

SOUTH HAVEN CHARTER TOWNSHIP

ORDINANCE NO. _____

WATER AND WASTEWATER AMENDMENT ORDINANCE

An ordinance to amend the Water and Wastewater Ordinance established in the Township and to establish an effective date for this ordinance.

THE CHARTER TOWNSHIP OF SOUTH HAVEN, COUNTY OF VAN BUREN, STATE OF MICHIGAN, ORDAINS:

Section 1. Connection Fee/Installment Payments. Article I, Division C, Section 2(b) of the South Haven Charter Township Water and Wastewater Ordinance shall be restated in its entire as follows:

- (b) Installment Payments. The Township, by Resolution conforming to published Authority rule, may authorize payment of connection fees for other than new construction over time in installments. No such installment payment agreement shall have a term of more than 20 years, and interest at the average rate of interest on bonds payable by the Township for sewer and water shall be due and payable on the unpaid balance each year. This option shall apply whether or not the property connecting to the system is in a special assessment district, unless the terms of the special assessment district expressly provide otherwise.

Section 2. Connection Required. Article I, Division C, Section 3 of the South Haven Charter Township Water and Wastewater Ordinance shall be added to state in its entirety as follows:

Sec. 3. Connection required.

It is determined and declared that public water service is essential to the health, safety and welfare of the people of the Township of Casco and South Haven Charter Township, and that all premises on which structures for which water is necessary shall connect to the water system at the earliest reasonable date as a matter for the protection of the public health, safety and welfare of the Townships. Therefore, all premises for which building permits are issued for new principal buildings (i.e., not including accessory buildings or other structures) after _____, 2011, for which water is necessary, and as to which premises water services of the system are available within 200 feet, shall connect to the system during construction (i.e., before they are occupied). This requirement shall apply only to property included in a special assessment district.

The enforcement of this Section shall be in conformity with Act 288 of the Public Acts of Michigan of 1972, as amended.

Section 3. Connection Charges. Article II, Division E, Section 4(d) of the South Haven Charter Township Water and Wastewater Ordinance shall be restated in its entirety as follows:

- (d) Payment of Connection Charges. Connection charges as set forth herein shall be due and payable in cash upon application for connection to the System. However, connection charges for other than new construction may be payable in equal installments plus interest to be paid annually on the unpaid balance at the average rate of interest on bonds payable by the Township for sewer and water. If paid in installments, the first installment of the connection fee shall be payable on the last day of February first following application for connection, plus interest calculated from the application for connection; and all subsequent installments plus interest shall be payable annually thereafter on each successive last day of February. All installment agreements shall be in writing and shall be payable over a period of not more than 20 years, as may be determined from time-to-time by the Authority and the Township. This option shall apply whether or not the property connecting to the system is in a special assessment district, unless the terms of the special assessment district expressly provide otherwise.

Section 4. Hardship Applications. Article IV, Division C, Section 1 of the South Haven Charter Township Water and Wastewater Ordinance shall be restated in its entirety as follows:

ARTICLE IV. GENERAL

DIVISION C. HARDSHIP APPLICATIONS

Sec. 1. Basis for Application.

The owner or owners of a single-family residence in which residence 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.

- (a) 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 sixty (60) days prior to the due date of the annual installment of such charge, or sixty (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.

- (b) 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.
 - (1) An owner of a single-family residence 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 all of the following requirements:
 - (i) Has a household income less than the amount last established by the Township on an annual basis under the income portion of the federal poverty standards, as required by the Michigan General Property Tax Act, as amended; and
 - (ii) Has assets less than the amount last established by the Township on an annual basis under the asset level portion of the federal poverty standards, as required by the Michigan General Property Tax Act, as amended; and
 - (iii) Has the written consent of the mortgagee or the land contract vendor, if the structure or premises is encumbered by a mortgage or an unpaid balance on a land contract.
 - (2) An owner of a residence 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 (1) 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.
 - (3) 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.
- (c) 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.
- (d) 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:

- (1) A change in the financial status of any applicant which removes the basis for financial hardship;
 - (2) The property or any part of it is sold;
 - (3) 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);
 - (4) A contract to sell the property is entered into by both parties; or
 - (5) One year has elapsed since the death of the property owner (unless an extension is approved by the probate court).
- (e) 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 (1) 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. Effective Date. That the foregoing Ordinance was approved and adopted by the Township Board of South Haven Charter Township, Van Buren County, Michigan, on _____, 2011, after introduction and a first reading on _____, 2011, and publication after such first reading as required by Michigan Act 359 of 1947, as amended. This Ordinance shall be effective 30 days after its publication following its adoption.

C. Ross Stein, Township Supervisor

Brenda Bertorelli, Township Clerk

CERTIFICATE

I, Brenda Bertorelli, Clerk, for the Charter Township of South Haven, Van Buren County, Michigan, certify that the foregoing Water and Wastewater Amendment Ordinance was adopted at a regular meeting of the South Haven Charter Township Board held on _____, 2011. 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. The Ordinance was published on _____, 2011, after its adoption. A certified copy of the Ordinance was sent to the Van Buren County Clerk by first-class mail with postage prepaid on _____, 2011.

Brenda Bertorelli, Township Clerk