

THE TOWNSHIP OF BLAIR

SEWAGE DISPOSAL SYSTEM – OPERATION/MAINTENANCE AND RATE
ORDINANCE

ORDINANCE 126- 06

AN ORDINANCE TO PROVIDE FOR THE OPERATION AND MAINTENANCE OF GRAND TRAVERSE COUNTY SEWAGE DISPOSAL (BLAIR TOWNSHIP) ON A PUBLIC UTILITY BASIS UNDER THE PROVISIONS OF ACT 94, PUBLIC ACTS OF MICHIGAN, 1933, AS AMENDED

THE TOWNSHIP OF BLAIR HEREBY ORDAINS:

Section 1. It is hereby determined to be desirable and necessary for the public health, safety and welfare of the Township of Blair that the Grand Traverse County Sewage Disposal (Blair Township) be operated by said Township on a public utility rate basis in accordance with the provisions of Act 94, Public Acts of Michigan, 1933, as amended.

Section 2. Whenever the words "the System" are referred to in this ordinance, they shall be understood to mean the complete Grand Traverse County Sewage Disposal (Blair Township), including all sewers, pumps, lift stations, flowage rights in interceptors of other systems, treatment facilities or interests therein, and all other facilities used or useful in the collection, treatment and disposal of domestic, commercial or industrial wastes, including all appurtenances thereto and including all extensions and improvements thereto which may hereafter be acquired. Whenever the words "revenues" and "net revenues" are used in this ordinance, they shall be understood to have the meanings as defined in Section 3, Act 94,

Public Acts of Michigan, 1933, as amended.

Section 3. The operation, maintenance, alteration, repair, and management of the System shall be under the supervision and control of the Grand Traverse County Board of Public Works, subject to the terms of the contract effective January 1, 1985 as amended entitled: "Operating Agreement for Grand Traverse County, the Grand Traverse County Board of Public Works, and the Townships of Acme, Blair, East Bay, Garfield, Peninsula and Elmwood. Said Board may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System and may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient management and operation of the System, and the Township shall set the rates and charges for the use of the System unless otherwise provided pursuant to said contract.

Section 4. Rates to be charged for service furnished by the System shall be as follows:

Sewer Use Charges –

Sewer use charges to each premises served by the System shall be as established from time to time by resolution of the Township Board. Single-family residences shall be billed as one REU. Each premises other than a single-family residence shall pay a charge multiplied by a factor representing a ratio of sewage use by such class of premises to normal single-family residential sewage use, as established from time to time by resolution of the Township Board, provided, however, that the minimum charge to any premises shall be based on one REU.

Policy Statement It shall be the policy of the Township that the developer of projects connecting to the Township's sewer system, shall be required to pay Benefit Fees, as defined by the Blair Township Sewer Ordinance, due to the township prior to the commencement of construction of any and all sewer main extensions by the developer. Benefit Fees may be paid in full prior to construction in accordance with the current Benefit Fee or a partial payment of one thousand dollars (\$1,000.00) per REU shall be paid prior to commencement of construction, with the balance of the Benefit Fee to be paid in full prior to the issuance of a land use permit by the township. The deferred balance of the Benefit Fee due prior to issuance of a land use permit shall be at the existing Benefit Fee rate in effect at the time of issuance of the land use permit .

Benefit and Riser Charges

- (a) Prior to the time specified in subsection (b) hereof, there shall be paid on behalf of each single-family residential premises using, directly or indirectly, any of the sewer lines comprising the System, in cash, at the time of application for the tap permit the following charges for the purchase of the privilege of using the facilities and receiving the service of the System:

Benefit Charge an amount as established from time to time by resolution of the Township Board

Riser Charge an amount as established from time to time by resolution by the Township Board

(for connection from sewer to property line if not otherwise paid by property owner)

plus such sums as will compensate for the cost of making and inspecting

the tap.

- (b) Premises other than single-family residences shall pay the benefit charges in the appropriate amounts specified by resolution as established from time to time by the Township Board, multiplied by the REU factors provided for by resolution of the Township Board. Riser charges in appropriate amounts will be paid in multiples of the number of sewer risers necessary to serve the premises connecting, or may be eliminated entirely if the cost of such riser or risers is paid directly by the party requesting the tap permit and such elimination is approved by the Township Board.

- (c) Subsequent changes in the character of the use or type of occupancy of any premises (including destruction, removal or abandonment of any or all improvements thereon) shall not abate the obligation to continue the payment of the benefit charge or the riser charge as herein set forth applicable to said premises in the amount and for the period herein provided, and if such subsequent changes place said premises in a higher ratio-factor category, the Township Board may, in its discretion, increase the number of units assigned to said premises, and thereupon any additional charges occasioned by such increase shall be payable, in cash, at the time a construction permit or other permit is issued by the Township for such changes, or at the time such changes occur if no permit is issued or required.

Lateral Benefit Charge. There shall be paid on behalf of any premises making a direct private service line connection to any sewer line of the System which has not been either privately constructed and paid for on behalf of said premises or publicly financed at least in part by means of special assessments levied against the property on which said premises are located, for the privilege of making use of said public sewer line as a sanitary sewer lateral, in cash, at the time of application for

a tap permit, a lateral benefit charge measured by the footage abutting the line tapped, as follows:

100 feet of property or less an amount as established from time to time by resolution of the Township Board

Provided, however, that if the aforesaid charge for shall be lower if calculated at an amount as established from time to time by resolution of the Township Board per square foot of net property area, such lower calculation shall be employed.

Special Rates. For miscellaneous or special services for which a special rate shall be established, such rates shall be fixed by the Township Board.

Billing. The frequency of the billing period and the due date shall be established from time to time by resolution of the Township Board. Payments received after such period shall bear a penalty of a percentage amount as established from time to time by resolution of the Township Board of the amount of the bill.

Enforcement. The charges for services which are under the provisions of Section 21, Act 94, Public Acts of Michigan, 1933, as amended, made a lien on all premises served thereby, unless notice meeting the requirements of this ordinance is given that a tenant is responsible, are hereby recognized to constitute such lien, and whenever any such charge against any piece of property shall be delinquent for ninety (90) days, the Township official or officials in charge of the collection thereof shall certify annually, on or before a date each year established from time to time by resolution of Township, to the tax-assessing officer of the Township the facts of such delinquency, whereupon such charge shall be by him entered 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 Township taxes against such

premises are collected and the lien thereof enforced. In addition to the foregoing, the Township shall have the right to shut off sewer service to any premises for which charges for sewer service are more than ninety (90) days delinquent, and such service shall not be reestablished until all delinquent charges and penalties and a turn-on charge, to be specified by the Township Board, have been paid. Further, such charges and penalties may be recovered by the Township by court action.

Leased Premises; Security Deposit. A lien shall not attach for Sewer Rates and Charges to a Premise which is subject to a legally executed lease that expressly provides that the tenant (and not the landlord) of the Premise or a dwelling unit thereon shall be liable for payment of Sewer Rates and Charges, effective for services which accrue after the date an affidavit is filed by the landlord with the Township. This affidavit shall include the names and addresses of the parties, the expiration date of the lease and an agreement by the landlord to give the Township 20 day's written notice of any cancellation, change in or termination of the lease. The filing of the affidavit by the landlord shall be accompanied by a true copy of the lease and a security deposit paid by either the landlord or tenant, in the amount of an average sewer bill (for an unmetered premise) equal to six months of charges for the premise. Upon the failure of the tenant to pay the Rates and Charges as required by this ordinance, the security deposit shall be applied by the Township against the unpaid balance, including time price differential, interest and penalties. Upon notification by the Township, the tenant shall immediately make sufficient payment to the Township to cover the amount of the security deposit so advanced. Upon the failure of the tenant to do so within ten (10) days of said notification, the penalties, rights and remedies set forth in this ordinance shall be applicable with respect to the unpaid Sewer Rates and Charges, including time price differential, interest and penalties. The security deposit shall be held by the Township without interest and shall be returned to the party that paid the deposit upon proof of termination of the lease.

Deferral Where benefit fees imposed for a single permit exceed five (5) residential equivalents, the Township may upon written application by the Premise owner made before payment of the benefit fee or issuance of the permit, defer payment under the terms and conditions set forth herein if the Township determines, in its sole discretion, that deferral will adequately protect the financial position of the Township and is in the public interest. The Applicant shall, at the time of application and at all times thereafter, with respect to the premises to be serviced by the sewer connection, be in compliance with all applicable Ordinances of the Township.

(a) Deferral

The deferral shall be made pursuant to a written Application executed by or on behalf of the owner of the premises for which a sewer permit is requested. If approved by the Township the permit requested shall be issued upon the condition, which shall be noted on the permit, that payment has been deferred by the Township. The Township may require such evidence of ownership of the real estate and the authority of the signers to bind the owner as it shall deem necessary. Execution and delivery of the Application shall represent the agreement of the owner of the terms of the deferral described herein and as approved by the Township.

(b) Down Payment

The deferral of payment shall require the payment of twenty percent (20%) of the amount of benefit charges imposed with respect to the permit at the time of issuance of the permit.

(c) Payment of Installments

The balance of the benefit charges shall be paid over four years in equal installments of principal with interest as provided in the Agreement.

The payment interval shall be the same interval employed by the Township for regular sewer charges and, if the Township elects, the deferral payments may be set forth on the same bill as regular water charges and shall be due the same day. If a special billing is used, the special bill shall be due thirty (30) days from date of billings. The first payment shall incorporate interest on the unpaid balance between the date of execution of the Agreement and the first billing of regular sewer charges, and may be irregular in amount. The first such payment shall be due on the earlier of the first regular water billing date following issuance of the permit or one year from the date of issuance. The remainder of the payments shall be uniform and sufficient to amortize the balance including interest during the term of the deferral.

(d) Interest

The balance of deferred payments shall accrue interest at the rate of one (1) percent above the current water system bond rate per annum beginning on the date of execution and delivery of the Deferral Agreement. All payments of the deferred amount shall be applied first to interest and then to principal.

(e) Prepayment

Prepayment of the balance due following full payment of interest charges may be made with any regular payment but the amount of regular installments will not be changed until final payment.

(f) Enforcement

The deferred benefit charges are under the Provisions of Section 21, Act 94, Public Acts of Michigan, 1933, as amended and are a lien on all premises with respect to which the permit was issued. In the event any installment of principal or interest on the deferred amount is due and unpaid

at the time the next succeeding bill for regular charges is rendered, the entire balance of principal and interest remaining unpaid shall become immediately due and payable without further action or notice by any party and shall be billed as a regular charge and if it remains unpaid shall be collected in the same manner as general Township taxes. Any expense incurred by the Township in the collection of past due deferred charges may be billed and shall be paid as additional regular charges.

(g) Early Termination

In the event that subsequent to approval of the deferral the premises to be served or being served by the sewer connection shall cease to comply with applicable Ordinances of the Township, including but not limited to this Ordinance, the Sewer Use Ordinance, the Sewer Construction Ordinance, the Township Zoning Ordinance, the Township Water Ordinance, or the Township Land Division Ordinance, the Township may give written notice to the owner to cure the non-compliance and, if, thirty (30) days after mailing of written notice cure to the property address used for billing, the owner or person in control of the premises shall fail to cure the non-compliance, the Township may terminate this Agreement without further notice. Provided, however, that the owner or person in control of the premises shall have the right to a hearing before the Township or officer designated by the Township if a written request therefore is made before expiration of the thirty-day cure period.

(h) Township Expenses

All expenses of the Township incurred in connection with the Application or deferral including fees of council, and out-of-pocket fees for abstracts, UCC searches, certificates, recording, and the like shall be billed

to and paid by the owner of the premises within thirty (30) days of billing therefore. Submission of an Application for a deferral shall be deemed the owner's undertaking to pay the expenses described in the paragraph.

Section 5. No free service shall be furnished by said System to any person, firm or corporation, public or private, or to any public agency or instrumentality.

Section 6. All premises to which services of the System shall be available shall connect to the System within thirty-six (36) months from the date the sewer service was available for connection to premise, the Township shall notify the premise a minimum of eighteens (18) month prior to the expiration of the thirty-six (36) month mandatory connection date. Any premise failing to connect to the sewer prior to their mandatory connection date shall be charged availability fee equal to the unmetered sewer use charge as by resolution adopted by the Township Board. The availability fee shall be enforced as provided for in section 4 of this ordinance.

Section 7. The rates hereby fixed are estimated to be sufficient to provide for the payment of the expenses of administration and operation, such expenses for maintenance of the said System as are necessary to preserve the same in good repair and working order, to provide for the payment of the contractual obligations of the Township to the County of Grand Traverse pursuant to the aforesaid contract between said County and the Township of Blair as the same become due, and to provide for such other expenditures and funds for said System as this ordinance may require. Such rates shall be fixed and revised from time to time by resolution of the Township Board as may be necessary to produce these amounts.

Section 8. The System shall be operated on the basis of a fiscal year corresponding with that of the Township.

Section 9. The revenues of the 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 be designated SEWAGE DISPOSAL 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 hereinafter 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 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 Township's obligations to the County of Grand Traverse pursuant to the aforesaid 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 System prove insufficient for this purpose, such revenues may be supplemented by any other funds of the Township 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 System if needed. There shall be set aside into said fund after provision has been made for the Operation and Maintenance Fund and the Contract Payment Fund such revenues, as the Township 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 System. There shall be deposited into said fund after providing for the foregoing fund such revenues, as the Township Board shall determine.
- (e) Surplus Monies. Monies 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 Township Board, be transferred to the Improvement Fund or used in connection with any other project of the Township reasonably related to purposes of the System.
- (f) 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 Township within this single bank account in the manner above set forth.

Section 10. In the event the monies 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 System, except sums in the Contract Payment Fund derived from special assessments or tax levies, shall be transferred to the Operation and Maintenance Fund to the extent of any deficit therein.

Section 11. Monies 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. 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 13. 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.

Section 14. This ordinance shall be published once, in full, in the Traverse City Record-Eagle, a newspaper of general circulation within the boundaries of the Township 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 Township and such recording authenticated by the signatures of the Supervisor and Township Clerk.

Section 15. The Schedule of Residential Equivalentents (REU) shall be specified by resolution as established from time to time by the Township Board.

Section 16. This ordinance shall become effective immediately upon its adoption.

AMENDED JULY 2010