

TOWNSHIP OF NEW BUFFALO
SEWER AND SEWAGE DISPOSAL ORDINANCE

Ordinance No. 2010 0315 A
Adopted: 3-15, 2010

An ordinance to provide for the mandatory connection, now or hereafter, of premises to the sewage disposal system in the Township of New Buffalo, 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 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 NEW BUFFALO ORDAINS:

Section 1.01 Definitions. Whenever used in this Ordinance, except when indicated by the context:

- (a) The term "***Municipality***" shall be construed to mean the Township of New Buffalo 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 New Buffalo, 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 construed by the County under contract with the Municipality and other members of said Sanitary District dated November 13, 1975, and leased to the Municipality, and all extension, 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.

- (g) 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.
- (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, located in a right of way, easement, highway, street or public way which crosses, adjoins or abuts upon the premises and passing not more than 200 feet at the nearest point from a structure in which sanitary sewage originates, provided that 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 sewage 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 of household, commercial, industrial or other purposes.
- (m) The term "**residential equivalent unit (REU)**" shall mean the unit of measure for calculating fees. One REU is equivalent to one single-family dwelling unit's use of water during a 30 day period of approximately 7,500 gallons. Fees are charged on a "per REU" basis.

Section 2.01 Connection for Health, Safety & Welfare. 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 pose 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 waters of the state and the earliest, reasonable date of connection to the available public sanitary sewer 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 Mandatory Connection to Sewage Disposal System. 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 systems: 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 connected to said system within ninety (90) days after publication of a notice by the Municipality in a newspaper of general circulation in the Municipality of the availability of the system. Plats for premises in the area served by the system subdivided into three or more lots or parcels, after the effective date hereof, which 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 to the structure involved and shall advise the owner of the requirements and of the enforcement provisions of this ordinance and other applicable laws.

Section 2.03 Mandatory Connection for New Construction. No person, firm, corporation or association shall discharge wastewater originating from a newly constructed structure after May 1, 2010, that is within 400 feet of an available public sanitary sewer system. It is mandatory that all newly constructed structures within 400 feet of an available public sanitary sewer shall connect to the available public sanitary sewer. The only exception to the above mandatory connection requirements is the discharge of non-contact cooling water or a discharge from a groundwater remediation activity.

Section 3.01 Fees and Charges. 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) For residential premises connecting to a publicly financed part of the system, a direct connection fee of \$3,506.00 per unit for connections on or after July 1, 1978, such units to be determined by the Municipality, which sum shall be paid in full, in cash, in advance, on or before the date of connection.

The preceding connection fee is for one residential equivalent unit ordinarily arising from the occupancy of a residential building by a single family of ordinary size, as shall from time to time be defined by the Municipality up to 7,500 gallons of water per month.

- (b) For residential premises connecting to a privately financed part of the system, an indirect connection fee of \$3,116.00 per unit for connections on or after July 1, 1978, such units to be determined by the Municipality, which sum shall be paid in full, in cash, in advance, on or before the date of connection.

The preceding connection fee is for one residential equivalent unit ordinarily arising from the occupancy of a residential building by a single family of ordinary size, as shall from time to time be defined by the Municipality up to 7,500 gallons of water per month.

- (c) For commercial or industrial premises connecting to a publicly financed part of the system, a direct or indirect connection fee based on the attached table of residential equivalent unit factors for connections on or after July 1, 1978, such REU factors to be determined by the Municipality which sum shall be paid in full, in cash, in advance, on or before the date of connection.
- (d) A ready to serve charge for sewage disposal services of \$31.00 per month per unit for up to 7,500 gallons per month payable monthly for commercial and industrial connections shall be paid after receiving a statement for said services commencing on the date of the connection to the Township or any other municipal water system.
- (e) A ready to serve charge for sewage disposal services of \$31.00 per month per unit for residential customers payable in arrears bi-monthly commencing on the date the Township water connection, or any other municipal water system connection, is made (with the understanding that the first payment will be prorated to the nearest full month) at the rate or rates per unit herein established.
- (f) If the premises is not connected to the Township water system, or any other municipal water system, the sewer ready to serve charge of \$31.00 per month per unit for residential customers payable in arrears bi-monthly commencing on the date of occupancy.
- (g) If any unit, residential, commercial or industrial, uses more than 7,500 gallons of water per month, then the sewage disposal fee shall be \$31.00 per month plus \$4.25 per 1,000 gallons or any part thereof over 7,500 gallons.
- (h) Sewer customers that are connected to other municipal water systems shall pay sewer charges based on the monthly average water usage rounded to the nearest 1/4 REU of the previous years.

Section 4.01 Change in Character, REUs. The number of REUs 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 REU.

Section 5.01 Change in Units. 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 6.01 Change of Rates and Charges. 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 Galien River Sanitary District, may be amended by ordinance or resolution adopted and amended from time to time by agreement pertaining to the system between the Municipality and the Galien River Sanitary District, 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 residential services furnished by the system shall be billed and collected bi-monthly. All commercial and industrial billings shall be billed and paid monthly. The schedule of rates and charges shall be revised or amended by ordinance or resolution from time to time by the Township Board.

Section 7.01 Late Fee. If any charges for sewage disposal services are not paid on or before the due date, then a penalty of 10% of the total amount due shall be added to the bill.

Section 8.01 Connection Fees. Charges for sewage disposal services furnished by the system to any premises and the direct connection fee to any premises shall be a lien thereon as of the due date thereof, and on October 1st of each year the Clerk of the Municipality shall certify any such charges which have been delinquent ninety (90) days or more. The amount shall 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 delinquent taxes assessed upon such roll.

Section 9.01 Fiscal Year Operation. The system shall be operated upon the basis of a fiscal year beginning on July 1st and ending on June 30th of the following year.

Section 10.01 System Supervision. The operation, maintenance and management of the system shall be under the immediate supervision and control of the Legislative Body or of the Galien River Sanitary District.

Section 11.01 Authorization to Perform Work. Only those persons or individuals who are licensed and bonded in the amount of \$10,000 are authorized to perform any work on the Township Public Sewer within the Township sewer right-of-way. Galien River Sanitary District is exempt from this requirement. All bonds must be on file with the Township Building Department.

Section 12.01 Name. This ordinance shall be known and may be cited as the "Township of New Buffalo Sewer and Sewage Disposal Ordinance".

Section 13.01 Violation. Any person who violates any provision of this ordinance, or who discharges or causes a discharge that produces a deposit or obstruction or otherwise damages or impairs the Township Sewer System, which includes but is not limited to, manholes, gravity piping, laterals, force mains, and lift stations and their components, or causes or contributes to a violation of any federal, state, or local law governing the system, shall be liable to and shall fully reimburse the Township for all expenses, costs, losses, or damages (direct or indirect) payable and incurred by the Township as a result of such discharge, violation exceedence, or noncompliance.

Section 14.01 Enforcement. The provisions of this ordinance shall be enforceable through the bringing of appropriate action for injunction, mandamus, or otherwise, in any court of jurisdiction. Any violation of this ordinance is deemed to be a nuisance per se.

Section 15.01 Penalties. 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 responsible for a civil infraction and subject to a fine of not to exceed \$500.00, together with costs of said prosecution.

Section 16.01 Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 17.01 Repealer, Amendments. 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 not change, relieve or release the contractual and legal obligation of the Municipality to make the required payments to the Galien River Sanitary District under and as set forth in the contract with the Galien River Sanitary District or under applicable law or the contractual and legal obligation pursuant to said contract and applicable law to levy a tax or to use any other means or available funds to make the required payments to the Galien River Sanitary District, and this ordinance shall not be deemed to be a part of any contractual obligation or bond contract pertaining to said system.

Section 18.01. Effective Date. This ordinance was adopted by the New Buffalo Township Board at a regular meeting held in the Township Hall on the 15 day of March, 2010, and shall take effect the 7th day of May, 2010, the same being more than thirty (30) days after the date of publication.



Paul Oselka, Clerk

Attest:

Rose Dudiak

Rose Dudiak, Supervisor

CERTIFICATION

*Motion
Dudiak*

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the New Buffalo Township Board at a regular meeting held on the 15th day of _____, 2010. A motion that said Ordinance be adopted was made by and supported by Rogers. The names of the Township Board members and their votes are as follows:

NAME	YES	NO	ABSENT
Rose Dudiak, Supervisor	<u>X</u>	_____	_____
Paul Oselka, Clerk	<u>X</u>	_____	_____
Jack Rogers, Treasurer	<u>✓</u>	_____	_____
Peter Rahm, Trustee	_____	_____	<u>X</u>
Robert Heit, Trustee	_____	_____	<u>✓</u>

7th

I further certify that the aforesaid ordinance was recorded in the Ordinance Book for New Buffalo Township on the 10th day of April, 2010, and such recording has been authenticated by the signatures of the Supervisor and Township Clerk. I further certify that the foregoing ordinance was published in full or by summary in the _____, a newspaper circulated in the Township of New Buffalo, Berrien County, Michigan, on the day of April, 2010.

Dated: 4-13-10, 2010

Paul Oselka

Paul Oselka, Clerk

Table of Residential Equivalent Unit Factors

<u>Use of Property</u>	<u>Residential Equivalent Unit (REU)</u>
Auto Dealers	.30 per Msqft
Auto/Truck Repair or Service	.40 per Msqft
Athletic/Sport Facility	.25 per Msqft
Shower Facility	1.50 per Msqft
Barber/Beauty/Personal Care	.25 per service area
Banks	.40 per Msqft
Bakery	.75 per Msqft
Bars/Restaurant/Fast Food	1.50 per Msqft
Boarding Facility	.35 per bed
Bowling Alleys	.16 per lane
Car Wash – Mechanical	10.00 per lane
Car Wash – Self Serve	1.00 per stall
Churches	.15 per Msqft
Day Care – Residential	2.00 per residence
Day Care – Commercial	1.00 per classroom
Duplex	1.50 combined
Food Service – Take Out	1.00 per Msqft
Fraternal Organizations / Banquet Halls	.20 per Msqft
Funeral Home	.75 per Msqft
Hospital/Medical Care/Extended Care	.75 per bed
Hotels/Motels/Cabins	.25 per unit
Industrial	Determined at time of application
Laundromat	.30 per washer
Mobile Homes	1.00 per unit
Multiple Family Residence/Apartments	1.00 per unit
Office – General / Public	.40 per Msqft
Office - Medical/Dental/Vet/Clinic/etc.	.85 per Msqft
Parks & Recreation	Determined at time of application
Schools	1.00 per classroom
Gas Stations	.15 per service area
Store/Retail	.30 per Msqft
Single Family Residence	1.00 per residence
Swimming Pool – Non Residential	1.00 per Msqft
Theater	.015 per seat
Warehouse	.10 per Msqft

- ⇒ Msqft = 1,000 square feet and may be based on outside measurement of structure.
- ⇒ More than one category may be applied to an individual premise.
- ⇒ In the alternative, assignment of REU may be based on actual or estimated use and 250 *change* gallons per day equal to one residential unit. This method may be applied in the absence of a category or for exceptional use within a category.
- ⇒ No connected facility will be assigned less than 1.00 REU.

Approved 10-16-06
REVISED

B4 1100

**Amended Sewer & Sewage Disposal Ordinance
For New Buffalo Township Residents
Served by the Township Sewer Department**

This Ordinance will be amended as follows:

The following paragraph shall be added to Section 3.01 of the Township Sewer and Sewage Disposal Ordinance:

- (i) In the event that a private sewer system (where ownership remains other than in the Township) connects to the municipal system and then remains a private system (not within the Township's control), those users connected to that private system will pay a rate 1.5 times the established user rates*

A true copy of the ordinance may be inspected or obtained at New Buffalo Township Hall, 17425 Red Arrow Highway, New Buffalo, Michigan during normal business hours of 9:00 a.m. – 4:00 p.m., weekdays.