

*Ordinance 28***Big Creek-Mentor Public Water & Sewer Ordinance**

An ordinance to regulate and control the construction, installation, extension, service connection, and operation of public water and sewer mains and public water and sewer service within the Township of Big Creek, to prescribe procedures for securing such public water or sewer service and the rates and charges for the same and to provide penalties for the violation of such ordinance regulations.

The Township of Big Creek, Oscoda County, Michigan Ordains:

Section 1: Title

This ordinance shall be known and hereafter cited as the Big Creek-Mentor Utility Authority Public Water and Sewer Service Ordinance.

Section 2: Definitions

- 1.1 R.E.U.- Residential Equivalency Unit: Term used to equate the approximate number of residences a commercial customers water usage will compare too.
- 1.2 Commercial User: Shall mean any user of the system other than a residential user, or buildings used primarily as a domicile.
- 1.3 Consumer: The person, or legal entity, served by or using water supplied by the Authority.
- 1.4 Cross Connection: Shall mean a connection or arrangement of piping or appurtenances through which water of questionable quality, wastes or other contaminants could possibly flow back into the water distribution system because of a reversal of flow.
- 1.5 Curb Box: A box or metal housing which encloses, protects and provides access to the curb stop.
- 1.6 Curb Stop: A valve for insertion in the service pipes, in size of three-fourths inch (3/4") to two inches (2") in diameter, inclusive, at or near the curb line.
- 1.7 Authority: Shall refer to the Big Creek-Mentor Utility Authority, a Michigan Municipal Corporation.
- 1.8 Authority Board: Shall mean the governing body of the Big Creek-Mentor Utility Authority.
- 1.9 Inspector: The Oscoda County plumbing inspector.
- 1.10 Lot: Shall mean a parcel of land occupied or intended to be occupied by a main building. A lot may or may not be specifically designated as such on public records.
- 1.11 Meter Pit: Any approved box or vault for the housing of a water meter.
- 1.12 Permit tee: A consumer or his agent receiving a permit from the Authority allowing a connection to be made to the water or sewer system.
- 1.13 Person: Shall mean any individual, firm, partnership, association, public or Private Corporation or public agency or instrumentality or any other entity receiving water and/or sewer service.
- 1.14 Premises: Shall mean each lot or parcel of land or building having any connection to the water and/or sewer system.
- 1.15 System: Shall mean the Public Water and/or sewer system.

- 1.16 Tap: The drilling and threading of an opening in a main for insertion of a corporation stop.
- 1.17 Water Connection: Shall mean the part of the Water Distribution System connecting the water main to a point terminating at a meter or meter pit or vault.

Section 3: Procedure

A. Application-

Any person, firm or corporation desiring public water or sewer service shall file an application therefore with the Big Creek-Mentor Utility Authority Board, containing the name and address of the applicant; a description of the land or premise to be serviced; the nature of the use anticipated for the water and the nature and/or type of waste to be discharged; the size of the water service connection pipes desired; the distance, if known, that the property is located from any existing public water or sewer main; the anticipated number of connections from the property contemplated in the foreseeable future; and whether the applicant wishes to pay in advance for the necessary water and/or sewer main extension or wishes to be included in a special assessment district for the payment of such cost over a limited period of years, together with interest and the administrative costs. Such application may take the form of a petition if several different persons are jointly interested in a particular project.

B. Special Assessment District-

In the event an applicant desires to proceed by installment payments and sufficient similar interest is disclosed on the application or petition by those property owners abutting the proposed water or sewer main, special assessment proceedings shall be instituted under Michigan Public Act 188 of 1954, as amended, (MSA Section 5.2770(51), etc.), to accomplish the requested project and if successful, the necessary system will be installed by the township following the completion of such proceedings and the obtaining of the necessary funds therefore.

C. Cash Deposit-

1. In the event an applicant desires to deposit with the township the total cost of the necessary project to furnish the requested water or sewer service, as determined the township board, the applicant may do so under a contract with the township, whereby the utility authority will supervise and/or construct the installation, in accordance with the design standards of the Big Creek-Mentor Utility Authority.

2. Any such contract may provide for reimbursement to the applicant of a portion of the project cost from connection charges collected by the utility authority from those connecting to the water or sewer main, who did not contribute to the initial cost thereof and are not the successors in title to any such contributor. Any such reimbursement shall be limited to a period of seven years following the completion of the project requested and any connections made thereafter shall not require any refund to the applicant. The amount of the connection charge shall be

in the discretion of the Big Creek-Mentor Utility Authority Board but should approximate the amount a connector would have paid on a benefit assessment basis, had his property been included in a water or sewer special assessment district created for the purpose of financing the project. The term "connection charge" as used in this ordinance pertains to a charge for the privilege of connecting premises to a water or sewer main and does not pertain to the construction cost of such connection.

3. The amount of refund, if any, to an applicant, per connection charge collected by the utility authority shall be specified in the contract with the applicant and shall be based upon a portion of the total project cost, computed on the cost per lineal foot of main installed; provided, however, that the total refund shall never be greater than the total cost of the project charged to the applicant.

4. No service connection nor main extension shall be allowed until the full charge has been paid to the Big Creek-Mentor Utility Authority in such an amount as is determined for each project by the utility authority board and the plumbing to be connected has been fully inspected and approved by the Oscoda County Building Department as in compliance with the building codes of the county. Such charges may be adjusted from time to time by the utility authority board to reflect changes in construction costs and to maintain a uniform charge between different current projects and special assessment districts. The Big Creek-Mentor Utility Authority reserves the right to install any required service connection or main extension, to subcontract the same to any private licensed contractor, or to permit the owner or owner's contractor to construct the same, provided that in such latter event, an inspection and supervision fee shall be paid by the applicant to the utility authority.

5. Any contract with an applicant shall contain, in addition to the foregoing the following:

- a. A description of the district within which extensions or connections may be made to the system, entitling the applicant to a refund of a portion of their initial project cost.
- b. A map disclosing the design of the system and the location of the mains, valves, fittings and all other accessories thereto which are to be installed.
- c. A description of the area if any, within which no connection charges are to be made by the utility authority and no refunds are to be made by the applicant.
- d. The amount and condition of any performance bond which shall be required in the event the installation is to be made by any one other than the utility authority, said performance bond shall be 150% of the total cost of the installation. All work shall be performed in a proper and workman like manner in accordance with the plans and specifications of the utility authority. The contractor shall provide satisfactory evidence of the fact the project is free of present and future liens of contractors, subcontractors and material men prior to the release of any performance bond which shall not be released prior to the expiration of 90 days from the final completion of work or supply of materials.

- e. The amount and condition of any public liability and property damage insurance which shall be required to insure the townships and utility authority in the event the installation is to be made any one other than the utility authority, which shall be not less than \$300,000 and \$500,000 respectively.
- f. The amount, if any, to be paid to the utility authority for administrative, legal and engineering cost or for the value of the availability of the water or sewer to which the property of the applicant is to be connected.

Section 4 Regulations

A. Sewer and water rates-

No free public sewer and water service shall be allowed and all those properties connected to a public water or sewer system shall be subject to the payment of such water and/or sewer rates and charges as shall be determined by the utility authority board.

B. Termination of service-

The utility authority shall have the right to terminate any water or sewer service to any premises within the utility authority when any delinquency exists with respect to any sewer or water payments due under this ordinance or otherwise, or where any premises does not comply with all the plumbing codes of the county and with any and all restrictions and limitations on the use of the particular water or sewer service imposed by the utility authority board.

C. Lien Rights-

All delinquent rates and charges for water and/or sewer service shall constitute a lien upon the premises served which shall be subject to foreclosure in the same manner as construction liens for non-payment, or after six months' delinquency, may be certified to the supervisor and assessing officer of the township annually, on or before March 1st of each year and entered by him upon the next tax roll against the property served, for collection in the same manner as the collection of taxes.

D. Turn On-

No person other than an authorized employee of the utility authority shall turn on or off any water service to any public or private premises at the curb box connection of said premises to the water main.

E. Water Meters-

All premises connected to a public water system shall be equipped with a public water meter, so located that all water entering the premises shall pass through such meter and be measured as to volume consumed for periodic computation of water and/or sewer charges.

F. Surplus Funds-

Any surplus funds collected from water or sewer service or from capital improvements or extensions thereto shall be deposited into a water and sewer improvement revolving fund of the Big Creek-Mentor Utility Authority for use in further extending, improving, repairing, relocating and/or financing the public

water and/or sewer systems of the authority and/or repaying Big Creek and Mentor Townships for funds provided to the authority for operation and start up.

G. Unreasonable burden of sewage-

In the event any sewage discharged into the system imposes an unreasonable or additional burden upon the sewer system or the public primary or secondary treatment plants treating such sewage above that imposed by the average sewage entering such treatment plants the township shall have the option to impose an additional charge for such treatment against such customer to defray the additional cost of such treatment and any damage caused thereby; to require the customer to pre treat such sewage in such manner as the township may order before the same enters the public system; and to terminate sewer service to any premises which fails to comply with the foregoing.

H. Time Element-

Any premises within 200 feet of a public sewer main requiring sewage disposal service, shall be connected to the abutting sewer system within three years following the installation of said system or at such earlier time as the private sewage disposal system serving the premises requires replacement, a new field, new dry well, or new septic tank. Waste water and sewage disposal facilities in all buildings hereafter constructed shall be connected to the public sewer system if sewer mains are located in the abutting street at the boundaries of the site at the time of construction. New plats and subdivisions shall be developed with public water and/or sewer mains at the time of street construction if public water and/or sewer service is available at or near the boundaries of the plat or subdivision. The township board shall have the right to determine whether the service is sufficiently near to require such public service main installation.

I. Cross Connections-

No cross connections between any private water system and the township water system shall be allowed and no plumbing shall, at any time, be connected to the public system, which is in any manner connected or a part of any private system.

J. Water Service Connections-

1. General: where in the determination of the BCMUA board, public water service is reasonably available to a particular building in which water service is required, no new private wells shall be drilled to provide such water supply and such buildings shall be connected to the public water system, either at the time of construction, when the existing private well, if any, requires re-drilling, or at any time, in the determination of the District #2 Health Department, a health hazard exists or is fairly imminent from the existing water supply.
2. Size and Installation: All water service connections from the public transmission main to the required water meter shall not be less than 1 inch in size and shall be installed by the BCMUA which public highways exist and/or are disturbed by the construction and shall be installed at the expense of the property owner, computed to the center of the abutting highway. All such water service connections required by any customer to

- be in excess of 1 inch in size shall be installed and furnished by said authority at the full expense of the customer requiring the same.
3. Under-Road Connections: In all residential subdivision developments hereafter commenced or extended where, in the determination of the township board, public water service is reasonably available and therefore required, one service connection of not less than 1 inch in size shall be installed under the abutting right of way to the center of each lot or building site fronting on the opposite side of such right of way and terminating in the right of way, not more than seven feet from the property line.
4. Use of flush hydrants: No flush hydrant shall be used for any purpose other than fire protection without the prior approval of the utility authority.
- K. Plans and permits- No public water or sewer main construction shall be commenced until all plans and specifications therefore have been submitted to and approved by the utility authority and all required state, county and municipal permits have been obtained.
- L. District health department certificate- No public water mains shall be made or become operational until the water flowing there from has been certified as safe and free of any harmful contamination by the district health department and a written certificate attesting thereto is on file with the utility authority.
- M. Preliminary deposit- All applications for public water or sewer service other than by petition for a special assessment district, requiring preliminary engineering analysis, review, and plans, shall be accompanied by a cash deposit with the authority in such amount as shall be determined by the utility authority board to be sufficient to cover the foregoing engineering work necessary to develop preliminary cost estimates for the proposed project.
- N. Printed regulations- The utility authority board shall adopt and prepare for distribution to interested parties, separate rules and regulations governing the details of application, service connections, extensions, financing of improvements, and rates and charges for both public water and sewer service and shall have the authority to modify, enlarge, and amend the same from time to time to meet changing conditions and circumstances and to promote the health, safety, and general welfare of the township.
- O. Utility Board- The Big Creek-Mentor Utility Authority will have authority to decide all questions which might arise in the interpretation, enforcement, and application of the within ordinance and to grant variances from the requirements thereof where, in its opinion, the health, safety, and general welfare of the township would not be thereby impaired and the spirit and purposes of the within ordinance would continue to be served.

SECTION 5: PENALTY

Any violation of the provisions of this ordinance shall constitute a misdemeanor, punishable by a fine of up to \$100 and/or imprisonment in the county jail for up to 90 days. Each day that a violation continues to exist shall constitute a separate offense. The foregoing fines and penalties shall be in addition to the right of termination of public water and/or sewer service to a violator and the right to obtain injunctive relief in a court of law.

SECTION 6 SAVING CLAUSE: In any section, paragraph, clause or provision of this ordinance shall be held invalid for any reason, the same shall not affect the validity of any of the other provisions of this ordinance, which shall remain in full force and effect.

SECTION 7 EFFECTIVE DATE: This ordinance shall take immediate effect. All ordinances in conflict are hereby repealed.

Section 3: Appointments and Terms

The township supervisor, with the approval of the township board by a majority vote of the members elected and serving, shall appoint all planning commission members, including the ex officio member.

The planning commission members, other than an ex officio member, shall serve for terms of 3 years each.

A planning commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.

Planning commission members shall be qualified electors of the township, except that one planning commission member may be an individual who is not a qualified elector of the township. The membership of the planning commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the township, in accordance with the major interests as they exist in the township, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the township to the extent practicable.

One member of the township board shall be appointed to the planning commission as an ex officio member.

An ex officio member has full voting rights. An ex officio member's term on the planning commission shall expire with his or her term on the township board.

No other elected officer or employee of the township is eligible to be a member of the planning commission.

Section 4: Removal

The township board may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

Section 5: Conflict of Interest

Before casting a vote on a matter on which a planning commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. Failure of a member to disclose a potential conflict of interest as required by this ordinance constitutes malfeasance in office.

For the purposes of this section, conflict of interest is defined as, and a planning commission member shall declare a conflict of interest and abstain from participating in planning commission deliberations and voting on a request, when:

(a) An immediate family member is involved in any request for which the planning commission is asked to make a decision. "Immediate family member" is defined as (*see note below*);

MCL 211.28: *A spouse, mother, father, sister, brother, son, or daughter, including an adopted child.*

(b) The planning commission member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant's company, agency or association;

(c) The planning commission member owns or has a financial interest in neighboring property;

For the purposes of this section, a neighboring property shall include any property immediately adjoining the property involved in the request

(d) There is a reasonable appearance of a conflict of interest, as determined by a majority vote of the remaining members of the planning commission.

Section 6: Compensation

The planning commission members may be compensated for their services as provided by township board resolution. The planning commission may adopt bylaws relative to compensation and expenses of its members for travel when engaged in the performance of activities authorized by the township board, including, but not limited to, attendance at conferences, workshops, educational and training programs and meetings.

Section 7: Officers and Committees

The planning commission shall elect a chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. An ex officio member of the planning commission is not eligible to serve as chairperson. The term of each office shall be 1 year, with opportunity for reelection as specified in the planning commission bylaws.

The planning commission may also appoint advisory committees whose members are not members of the planning commission.

Section 8: Bylaws, Meetings and Records

The planning commission shall adopt bylaws for the transaction of business.

The planning commission shall hold at least 4 regular meetings each year, and shall by resolution determine the time and place of the meetings.

Unless otherwise provided in the planning commission's bylaws, a special meeting of the planning commission may be called by the chairperson or by 2 other members, upon written request to the secretary. Unless the bylaws otherwise provide, the secretary shall send written notice of a special meeting to planning commission members at least 48 hours before the meeting.

The business that the planning commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, MCL 15.261, et seq.

The planning commission shall keep a public record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used, in the possession of, or retained by a planning commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Section 9: Annual Report

The planning commission shall make an annual written report to the township board concerning its operations and the status of the planning activities, including recommendations regarding actions by the township board related to planning and development.

Section 10: Authority to Make Master Plan

Under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801, et seq., and other applicable planning statutes, the planning commission shall make a master plan as a guide for development within the township's planning jurisdiction.

Final authority to approve a master plan or any amendments thereto shall rest with the planning commission unless the township board passes a resolution asserting the right to approve or reject the master plan.

Section 11: Zoning Powers

The township board hereby confirms the transfer of all powers, duties, and responsibilities provided for zoning boards or zoning commissions by the former Township Zoning Act, Public Act 184 of 1943, MCL 125.271, et seq.; the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101, et seq.; or other applicable zoning statutes to the MENTOR Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq.,

Any existing zoning ordinance shall remain in full force and effect except as otherwise amended or repealed by the township board.

Section 12: Capital Improvements Program

Planning commission adopts capital improvements plans:

To further the desirable future development of the Township under the master plan, the Planning Commission, after the master plan is adopted, shall annually prepare a capital improvements program of public structures and improvements, showing those structures and improvements in general order of their priority, for the following 6-year period.

Section 13: Severability

The provisions of this ordinance are hereby declared to be severable, and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the ordinance, which shall continue in full force and effect.

Section 14: Repeal

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. The resolution or ordinance establishing the MENTOR Township Planning Commission under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., is hereby repealed.

Section 15: Effective Date

This ordinance shall take effect on the date of its publication.

CERTIFICATE

The undersigned, as the duly elected and acting clerk of the township, hereby certifies that this ordinance was duly adopted by the township board at a regular meeting of said board, at which a quorum was present, held on _____, and that copies of the ordinance were transmitted and published as directed.

Township Clerk

Township Supervisor