

TOWNSHIP OF METAMORA  
SEWER ORDINANCE  
ORDINANCE #40

AN ORDINANCE TO REGULATE COMMUNITY SEWER SYSTEMS, AS DEFINED BY ESTABLISHING STANDARDS FOR DESIGN, CONSTRUCTION, MAINTENANCE, AND OPERATION, PROVIDING PROCEDURES FOR TOWNSHIP REVIEW OF REQUESTS FOR COMMUNITY SEWER SYSTEMS: AUTHORIZING IMPOSITION OF FEES FOR TOWNSHIP REVIEW: AND PROVIDING PENALTIES FOR VIOLATION.

THE TOWNSHIP OF METAMORA ORDAINS:

Article 1 SHORT TITLE

This Ordinance shall be known and may be cited as the Township of Metamora "Community Sewer System Ordinance".

Article 2 INTENT & PURPOSE

Pursuant to Act 98, Public Acts of 1913, as amended, the Michigan Department of Environmental Quality ("MDEQ") is authorized to issue permits for on-site sewage disposal systems that service more than (1) property (referred to herein as a "community sewer system"). In issuing an Act 98 permit, the MDEQ requires that the Township adopt a resolution stating that the Township will assume responsibility for the operation, maintenance and in the event of system failure, clean-up of the proposed system, if the owner fails to do so. While the Township recognizes that a community sewer system may be in the best interests of the health, safety, and welfare of the Township and the residents in some circumstances, the Township requires assurance that should an Act 98 permit be issued, that the Township shall be indemnified from any costs or liability in connection with the design, construction, operation, maintenance, repair and/or replacement of that system. To this effect, this Ordinance is intended to regulate community sewer systems to provide those assurances.

Article 3 DEFINITIONS

"Act 98" shall mean Act 98, Michigan Public Acts of 1913, as amended.

"Act 98 permit" shall mean a permit issued in accordance with the provisions of Act 98.

"Association", for a condominium development, shall have the same meaning as "Association of Co-Owners" found in Act 59, Michigan Public acts of 1978, as amended. For a subdivision or other development it shall mean an association of homeowners or property owners organized pursuant to deed restrictions and/or restrictive covenants in a particular development.

"Community Sewer System" or "System" shall mean a facility for the transportation, collection, processing or treatment of sanitary sewage which is owned by a non-governmental entity and which services of which is proposed to service more than one (1) structure.

"Development" shall include a subdivision as defined by Act 288, Public Acts of 1967, as

amended, a condominium pursuant to the provisions of Act 59, Public Acts of 1978, as amended, or any group of dwellings or structures which are proposed to be serviced by a community sewer system.

"Development Documents" shall mean, a) for a condominium project, the master deed and bylaws provided by Act 59, Public Acts of 1978, as amended; and b) with regard to subdivisions or other developments, deed restrictions and/or restrictive covenants.

"Dwelling" shall mean a structure primarily designed or used for residential purposes.

"Expansion" shall mean any activity whereby additional structures or users shall be added to an existing system.

"Public Sanitary Sewer System" shall mean a publicly owned sanitary sewer system.

"MDEQ" shall mean Michigan Department of Environmental Quality, or its successors.

"Owner" shall mean the owner of a fee simple interest, a land contract purchaser, or owner of a unit in a condominium, of property which is serviced or is proposed to be serviced by a community sewer system.

"Sanitary Sewer System" shall mean a facility for transportation, collection, processing, or treatment of sanitary sewage.

"Structure" shall mean a building in which toilet, kitchen, laundry, bathing or other facilities which generate water carrying sanitary sewage are used for household, commercial, industrial, or other purposes.

"Township" shall mean the Township of Metamora, Lapeer County, Michigan, acting through its duly elected Township Board.

#### Article 4 REGULATIONS

- 4.1 Except as provided in this ordinance, it shall be unlawful to construct, install, or operate a community sewer system to service developments within the Township.
- 4.2 The Township shall grant approval of a community sewer system only after the applicant has provided all information and met all the standards contained in this ordinance.

#### Article 5 REQUIREMENTS FOR APPROVAL

5.1 Any community sewer system shall comply with the terms of this ordinance, applicable Standards of the MDEQ. Michigan Department of Public Health, and Lapeer County Health Department, and any other applicable laws and regulations of the federal government, State of Michigan, Lapeer County, and the Township.

5.2 No new community sewer system or an expansion of an existing system shall be

constructed, installed, or operated within the Township unless the plans for the installation and system design have been approved by the Township, the Lapeer county Health Department, the Michigan Department of Public Health, and/or Michigan Department of Environmental Quality (MDEQ) (which ever has jurisdiction) as conforming with their regulations and a permit issued in accordance therewith, and any other applicable governmental unit having jurisdiction over the system.

- 5.3 The applicant shall provide the following to the Township before approval for a community sewer system may be granted.
- A. A certification from the system design engineer indicating that the system as designed and constructed will adequately process sanitary sewage and waste as required by applicable laws and regulations of the federal government, State of Michigan, Lapeer County and the Township. The Township engineer shall review and make a recommendation regarding the adequacy of such certification.
  - B. An executed agreement between the applicant, owner, and/or association, or another operator as determined by the Township, in its sole discretion, to be properly certified and possessing the required ability to operate and manage the system. The agreement shall contain provisions for: i) operation and maintenance of the system; ii) collection of charges for, connection to, use and replacement of the system; iii) compliance with all applicable governmental laws, ordinances, regulations, and agreements regarding the system. The agreement shall provide that it may not be terminated without Township approval. The language of such agreement shall be approved by the Township Attorney and Township Engineer prior to granting of Township approval.
  - C. An executed agreement between the applicant, owner, and/or association, and the Township in a form acceptable to the Township. The Agreement shall provide the terms and conditions related to the Township's obligation to oversee the system and shall specify:
    - 1. The applicant, owner, and/or association shall be responsible for operation and maintenance of the system.
    - 2. The individual or entity responsible for such operation and maintenance on behalf of the applicant, owner, and/or association.
    - 3. Standards for operation, maintenance, repair and/or replacement of the system.
    - 4. The applicant, owner, and/or association shall jointly and severally indemnify the Township from any and all costs and liability incurred by the Township with respect to operation, maintenance, repair and replacement of the system.
    - 5. The applicant, owner, and/or association shall establish an escrow account in an

amount determined by the Township to satisfy all costs relating to the maintenance, operation, repair and/or replacement of the system. The amount of the escrow account shall be established by the Township prior to granting approval for the system.

6. The applicant, owner, and/or association shall pay an application fee designed to reimburse the Township for all its expenses involved in review of the construction and design of the system, or preparing or reviewing any documents referenced in this Article, including review by the Township Engineer and Township Attorney, as required.

7. That should the designated individual or entity fail to comply with any requirements listed in subsection 3, that the Township, may, with or without notice, enter onto the property, perform any necessary maintenance, repair, replacement and/or operation, with the applicant, owner and/or association reimbursing the Township all such costs resulting from such activity plus a 25% administration fee; and that in default of such payment, the Township shall be entitled to withdraw any or all of the escrow account referenced in subsection 5 without the consent of the applicant, owner, association or any other person or entity, and additionally undertake whatever collection proceedings are available to it by law including, but not limited to, the addition of any such costs to the tax roll to be collected in the same manner as special assessments are assessed against any real property, or interest therein, serviced by the system.

8. The applicant, owner and/or association shall provide for the maintenance of a policy of casualty insurance for the replacement value of the insurable components of the system and a policy of comprehensive general liability insurance with limits acceptable to the Township, naming the Township as an additional insured.

9. The Township may, at its sole discretion, require that the Community Sewer System be abandoned and all properties in the Development be connected to any publicly owned Community Sewer System which may be constructed in the future abutting the Development or in an easement abutting the Development.

10. The Township shall have the option to purchase for the sum of one dollar (1) marketable title to any lands required to be titled in the name of the Township by governmental or regulatory requirements, or (2) easements reasonably deemed by the Township to be necessary in conjunction with the Township's assumption of responsibility for the Community Sewer System or future publically owned Community Sewer System.

D. The provisions of the development documentation referenced in the preceding section shall also be included in a separate document, in form approved by the Township Attorney, and included within the condominium disclosure documents for

a condominium disclosure documents for a condominium project, or in a separate recordable document for other developments, and delivered to the prospective purchaser prior to the execution of a purchase agreement for property proposed to be serviced by a community sewer system.

- E. A permanent and irrevocable easement, in recordable form, shall be granted by the applicant, owner and/or association to the Township and its employees, agents, and assigns authorizing them to enter onto the property upon which the system is located for the purpose of inspections, improvement, repairing, maintaining, and/or replacing, maintaining, and/or replacing the system area and requiring that the system area shall be maintained so and to be accessible at all times, prohibiting any structures or landscaping within such area that would unreasonably interfere with such access.
- 5.4 No building permit shall be used for any structure or development proposed to be serviced by a community sewer system until the township has approved such system in accordance with terms and provisions of this ordinance.
- 5.5 Anything in this ordinance to contrary notwithstanding, the Township shall not be responsible or obligated to perform any needed or desired repairs, maintenance, improvement and/or replacement of the system or any position thereof. Any such repairs, maintenance improvement and/or replacement undertaken by the Township shall be in its sole and absolute discretion.
- 5.6 At any time approval for a community sewer system is granted, the Township may condition such approval upon the applicant and current and future owners of property proposed to be serviced by the system, and/or any association, to adhere to certain minimum operational and maintenance requirements. If the system's designer or manufacturer has more stringent requirements, then those requirements shall be utilized. The contractor and/or association shall furnish periodic operating reports in accordance with the maintenance requirements and schedule. Any such requirements shall be made a part of the development documents.
- 5.7 The development documents referenced in Section 5.3 c. and d. shall be recorded at the office of the Lapeer County Register of Deeds. After approval by the Township the development documents, as they pertain to the system, shall not be changed without Township approval. The documents shall contain language to that effect.
- 5.8 The association, individual owners and/or users of the system shall be responsible for all costs involved in the installation, operation, maintenance, repair, replacement, and liability associated with the system. The Township may, at its option, elect to collect all costs it may incur in connection with the system pursuant to the other provisions of this ordinance, or by direct court action against the association, owners and/or users of the system.
- 5.9 No final approval of the sewer system shall be given by the Township or its Engineers

unless and until certification is provided to the Township that the system as constructed conforms to the plans and specifications approved for construction by the Township.

#### Article 6 ENFORCEMENT AND PENALTIES

- 6.1 Civil Remedies. The provisions of this ordinance shall be enforceable through any and all remedies at law or in equity in any court of competent jurisdiction. Any violation of this ordinance is deemed to be a nuisance per se.
- 6.2 Criminal Remedies. Any person convicted of a violation of this ordinance, or any person who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other document, filed or required to be maintained pursuant to this ordinance, shall, upon conviction be punished by a fine of not more than Five Hundred (\$500) or imprisonment in the county jail for a period of time not to exceed ninety (90) days, or both such fine and imprisonment, in the discretion of the court, together with costs or prosecution.

#### Article 7 SAVINGS CLAUSE

All proceedings pending, all rights and liabilities existing, acquired or incurred pursuant to any other applicable Township ordinances, at the time this Ordinance takes effect, are saved and may be consummated according to the law in force when they are commenced.

#### Article 8 SEVERABILITY

Should any action subsection, clause or phrase of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared invalid.

#### Article 9 REPEALER

All ordinances or parts of the Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

#### Article 10 EFFECTIVE DATE

This ordinance shall become effective upon publication as provided by law.

#### CERTIFICATION OF TOWNSHIP CLERK

I, Marilyn Taylor, Metamora Township Clerk, hereby certify that the foregoing is a true copy of the Sewer Ordinance #40 adopted by the Township Board at a regular meeting held on Oct. 9 2000 by the following vote:

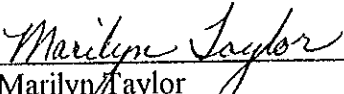
Motion by Woodley, Supported by Bityle.

Ayes: 5

Nays: 0

Absent: 0

Motion: *Carried*

  
\_\_\_\_\_  
Marilyn Taylor  
Metamora Township Clerk

Township Board ordered notice of adoption and summary to be published one time in Lapeer County Press on Oct. 15, 2000. A true and complete copy of the above ordinance may be purchased or inspected at the offices of the Township Clerk, Mondays through Fridays, except holidays, during regular Township business hours.

**AFFIDAVIT OF PU**



**NOTICE OF PUBLIC HEARING -  
SEWER SYSTEMS  
ORDINANCE NO. 40  
Metamora Township Board  
October 5, 2000  
8:00 p.m.**

Notice is hereby given that the Metamora Township Board will hold a public hearing on Thursday, October 5, 2000, beginning at 8:00 p.m. at the Metamora Township Hall, 730 West Dryden Road, Metamora, MI 48455. The purpose of the hearing is to receive public comments on the proposed Ordinance #40 to regulate Community Sewer Systems.

A complete copy of the text of the proposed ordinance may be examined at the office of the Township Clerk, Mondays through Fridays except holidays, during regular Township Business Hours.

Written comments may be sent to the Township Board, at the address above, prior to the hearing. Oral comments will be taken during the hearing.

This notice is published pursuant to the requirements of Michigan Public Act 184 of 1943, as amended.

**Marilyn Taylor, Clerk  
Township of Metamora**

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STATE OF MICHIGAN }  
COUNTY OF LAPEER }

Mark Haney  
the editor

newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character and legal news, which is a duly qualified paper, and that annexed hereto is a copy of a certain order taken from said newspaper, in which the order was published

September 27, 2000

*Mark Haney*

Subscribed and sworn to before me this 27<sup>th</sup>  
day of September, 2000

*Cheryl Childers*  
Notary Public, Lapeer County, Michigan

**CHERYL A. CHILDERS**  
Notary Public, Lapeer County, MI  
My Comm. Expires July 18, 2004

My commission expires \_\_\_\_\_

Prepared by  
**The County Press**  
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Lapeer, MI 48446