

**NOTICE OF POSTING OF
PROPOSED PUBLIC WATER AND SANITARY SEWER CONNECTION ORDINANCE**

PLEASE TAKE NOTICE that a Tallmadge Charter Township Public Water and Sanitary Sewer Connection Ordinance had its first reading at a meeting of the Tallmadge Charter Township Board held on March 13, 2012.

The Public Water and Sanitary Sewer Connection Ordinance will establish requirements for the safe disposal of waste and to provide for the safe access of drinkable water.

PLEASE TAKE FURTHER NOTICE that the Ordinance has been posted in the office of the Tallmadge Charter Township Clerk, Tallmadge Charter Township, 0-1451 Leonard Road, N.W., Grand Rapids, Michigan (telephone: 616-677-1248), and on the Township website at www.tallmadge.com.

Dated: March 24, 2012

Lenore Cook, Clerk
Tallmadge Charter Township

The following Public Water and Sanitary Sewer Connection Ordinance was introduced and a first reading completed at the Tallmadge Charter Township Board meeting on March 13, 2012.

ORDINANCE NO. 03-13-12-1

ADOPTED: _____

EFFECTIVE: _____

PUBLIC WATER AND SANITARY SEWER CONNECTION ORDINANCE

An ordinance to promote the safe disposal of waste and to provide for the safe access of drinkable water.

Section 1 Definitions.

For the purpose of this Ordinance, certain terms are defined as follows:

- 1.1 Public Water System – shall mean all water mains, water supply facilities, metering facilities, storage facilities, pumping stations, and their appurtenances which the Township has or shall have possession of and operating responsibility for (whether owned by the Township or not; whether operated directly by the Township or by contract with another party) either now in existence in the Township or hereafter acquired or constructed in the Township, together with all works, plants, instrumentalities, and properties used or useful in connection therewith in obtaining a water supply or in the treatment or distribution of water, and all extensions, enlargements, and improvements thereto in the Township.
- 1.2 Sanitary Sewer System– shall mean all sewer lines, lift stations, pumping facilities, sewer collection facilities, and their appurtenances which the Township has or shall have possession of and operating responsibility for (whether owned by the Township or not; whether operated directly by the Township or by contract with another party), either now in existence in the Township or hereafter acquired or constructed in the Township, together with all works, plants, instrumentalities, and properties used or useful in connection therewith in collecting sewage and transmitting and conveying such collected sewage to sewage disposal facilities, and all extensions, enlargements and improvements thereto in the Township.
- 1.3 Township – The Charter Township of Tallmadge, Ottawa County, Michigan.

Section 2 Installation and Connection to Water System Required.

- 2.1 For reasons of public health, any structure for which water is necessary lying within the Township shall be connected to the public water system within 18 months after (i) written notice is given to the owner by certified mail by the Township of availability of the public water system and (ii) compliance with any notice or other requirements specified by state law.

For purposes of this subsection, the public water system shall be considered to be available when it is located in a right-of-way, easement, highway, street, or public way which crosses,

adjoins or abuts upon the property in question and passes not more than 200 feet at the nearest point from a structure for which water is necessary.

For purposes of this subsection, "structure for which water is necessary" shall mean any structure which depends upon the flow of either public or private water to be usable, and which does not have an operational private well which meets the structure's requirements and which complies with all applicable statutory and regulatory requirements.

If the structure for which water is necessary has not been connected to the public water system within such 18 month period, then the Township shall proceed in accordance with applicable state law or this Ordinance to require connection to be made forthwith. In so proceeding, the Township shall have the rights and remedies provided in the applicable state law, as well as all rights and remedies provided by this Ordinance.

- 2.2 The property owner is responsible for the cost of installation, maintenance, repair and liability of public water connections from the public water system to the structure.

Section 3 Installation and Connection of Toilet Facilities to Sanitary Sewer.

- 3.1 For reasons of public health, any structure in which wastewater originates lying within the Township shall be connected to the sanitary sewer system within 18 months after (i) written notice is given to the owner by certified mail by the Township of the availability of the sanitary sewer system and (ii) compliance with any notice or other requirement specified by state law.

For purposes of this subsection, the sanitary sewer system shall be considered to be available when it is located in a right-of-way easement, highway, street, or public way which crosses, adjoins, or abuts upon the property in question and passes not more than 200 feet at the nearest point from a structure in which wastewater originates.

For purposes of this subsection, the phrase "structure in which wastewater originates" shall mean a structure in which toilet, kitchen, laundry, bathing, or other facilities that generate wastewater are used or are available for use for household, commercial, industrial, or other purposes, and which does not have an operational septic tank which meets the structure's requirements and which complies with all applicable statutory and regulatory requirements.

If the structure in which wastewater originates has not been connected to the sanitary sewer system within such 18 month period, then the Township shall proceed in accordance with applicable state law or this Ordinance to require connection to be made forthwith. In so proceeding, the Township shall have the rights and remedies provided in the applicable state law, as well as all rights and remedies provided by this Ordinance.

- 3.2 The property owner is responsible for the cost of installation, maintenance, repair and liability of sewer service leads from the sanitary sewer system main to the structure.

Section 4 Hardship Applications.

The owner or owners of a dwelling, in which dwelling the owner or owners reside and upon which a connection requirement or connection charge has been imposed, may submit a hardship application to the Township Supervisor seeking a deferment in the partial or total payment of the connection fee or a deferment of the connection obligation, based upon a showing of financial hardship, subject to and in accordance with the following.

- 4.1 The owner or owners of the premises shall, under oath, complete a hardship application provided by the Township, and file the application, together with all other information and documentation reasonably required by the Township with the Township Supervisor not less than 60 days prior to the due date of the annual installment of such charge, or 60 days prior to the due date of the connection obligation. Any such deferment shall be for the current annual installment only, or it may be for the connection obligation until the deferment ends as provided below. An application shall be completed and filed by each and every legal and equitable interest holder in the premises, excepting financial institutions having security interests in the premises.
- 4.2 Hardship applications shall be reviewed by the Township Supervisor, and after careful deliberation of hardship applications, the Township Supervisor shall determine, in each case, whether there has been an adequate showing of financial hardship, and shall promptly notify the applicants of the determination.
 - (a) An owner of a dwelling required to connect or required to pay a connection charge may have that requirement deferred if the owner, or the owner's spouse if the dwelling is jointly owned, meets all of the following requirements:
 - (1) Has a household income less than the amount last established by the Township on an annual basis, which unless otherwise determined by the Township Board shall be the amount under the income portion of the federal poverty standards, as required by the Michigan General Property Tax Act, as amended; and
 - (2) Has assets less than the amount last established by the Township on an annual basis, which unless otherwise determined by the Township Board shall be the amount under the asset level portion of the federal poverty standards, as required by the Michigan General Property Tax Act, as amended; and
 - (3) Has the written consent of the mortgagee or the land contract vendor, if the dwelling or premises is encumbered by a mortgage or an unpaid balance on a land contract.
 - (b) An owner of a dwelling required to connect or required to pay a connection charge may have that requirement deferred if the owner, or the owner's spouse if the residence is jointly owned, meets the requirements of subsection (a) above, except for the household income limit, if medical challenges faced by the owner, or the owner's spouse if applicable, in the opinion of the Township Supervisor, offset the excess household income.
 - (c) To the extent applicable, the terms of this deferral option shall be interpreted in

compliance with Public Act 225 of 1976, as amended, including without limit, the indexed number for the limit on household income.

- 4.3 An applicant aggrieved by the determination of the Township Supervisor may request the opportunity to appear before the Township Board in person for the purpose of showing hardship and presenting any argument or additional evidence. A denial of hardship following such a personal appearance before the Township Board shall be final and conclusive.
- 4.4 In the event that the Township Supervisor or the Township Board makes a finding of hardship, the Township Supervisor or the Township Board shall fix the amount of partial or total deferment of the charge so imposed, and in so doing, shall require an annual filing of financial status by each applicant. However, upon a material change of financial status of an applicant, the applicant shall immediately notify the Township Clerk so that a further review of the matter may be made by the Township Supervisor, with a possible appeal to the Township Board. Further, the duration of the deferment granted shall be self-terminating upon the occurrence of any one of the following events:
- (a) A change in the financial status of any applicant which removes the basis for financial hardship;
 - (b) The property or any part of it is sold;
 - (c) The property or any part of it is transferred to another (provided that the deferral shall not end for property transfers which do not result in the value of the property in question being uncapped);
 - (d) A contract to sell the property is entered into by both parties; or
 - (e) One year has elapsed since the death of the property owner (unless an extension is approved by the probate court).
- 4.5 Upon a determination of the Township Supervisor or the Township Board deferring all or part of the charges imposed, the owners of the premises shall, within one month after such determination, execute and deliver to the Township as the secured party a recordable security instrument covering the premises, and such other documents deemed necessary to secure the payment, guaranteeing payment of an amount necessary to cover all fees and charges deferred and all costs of installation and connection, if applicable. The consideration for the security interest shall be the grant of deferment pursuant to this Ordinance.

Section 5 Penalties for Violation.

Any person (including an individual, corporation, partnership, or any other legally created entity) who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not to exceed \$500.00 or by imprisonment in the County Jail of Ottawa County, Michigan, not to exceed 90 days, or both such fine and imprisonment, together with Court costs in the discretion of the Court. Each day that such violation occurs shall

constitute a separate offense.

Section 6 Severability.

Should any section, clause, or provision of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof other than the part declared to be invalid.

Section 7 Administrative Liability.

No officer, agent, or employee of the Township shall be personally liable for any damages that may occur to any person as a result of any act required or permitted in the discharge of duties under and in the enforcement of this Ordinance, or any rules and regulations, specifications, or policies and procedures adopted pursuant to this Ordinance. In the event of any conflict between this Ordinance and any rule, regulation, specification, policy or procedure, the provisions of this Ordinance shall control.

Section 8 Effective Date.

This Ordinance was approved and adopted by the Township Board on _____, 2012, after introduction and a first reading on _____, 2012, and publication after such first reading as required by Public Act 359 of 1947, as amended. This Ordinance shall be effective on _____, 2012, which date is at least 30 days after publication of this Ordinance.

James VanEss
Township Supervisor

Lenore Cook
Township Clerk

CERTIFICATE

I, Lenore Cook, Clerk for the Charter Township of Tallmadge, Ottawa County, Michigan, certify that the foregoing Ordinance was adopted at a regular meeting of the Tallmadge Charter Township Board held on _____, 2012. The following members of the Township Board were present at that 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. Notice of Adoption of the Ordinance was published in the Ottawa Advance on _____, 2012.

Lenore Cook
Township Clerk

AFFIDAVIT OF POSTING

(Public Water and Sanitary Sewer Connection Ordinance)

STATE OF MICHIGAN)
)ss
COUNTY OF OTTAWA)

The undersigned, Lenore Cook, the Tallmadge Charter Township Clerk, being first duly sworn, deposes and says as follows:

1. That she posted a proposed Public Water and Sanitary Sewer Connection Ordinance for Tallmadge Charter Township, after its first reading at a meeting of the Tallmadge Charter Township Board held on March 13, 2012, in the Township Clerk's office and on the Township's website at www.tallmadge.com on _____, 2012.

Lenore Cook, Clerk
Tallmadge Charter Township

Subscribed and sworn to before this
_____ day of _____, 2012.

Notary Public, Ottawa County, Michigan
Acting in Ottawa County, Michigan
My commission expires: _____

