

## **ORDINANCE NO. 96**

AN ORDINANCE TO ESTABLISH THE SEWAGE DISPOSAL SYSTEM OF THE VILLAGE OF NORTHPORT PURSUANT TO ACT 94, PUBLIC ACTS OF MICHIGAN, 1933, AS AMENDED, AND ACT 3, PUBLIC ACTS OF MICHIGAN, 1895, AS AMENDED, AND TO ESTABLISH THE RULES AND STANDARDS RELATED TO RATES AND CHARGES TO USERS OF THE SYSTEM TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION, MAINTENANCE AND ADMINISTRATION OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE REVENUE BONDS OF THE SYSTEM; AND TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES.

### **THE VILLAGE OF NORTHPORT ORDAINS:**

#### **SECTION 1. PREAMBLE/TITLE.**

The objective of this Ordinance is to provide for equitable distribution of the cost of the Publicly Owned Treatment Works as defined in the Sewer Use Ordinance definitions (the "POTW"). The POTW is intended to service residential and business premises in the Village of Northport (the "Village") and is constituted a sewage disposal system (the "System") in Section 3 of this Ordinance. This Ordinance shall be known and may be cited as the "Village of Northport Sewer Rates and Charges Ordinance of 2007."

#### **SECTION 2. SEWER RATES.**

##### **Sec. 2.1. Preamble.**

The Village has determined that it is in the best interest of the persons residing in and the businesses and institutions located in the Village to transport and treat sanitary sewage from all developed properties located in the Village and to pay for the costs of providing that service of transport and treatment in part from user fees and charges and in part from special assessments of properties specially benefited by that service.

The Village Council has determined that in order to assure safe transportation and treatment of sewage discharged into the System, the System must receive sufficient total annual revenue to ensure the proper operation and maintenance of the System, the development and perpetuation of the System, and the preservation of the financial integrity of the System. The Village Council has also determined that the System shall be self-sustaining and shall be supported solely by the revenues of the System and not dependent upon the property taxpayers of the Village.

## **Sec. 2.2. Sewer User Charge System.**

(a) *Establishment of Cost of Service.* The Village Council has determined that the purpose of sewer rates (which term includes “charges” and “fees”, all of which are treated interchangeably in this Ordinance) is to produce sufficient revenues each year to pay the costs of service. The Village Council has determined, based upon advice from Fleis & VandenBrink Engineering, Inc., engineers of Traverse City, Michigan, independent consulting engineers (the “Engineers”) to the Village and the County of Leelanau (the “County”) and Bendzinski & Co., Municipal Finance Consultants, of Detroit, Michigan (the “Financial Consultant”), that annual expenditures (OM&R) for the System can fluctuate up to 10% based on using standard good utility management practices from year to year, and revenues can fluctuate as much as 5 to 10% from year to year. Based on the recommendations of its Engineers, Financial Consultant and the County, the Village Council has determined that, in order to provide adequate, but not excessive, annual adjustments in revenue levels in a timely manner, the Village shall develop the costs of service based on 5-year projections of cash needs, adjusted for inflation, and shall base rates each year on the estimated needs for those 5-year periods, adjusted annually.

The costs of service to be paid from revenues shall include all of the following: (1) operation and maintenance expenses, (2) debt service expenses, and (3) capital expenses not funded from bonded indebtedness.

## **Sec. 2.3. Proportionality of Classifications of Users According to Residential Equivalent Units (REUs) Based on Historic Consumption**

The Village has investigated several methods of apportioning the cost of the System among users of the System in the Village and surrounding communities. As part of that investigation, the Village has consulted with the Engineers and the Financial Consultant regarding studies of water use and sewage flows of a variety of establishments to generate a unit factor that most closely approximates the actual use by each user of the System. Based on the Village’s consultations with the Engineers and the Financial Consultant regarding methods of apportioning costs among classes of users, the Village has concluded that the use of Residential Equivalent Units (REUs) to apportion the direct and indirect costs of providing wastewater collection and treatment in the amounts and at the peak rate of flows required from time to time by all users is reasonable.

Based upon the advice of the Engineers and the Financial Consultant, the Village hereby finds that the fairest method of charging its users proportionately for payment of the costs of acquiring, constructing, operating, and maintaining the System in the absence of meters that measure flow of water to a premises is to impose a flat charge, based on REUs, calculated annually on the basis of amount of use in the previous year, to classes of users divided according to annual quantity of use.

Based on its investigation and on the advice of its Engineers and Financial Consultant, the Village Council hereby finds that to ensure the stability and viability of the System for the benefit of its users, the fairest and most accurate way to apportion the costs of operation, maintenance, replacement and improvement of the System is to charge each user: (i) a Capital Connection Fee to be paid by persons connecting to the System or changing their use classifications in order to defray certain capital costs incurred to provide sufficient capacity to all

users; (ii) a Debt Service Charge to be paid by all users of the System to be used to pay principal, interest and administrative costs of retiring the debt incurred for construction of the System; and (iii) a Monthly Commodity Charge to cover the System-wide costs of operating and maintaining the System.

#### **Sec. 2.4. Specific Rates and Charges.**

(a) *Capital Connection Charge.* The Village Council by resolution shall establish a Capital Connection Fee to defray and recover the cost of the System. Every person seeking to connect to the System, to modify an existing connection to the System, to change the use of the property or structure, or to reconnect previously connected property to the System will be required to pay a Capital Connection Fee. A Capital Connection Fee shall be established and managed as provided in this Section.

(i) *Calculation of Estimated Demand on Capacity.* The estimated demand on capacity of a new connection to the System, modification of an existing connection to the System, or reconnection of previously connected property to the System shall be based on the REUs equivalency table set forth in Exhibit A attached hereto and made part hereof. If a particular use does not appear at Exhibit A (or is labeled with “TBD”), the applicable REU (or fraction thereof) shall be determined by the estimated water usage to be generated from the building such that 60,000 gallons annually shall be equivalent to one REU. Metering devices may be required.

(ii) *Calculation of Capital Cost Requirements.* The capital costs to be defrayed or recovered through the imposition of the Capital Connection Fee shall be determined annually by the Village and shall be based on the costs incurred by the Village in designing, acquiring and constructing the System, along with the estimated cost of capital improvements incurred or to be incurred for the primary purpose of providing adequate capacity within the System to meet reasonably necessary service demands.

(iii) *Credits for Previously Paid Capital Connection Fees.* If the Capital Connection Fee relates to an increase in demand on capacity, the Village shall credit against the specific amount of the Capital Connection Fee the amount of any Capital Connection Fee previously paid for connection of that property to the System.

(iv) *Credits for Special Assessments.* Credited against the capital connection charge shall be any assessment paid (or agreed in writing to be paid over a period of time) pursuant to Village of Northport Sewer SAD No. 2005-1.

(b) *Debt Service Charge.* The Village Council by resolution shall establish a Debt Service Charge to pay principal, interest and administrative costs of retiring the debt incurred for construction of the System. The debt service charge shall be based on the REUs equivalency table set forth in Exhibit A and shall be in addition to other user fees and charges provided for herein.

(c) *Monthly Commodity Charge.* The Village Council by resolution shall establish a Monthly Commodity Charge to cover the System-wide costs of operating and maintaining the

System. The Monthly Commodity Charge shall be based on the REUs equivalency table set forth in Exhibit A.

(d) *Industrial pretreatment inspection charge.* The Village Council by resolution may adopt an industrial pretreatment inspection charge. The fee would be an annual charge for existing industrial pretreatment program permits. The purpose of the fee is to cover a portion or all of the expenses associated with administering the industrial pretreatment program.

**Sec. 2.5. Annual Audit and Revision of Rates and Charges.**

The rates and charges established pursuant to this Ordinance shall be as estimated to sufficiently provide for the expenses of operation, maintenance, and replacement of the System so as to preserve it in good repair and working order. An annual audit shall be prepared to assist the Village Council in determining whether, and to what extent, to revise, by resolution, the rates from time to time in order to meet System expenses and to ensure that all user classes pay their proportionate share of operation and maintenance and equipment replacement costs; however, an audit shall not be a prerequisite to a revision.

**Sec. 2.6. No Free Service.**

No free service shall be allowed for any user of the System. The System shall not furnish free service to the Village or to any individual, firm or corporation, public or private, or to any agency or instrumentality.

**Sec. 2.7. Billing; Payment; Delinquencies.**

Charges for sanitary sewer service (other than the Capital Connection Charge) shall be billed not later than the 15th day of each month for the preceding month. Payment is due on the first business day of the following month. If payment is not received by the 15th business day of the following month, then a 2% percent delinquent penalty will be added to the bill. Payment for the Capital Connection Charge shall be made upon application to construct the building sewer line, which payment shall be in full if the parcel has not been assessed for the benefit. If assessed, payment may, at the owner's option, be made at the time of application or the payment may be made pursuant to the following installment schedule, if the Owner commits to same in writing no later than November 1, 2010:

Annual payments spread equally over 15 years, including interest at 2.625 percent per annum; provided, however, that the entire amount shall be due, if not sooner paid, by December 1, 2026.

**Sec. 2.8. Collection.**

(a) *Security deposits.* The Village Council shall adopt a security deposit as set by resolution of the Village Council from time to time for residential customers establishing new accounts for sewer service. The security deposit will be held in reserve by the Village until the customer has made payments, without any delinquencies, for a period of one year. At that point, the security deposit will be refunded, without interest.

(b) *Authorization for enforcement.*

(i) The Village Treasurer is hereby authorized to enforce the payment of charges for sewer service. The Village may discontinue water service or sewer service should the account become delinquent in excess of the security deposit amount and provided the following shutoff procedures are followed:

a. Customer is provided seven days' notice, via first class mail, that water service or sewer service will be discontinued if payment in full is not received by the specified date. The notice will indicate the amount that is delinquent, the scheduled date for shutoff and the cost associated with the shutoff and turn-on service, and

b. Notice is placed at the customer residence in a conspicuous location the day preceding the scheduled shutoff notifying the customer that the service will be discontinued if payment in full is not received. The notice will indicate the amount that is delinquent, the scheduled time for shutoff and the cost associated with the shutoff and turn-on of service.

(ii) Where service has been discontinued, the Village may apply the customer's security deposit toward payment of the delinquent account. If the security deposit is not sufficient to cover the delinquent account, an action for payment may be instituted by the Village Treasurer against the delinquent customer.

(c) *Delinquent charges become liens; placement of delinquent accounts on tax roll.*

By section 21 of Act 94, Public Acts of Michigan, 1933, as amended, and by the terms of this Ordinance the rates and charges for services furnished by the System to a residential or business premises located in the Village shall be a lien on the property served. The Village shall certify those rates and charges delinquent for six (6) months or more to the Village tax assessing officer who shall enter the amount of the delinquent rates and charges on the tax roll against the premises to which the service was rendered and shall collect the rates and charges and enforce the lien in the same manner as provided for the collection of ad valorem property taxes assessed upon the same roll.

In all cases where a tenant is responsible for the payment of rates and charges the landlord shall furnish to the Village a true copy of the lease or other contract evidencing the tenant's obligation to pay rates and charges for sewer service. If the tenant fails to pay rates and charges for the use of the System, the delinquent rates and charges shall not become a lien against the premises. The Village shall, however, cease to provide water service or sewer service to the tenant's premises until the tenant pays the delinquent charges in full and pays an additional cash deposit of not less than three (3) months' service as security for payment of future rates and charges.

**SECTION 3. Supplemental Documentation.** The Village shall provide, and approve by resolution, such supplemental documentation as needed to implement and administer this Ordinance and the Sewer Use Ordinance, such as applications for connection, installment payment agreements, etc.

**SECTION 4. Sewage Disposal System.** The Village hereby establishes a sewage disposal system pursuant to Act 94, Public Acts of Michigan, 1933, as amended, comprised of the POTW and any additions, extensions or improvements thereto.

**SECTION 5. Action by Authority or other Public Body.** Any action authorized to be undertaken by the Village Council, as provided for herein, may also be undertaken by an Authority established pursuant to MCL 124.281, et seq, or other public body or agency with proper statutory authority, if such action is hereafter authorized by resolution of the Village Council.

**SECTION 6. Conflict and Severability.** All ordinances, resolutions and orders or parts thereof in conflict with the provisions of this ordinance is to the extent of such conflict hereby repealed, and each section of this ordinance and each subdivision of any section hereof is hereby declared to be independent, and the finding or holding of any section or subdivision thereof to be invalid or void shall not be deemed or held to affect the validity of any other section or subdivision of this Ordinance.

**SECTION 7. Paragraph Headings.** The paragraph headings in this ordinance are furnished for convenience of reference only and shall not be considered to be a part of this Ordinance.

**SECTION 8. Publication and Recordation.** This Ordinance shall be published in full in the *Leelanau Enterprise*, a newspaper of general circulation in the Village, qualified under State law to publish legal notices, promptly after its adoption, and the same shall be recorded in the Ordinance Book of the Village and such recording authenticated by the signatures of the Village President and the Village Clerk.

**SECTION 9. Effective Date.** This Ordinance shall take effect upon publication or twenty (20) days after its adoption, whichever occurs last.

ORDINANCE ADOPTED AND SIGNED June 7, 2007.

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Michael F. Rogers Sr.  
Village President

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Laura A. Weiss  
Village Clerk

**CERTIFICATION**

I hereby certify that the foregoing is a true and complete copy of an Ordinance duly adopted by the Village Council of the Village of Northport, Leelanau County, Michigan, at a meeting held on June 7,2007.

DATED: June 7, 2007

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Laura A. Weiss, Village Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of an Ordinance duly adopted by the Village Council of the Village of Northport, Leelanau County, Michigan, at a meeting held on June 7, 2007, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, Act 267 of the Michigan Public Acts of 1976, including in the case of a special or rescheduled meeting, notice by posting at least 18 hours prior to the time set for said meeting.

I hereby certify that the following Council Members were present at said meeting: Stephen Wetherbee, William Brendel, Barbara VonVoigtlander, Frederick Thomas, Richard Burmeister, and President Michael F. Rogers Sr. and the following Council Members were absent: Steven Mattson.

I hereby certify that Member VonVoigtlander moved for adoption of this Ordinance, and that said motion was supported by Member Wetherbee.

I further certify that the vote for adoption of said Ordinance was as follows:

YEAS: Stephen Wetherbee, William Brendel, Barbara VonVoigtlander, Richard Burmeister, and President Michael F. Rogers Sr.

NAYS: Frederick Thomas

I further certify that this Ordinance has been recorded in the Ordinance book and that such recording has been authenticated by the signatures of the Village President and Village Clerk.

DATED: June 7, 2007

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Laura A. Weiss, Village Clerk

I further certify that this Ordinance was published in full in the *Leelanau Enterprise* on June 21, 2007.

DATED: \_\_\_\_\_, 2007

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Laura A. Weiss, Village Clerk

## EXHIBIT A

### Schedule of Residential Equivalent Units

(REU's water usage is not included in the schedule)

<u>User</u>	<u>REU</u>
Single Family Residence	1.00
Single Family Residence modified	1.00 + 0.5 per apartment
Multiple Family Residence	1.00 per residence (Duplex or larger)
Accessory Bldg <sup>1</sup> w/ Living Unit	0.50 per living space capable for stand-alone living
Antique Store	1.00
Apartment Building	1.00 per living space
Appliance Repair	1.00
Art Gallery	1.00
Athletic Fields, Playgrounds	1.00
Auto Dealer; no car wash	1.00
Auto Repair Shop	1.00
Bank	1.00
Bakery	1.00
Barber Shop	1.00
Bed and Breakfast	1.00 + 0.10 per sleeping room
Beauty Shop	1.00
Boat & Marine Service	1.00
Bowling Alley; no bar or restaurant	0.25 per lane
Bowling Alley; with bar and restaurant	0.25 per lane + 0.03 per bar and restaurant seat
Business with apartment above or below	1.00 plus 0.5 per apartment
Cabins and Cottages, seasonal	1.00 (main dwelling) + 0.10 per sleeping room
Campgrounds with restrooms	2.00 + 0.25 per lot
Campsite/Mobile Home Hookups	1.00 (main building (home, office, etc.)) + 0.10 per hookup
Car Wash; self service	4.00 for first stall + 1.00 for each additional stall
Car Wash; production line	10.00
Church; no kitchen	1.00
Church; with kitchen & community room	1.25

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<sup>1</sup> Accessory Bldg. is any building on a residential parcel that is secondary a primary dwelling



Community Centers (halls)	2.00
Condominium	1.00 per living space
Confectionery & Fountain	1.00 + 0.03 per seat
Convalescent Home/Extended Living	1.00 + 0.50 per bed
Day Care	1.00
Doctor's Office	1.00
Dentist Office	1.00
Dry Cleaner; no cleaning on site	1.00
Dry Cleaner; with cleaning on site	5.00
Equipment Repair & Sales	1.00
Factory	1.00 (No water used except for bathrooms)
Factory	TBD <sup>2</sup>
Food Processing Plant	2.00
Feed Store	1.00
Fire Station	1.00
Fire Station with EMS in Residence	1.50
Fire Station with EMS in Residence, Community Room & Kitchen	2.50
Fitness Club (with recirculating pool)	2.00
Fitness Club (without recirculating pool)	1.50
Florist	1.00
Fraternal Organization	1.00 + 0.03 per bar & restaurant seat
Funeral Home	2.00
Furniture Store	1.00
Garden Supply	1.00
Gas Station/Convenient Store	1.00
Gift Shop	1.00
Golf Course, with bar & restaurant	2.00 + 0.03 per bar & restaurant seat
Greenhouse/Landscape Nursery	1.00
Grocery Store	1.00
Grocery Store with meat cutting	2.00
Hardware	1.00
Hotel	1.00 + 0.50 per sleeping room
Hotel, with bar & restaurant	1.00 + 0.50 per sleeping room, + 0.03 per bar & restaurant seat
Insurance office	1.00
Jewelry and/or Watch Repair	1.00

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<sup>2</sup> TBD: to be determined pursuant to estimated water usage. See §2.4(a)(i).

Laundromat	1.00 + 0.25 for each washer
Library	1.00
Lumber Supply	1.00
Marina	1.00 + 0.05 per slip
Marina with sewage pumpout	1.00 + 0.08 per slip
Meat Market	1.00
Mobile Home	1.00
Motel	1.00 + 0.50 per sleeping room
Music Store	1.00
Office Building	1.00 plus .10 / separate office (< 300 sq ft per)
Office Building	TBD for buildings with offices greater than 300 sq feet <sup>2</sup>
Parks with Restrooms	1.00 per restroom
Party / Liquor Store	1.00
Produce Market	1.00
Pharmacy	1.00
Post Office	1.00
Public Utility Office	1.00
Public Maintenance Facility	1.00
Real Estate office	1.00
Rental Halls	2.00
Restaurant	1.00 + 0.03 per seat
Restaurant, drive-in	1.50
Retail or Wholesale Sales	1.00
Schools	0.75 per classroom, gymnasium, auditorium
Self Storage Facility with plumbing	1.00
Senior Living Support Facility	0.75 per Independent Living Unit
Shoe Repair	1.00
Sporting Goods Store	1.00
Tavern or Bar	1.00 + 0.03 per seat
Township or Village Office	1.00
Veterinary Clinic	1.00
Warehouse or pole building with plumbing	1.00

Note: 0.07 for each full time equivalent employee on the payroll that exceeds seven FTE employees for all businesses unless provision for additional on-premises use is already stated.

<sup>2</sup> TBD: to be determined pursuant to estimated water usage. See §2.4(a)(i).