

Section 6.01 If any charges for sewage disposal services are not paid on or before the due date then a penalty of 10% shall be added thereto and commencing ninety (90) days after said due date such charges for sewage disposal services and said penalty shall draw interest at the rate of twelve (12%) per cent per annum.

Section 6.02 If any installment of a connection fee is not paid on or before the due date, the total installment, including interest, shall draw interest at the rate of 1% per month until paid in addition to interest at the rate of 7.4% per annum as above provided.

Section 7.01. Charges for sewage disposal services furnished by the system to any premises, the direct connection fee installments, and cash payments required

for the physical connection of new laterals to the sanitary sewer system and any other fees or charges required under this ordinance pertaining to any premises shall be a lien thereon as of the due date thereof and on September 1st of each year the Clerk of the municipality shall certify any such charges which have been delinquent one hundred twenty (120) days, or more, plus penalties and interest accrued thereon, to the Supervisor or Assessor who shall cause the same with an additional penalty of 12% of the aggregate amount to be entered upon the next tax roll of the municipality against the premises to which such services shall have been rendered and against which such connection fee, and/or other charges have been placed and said unpaid charges and 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.

Section 8.01. The system shall be operated upon the basis of a fiscal year beginning on February 1st of each year and ending on January 31st of the following year.

Section 9.01. The operation, maintenance and management of the system, which is a county system, shall be under the immediate supervision and control of the legislative body or of the County, acting through its Board of Public Works as the agent thereof, if it shall be so designated.

Section 10.01. This ordinance shall be known and may be cited as the "Township of Chikaming Sewer and Sewage Disposal Ordinance".

Section 11.01. The provisions of this ordinance shall be enforceable through the bringing of appropriate action for injunction, mandamus, or otherwise, in any Court having jurisdiction. Any violation of this ordinance is deemed to be a nuisance per se.

Section 12.01. Any person, firm or corporation convicted of disposing of sewage in a manner contrary to the provisions of this ordinance, or failing to connect with an available public sewer as provided herein, or violating the provisions of this ordinance in any way other than non-payment of fees and charges, shall be guilty of a misdemeanor, and subjected to a fine of not to exceed \$100.00 or imprisonment in the County jail for a period not exceeding 90 days or both such fine and imprisonment, in the discretion of the Court, together with costs of said prosecution. Each day that a violation continues shall be considered a separate offense.

Section 13.01. If any section, paragraph, sentence, clause or phrase of this ordinance shall be held invalid, the same shall not affect any other part of this ordinance.

Section 14.01. All ordinances and resolutions or parts thereof, insofar as the same may be in conflict herewith, are hereby repealed. The municipality specifically reserves the right to amend this ordinance 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, with the understanding, however, that the adoption of this ordinance or its subsequent amendment or repeal shall in no wise change, relieve or release the contractual and legal obligation of the municipality to make

