

**TOWNSHIP OF HOWELL ORDINANCE NO. 238**

**UTILITY ORDINANCE**

**AN ORDINANCE TO PROVIDE FOR THE COMBINATION OF THE TOWNSHIP'S WATER SUPPLY AND WASTEWATER COLLECTION AND TREATMENT SYSTEMS AS PERMITTED BY ACT 94, PUBLIC ACTS OF MICHIGAN, 1933, AS AMENDED; TO PROVIDE FOR THE CALCULATION OF ADDITIONAL CONNECTION FEES AND CREDITS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE COMBINED SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE SYSTEM.**

This Ordinance amends the Wastewater Collection and Treatment System Ordinance, Ordinance No. 21 effective June 30, 1989 as previously amended by Ordinance No. 169, Effective January 1, 2004, and the Water Use and Rate Ordinance, Ordinance No. 181, effective December 20, 2004.

**THE TOWNSHIP OF HOWELL, LIVINGSTON COUNTY, MICHIGAN ORDAINS:**

**SECTION 1. Title.**

This Ordinance shall be known as the Howell Township Combined Water Supply and Wastewater Collection and Treatment System Ordinance.

**SECTION 2. Definitions.**

As set forth in this Ordinance the following terms shall have the meanings described in this Section unless the context specifically indicates different meaning.

1. "Act 94" means Act 94, Public Acts of Michigan, 1933, as amended.
2. "Ordinance No. 21" means Ordinance No. 21 effective June 30, 1989 as previously amended by Ordinance No. 169, Effective January 1, 2004 providing for the operation and maintenance of the wastewater collection and treatment portion of the System.
3. "Ordinance No. 181" means Ordinance No. 181 effective December 20, 2004 providing for the operation and maintenance of the water supply portion of the System.
4. "System" means the complete water supply and wastewater collection and treatment system of the Township, both inside and outside the Township, including all plants, works, instrumentalities and properties, used or useful in connection therewith, and all additions, extensions and improvements hereafter acquired.

**SECTION 3. Purpose and Necessity.**

It is hereby determined to be necessary and in the best interest of the Township, and it is the purpose of this Ordinance, to combine the existing Howell Township Water Supply System and the Howell Township Wastewater Collection and Treatment System into a combined system as permitted under the provisions of Act 94, and thereby promote the public health, safety, and welfare of the citizens of Howell Township.

**SECTION 4. Combination of Systems.**

Effective July 1,2010, the Wastewater Collection and Treatment System operated under Ordinance No. 21 and the Water Supply System operated under Ordinance No. 181 shall be operated under a combined basis as provided by this Ordinance. All provisions of Ordinance No. 21 and Ordinance No. 181 which are not amended by this Ordinance shall remain in full force and effect.

**SECTION 5. Rates and Charges.**

The rates to be charged for service furnished by the System and the methods of collection and enforcement of the collection of the rates shall be those rates in effect on the date of adoption of this Ordinance.

**SECTION 6. Connection Fee.**

In addition to the existing Charges and Rates for Water Supply and Wastewater Collection and Treatment services provided under Ordinance No. 181 and Ordinance No. 21, the following connection fee shall be paid for each single family residential premises or single family Residential Equivalent (RE) connecting to the System at the time of application for the connection permit:

For the privilege of connecting to the System, a Connection Fee in an amount determined by the Township Board that is equal to the total principal and interest payable pursuant to a special assessment for System improvements applicable to the RED for the property being connected. Any property which has not been specially assessed for System improvements shall not be subject to this section. The Township Board shall determine the Connection Fee for each special assessment district heretofore or hereafter created and the Connection Fee shall only be applicable to new connections to the System made after the effective date of this amendment. The Connection Fee shall be reduced by an amount equal to any payments received by the Township pursuant to a special assessment on the property to be connected other than payments received by Livingston County, or the Township's general fund or enterprise funds. The Connection Fee shall be due and payable in cash prior to connection to the System unless other terms are agreed to by the property owner and the Township Board and approved in writing. Payments of the Connection Fee shall result in an equal credit being applied against any unpaid special assessment on the property to be connected.

The Connection Fee under this section may be prepaid at any time, in whole or in part, by paying an amount equal to the outstanding principal balance of the RED special assessment together with any unpaid principal and interest. No credit

shall be given for any payments received by Livingston County, or the Township's general fund or enterprise funds. Any prepayment made under this section shall be deemed to have fully satisfied the payment obligation for the RED special assessment.

Examples of Calculation of Connection Fee are attached to this Ordinance as Exhibit A.

**SECTION 7. Fixing and Revising Rates and Charges; Rate Covenant.**

The rates and charges now in effect or levied under this Ordinance are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, to provide for the payment of the principal of and interest on the debt incurred to acquire and construct the System as the debt becomes due and payable, and to provide for all other obligations, expenditures and funds for the System required by law and this Ordinance. The rates and charges shall be fixed and revised from time to time as may be necessary to produce these amounts, and it is hereby covenanted and agreed to fix and maintain rates and charges for services furnished by the System at all times sufficient to provide for the foregoing.

**SECTION 8. No Free Service or Use.**

No free service or use of the System, or service or use of the System at less than cost, shall be furnished by the System to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the Township.

**SECTION 9. Management; Fiscal Year.**

The operation, repair and management of the System shall continue to be under the supervision and control of the Township Board. The Township 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. The Township Board may make such additional rules and regulations as it deems advisable and necessary to assure the efficient management and operation of the System.

The Fiscal Year for the System shall commence on July 1 of each year and end on the last day of June of the following year, concurrent with the Fiscal Year of the Township. If the fiscal year of the Township is changed then the Fiscal Year for the System shall be changed so that it is concurrent with the Fiscal Year of the Township.

**SECTION 10. Budget.**

Prior to the beginning of each Fiscal Year, the Township shall prepare an annual budget for the System for the ensuing Fiscal Year.

**SECTION 11. Records and Audits.**

The Township shall maintain the Receiving Fund and all accounts and funds of the System as an enterprise fund within the books and accounts of the Township.

The Township shall cause an annual audit of such books and records and accounts of the preceding operating year to be made by a recognized independent certified public accountant and will make such audit available to the public upon proper request.

**SECTION 12. Funds and Accounts; Flow of Funds.**

**RECEIVING FUND:** Commencing on the date of combination of systems as provided in Section 4 of this Ordinance, all funds belonging to the prior Water Supply System and the prior Wastewater Collection and Treatment System shall belong to the combined System created under this Ordinance and shall be transferred as herein indicated, and all Revenues of the System shall be set aside as collected and credited to a separate depository account to be designated as the WATER SUPPLY AND WASTEWATER COLLECTION AND TREATMENT SYSTEM RECEIVING FUND (the "Receiving Fund"). In addition, on the effective date of this Ordinance, all Revenues in any accounts of the prior systems shall be transferred to the Receiving Fund and credited to the funds and accounts as provided in this section. The Revenues credited to the Receiving Fund are pledged for the purpose of the following funds and shall be transferred or debited from the Receiving Fund periodically in the manner, at the times, and in the order of priority hereinafter specified, provided that no transfer shall be required to be made to a fund on any date if the amount on deposit in the fund is sufficient to meet the requirements of this Ordinance.

**A. OPERATION AND MAINTENANCE ACCOUNT:**

There shall next be established and maintained a separate account designated as the OPERATION AND MAINTENANCE ACCOUNT (the "Operation and Maintenance Account"). Out of the Revenues credited to the Receiving Fund there shall be first set aside in the Operation and Maintenance Account the amounts necessary to provide for the payment of 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. REVENUE BOND AND INTEREST REDEMPTION ACCOUNT:**

In the event the Township issues Revenue Bonds pursuant to Act 94 which are payable from a statutory first lien on the Net Revenues, there shall be established and maintained a separate depository account designated as the REVENUE BOND AND INTEREST REDEMPTION ACCOUNT (the "Revenue Bond Redemption Account"), the moneys on deposit therein from time to time to be used solely for the purpose of paying the principal of, redemption premiums (if any) and interest on the Revenue Bonds.

Out of the Revenues remaining in the Receiving Fund after provision for the Operation and Maintenance Account, there shall be set aside in the Revenue Bond Redemption Account prior to each date principal or interest on the Revenue Bonds is due, the amount necessary to provide for the payment when due of the principal of and interest on the Revenue Bonds, including any amounts necessary to maintain any Revenue Bond Reserve Account established within the Revenue Bond Redemption Account by the ordinance authorizing issuance of Revenue Bonds.

**C. GENERAL OBLIGATION BOND PAYMENT ACCOUNT:**

There shall next be established an account designated the GENERAL OBLIGATION BOND PAYMENT ACCOUNT (the "General Obligation Bond Payment Account") the money credited thereto to be used solely for payment of principal of, interest and premium, if any, on any general obligation bonds, special assessment bonds which are also a general obligation of the Township, contract bonds issued by Livingston County on behalf of the Township and secured by a contractual general obligation pledge of the Township, and any other general obligation bonds issued by or on behalf of the Township for improvements to the System (collectively "General Obligation Bonds"). Out of the Revenues remaining in the Receiving Fund after meeting the requirements of the Operation and Maintenance Account and the Revenue Bond Redemption Account, there shall be next set aside in, or credited to, the General Obligation Bond Payment Account, amounts which shall be proportionately sufficient, after taking into account any separate funds of the Township on hand and specifically designated for payment of debt service on the General Obligation Bonds, to provide for payment of principal, interest and premiums, if any, on any General Obligation Bonds as the same become due. Amounts in the General Obligation Bond Payment Account shall be withdrawn as necessary to pay the principal of and interest and premium, if any, on any General Obligation Bonds as the same become due.

No further payments need be made into the General Obligation Bond Payment Account after enough of the principal installments of the General Obligation Bond have been retired so that the amount then held in the General Obligation Bond Payment Account (including the Bond Reserve Account, if any), is equal to the entire amount of principal and interest to become payable at the time of maturity of all the principal installments of the General Obligation Bonds then remaining outstanding.

The moneys in the General Obligation Bond Payment Account and the Bond Reserve Account shall be invested in accordance with this Ordinance, and profit realized or income earned on such investment shall be used or transferred as provided in this Ordinance.

After payment in full of the bonds being paid from the General Obligation Bond Payment Account, any moneys remaining in the General Obligation Bond Payment Account may, at the discretion of the Township, be transferred to the Replacement and Improvement Account or used for any other purpose permitted by law.

**D. REPLACEMENT AND IMPROVEMENT ACCOUNT:**

There shall next be established and maintained a separate depository account designated the REPLACEMENT AND IMPROVEMENT ACCOUNT (the "Replacement and Improvement Account") which account may have several subaccounts therein, the money credited thereto to be used solely for the purpose of making repairs and improvements to the System and for additions, improvements, enlargements or extensions to the System, including the planning thereof. Out of the Revenues and moneys of the System remaining in the Receiving Fund each month after provision has been made for the deposit of moneys in the Operation and Maintenance Account, the Revenue Bond Redemption Account, and the General Obligation Bond Payment Account, there may be deposited in the Replacement and Improvement Account such additional funds as the Board may deem advisable.

**E. SURPLUS MONEYS:**

Thereafter, any Revenues in the Receiving Fund after satisfying all the foregoing requirements of this section may, at the discretion of the Township, be transferred to the Replacement and Improvement Account or used for the purchase of General Obligation or Revenue Bonds on the open market at not more than the fair market value thereof or used to redeem such bonds prior to maturity or to reimburse the Township for funds expended for System expenses from its general fund or other funds of the Township.

**SECTION 13. Priority of Funds.**

In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Account, the Revenue Bond Redemption Account, and the General Obligation Bond Payment Account, any moneys or securities in other funds of the System shall be credited or transferred, first, to the Operation and Maintenance Account, second to the Revenue Bond Redemption Account, and third to the General Obligation Bond Payment Account.

**SECTION 14. Depositary and Funds on Hand.**

Moneys in the several funds and the accounts established pursuant to this Ordinance, except moneys in the Revenue Bond Redemption Account, and the General Obligation Bond Payment Account may be kept in one or more bank accounts at a bank or banks designated by resolution of the Township, and if kept in one bank account the moneys shall be allocated on the books and records of the Township in the manner and at the times provided in this Ordinance.

**SECTION 15. Investments.**

Moneys in the funds and accounts established herein may be invested by the Township in any investments permitted by law. In the event investments are made, any securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds or account from which the purchase was made.

**SECTION 16. Insurance.**

The Township must maintain and carry incurrence on all physical properties of the System, of a kind and in the amounts normally carried by public utility companies and municipalities engaged in the operation of water supply and wastewater collection and treatment systems. All money received from losses under such insurance policy must be applied solely to the replacement and restoration of the damaged or destroyed property.

**SECTION 17. Specific Ordinance Sections Repealed.**

Section 7 of Ordinance No. 181 is hereby specifically repealed as of the effective date of this Ordinance.

Section 10 of Ordinance No. 21 is hereby specifically repealed as of the effective date of this Ordinance.

**SECTION 18. Effective Provisions of Prior Ordinances.**

All provisions of Ordinance No. 181, and all provisions of Ordinance No. 21 as previously amended by Ordinance No. 169 which are not amended by this Ordinance shall remain in full force and effect.

**SECTION 19. Conflicts or Repealer.**

All ordinances or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed. If a part or parts of this ordinance are for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of remaining portion of this Ordinance.

**SECTION 20. Severability.**

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 21. Publication.**

In accordance with the prOVISIONs of Section 6 of Act 94, this Ordinance shall be published once in full in the *Livingston County Daily Press & Argus*, a newspaper of general circulation in the Township qualified under State of Michigan law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the Township and filed with the County Clerk, and such recording authenticated by the signatures of the Supervisor of the Board and the Township Clerk.

**SECTION 22. Effective Date.**

This Ordinance shall become effective on July 1,2010.

I HEREBY CERTIFY that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of the Township of Howell, Livingston County, State of Michigan, at a regular meeting held on the 28th day of June, 2010, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that the following Members were present at said meeting: Coddington, Eaton, Hammond, Phelan, Hubbel, and Howard and that the following Members were absent: Henry.

I further certify that Member Hammond moved for adoption of said Ordinance, and that said motion was supported by Member Phelan.

I further certify that the following Members voted for adoption of said Ordinance: Coddington, Eaton, Howard, Hubbel, Hammond, Phelan and that the following Members voted against adoption of said Ordinance: none.

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signatures of the Supervisor and the Township Clerk.



EXHIBIT A

Examples of Calculation of Connection Fee

The following are examples of calculation of the Connection Fee under Section 6 of this Ordinance.

Assumptions: Property specially assessed in the amount of \$15,000 at the rate of interest 6% per annum on the special assessment roll; equal principal installments due in the amount of \$1,000 per year for fifteen (15) years.

Example 1. No special assessment payments are made on the property for the First five (5) years. Prior to the sixth installment due date, the property owner Seeks to connect to the System. The Connection Fee is calculated as follows:

Connection Fee pursuant to this section:

Outstanding principal balance of REU special assessment:	\$10,000
Unpaid principal balance of REU special assessment:	5,000
Unpaid interest on REU special assessment:	3,750

Connection Fee Due: \$18,750

Example 2. No special assessment payments are made on the property for the first ten (10) years. Prior to the eleventh installment due date, the property owner seeks to connect to the System. The Connection Fee is calculated as follows:

Connection Fee pursuant to this section:

Outstanding principal balance of REU special assessment:	\$ 5,000
Unpaid principal balance of REU special assessment:	10,000
Unpaid interest on REU special assessment:	6,150

Connection Fee Due: \$21,150

Example 3. No special assessment payments are made on the property for life Of fifteen-year special assessment. In year sixteen, the property owner seeks to connect to the System. The Connection Fee is calculated as follows:

Connection Fee pursuant to this section:

Outstanding principal balance of REU special assessment:	\$ 0
Unpaid principal balance of REU special assessment:	15,000
Unpaid interest on REU special assessment:	7,050

Connection Fee Due; \$22,050