

East Bay Charter Township

#14

Sue Courtade

From: Butch [butchs@charter.net]
Sent: Tuesday, September 01, 2009 9:02 AM
To: Glen Lile; Bryan Marrow; Matt Courtade; Sue Courtade; Tracey Bartlett; BSOUSA@WadeTrim.com
Subject: RE: Ordinance 109

In the beginning I was in favor of this ordinance. Since then I have come to the conclusion that this is to get people to hook up to increase our income. The beginning paragraph talks about the health hazard of septic systems. This I agree with but the water issue does not present the same contamination hazard. After talking to our local officials there has not been a contamination issue from a residential well that they can recall. The contamination comes from onsite waste water systems if not properly maintained and from under ground tanks that leak containing hazardous materials.

One of the other concerns is water usage that is faster than the regeneration of the aquifer. The water aquifer will only regenerate at a certain rate. The soils that the water flows through are one determining factor for this rate. Some communities in the south have experienced a shortage of water in their wells. We do not have this problem in our area.

I believe that the only logical conclusion for approving this ordinance is to increase the hook ups to the system for financial reasons.

The state has a rule that requires a residence to hook up to the sewer and we follow this rule.

From: Glen Lile [mailto:glile@eastbaytwp.org]
Sent: Tuesday, August 25, 2009 4:41 PM
To: Bryan Marrow; Butch Strait; Matt Courtade; Sue Courtade; Tracey Bartlett
Subject: FW: Ordinance 109

Here is Brian's input. Please give your feedback.

Thank You
Glen

From: Sousa, Brian C. [mailto:BSOUSA@WadeTrim.com]
Sent: Tuesday, August 25, 2009 2:00 PM
To: Glen Lile; 'jyoung@upnorthlaw.com'
Subject: Ordinance 109

Attached is the draft Ordinance 109 as recently amended by Jim. I had Lauri adjust the formatting and I added some language on how the 200-foot measurement would be measured. I also made some other minor changes. I am sending this in the "track changes" mode so you both can see the changes that were made.

One change to note was that I added some language under Section 4.A.3 stating that hook-ups for industrial, commercial etc. lots with the utility in front of their business had to connect within 10 years of the adoption of the **original Ordinance 109**. I didn't want to add another 10 years onto the timeframe of connection if the language was left to say "connection must be made within 10 years of the adoption of **this ordinance**" Maybe this is splitting hairs, but I wanted to make it clear...

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Ordinance No. 109

EAST BAY CHARTER TOWNSHIP

An ordinance to regulate the extension of public water and wastewater services in the Charter Township of East Bay; to establish limits on the extension of public water and wastewater services; to establish policies governing the payment for the installation of public water and wastewater services; to regulate the installation of on-site water and wastewater systems; and to establish penalties for violations of the Ordinance.

The Charter Township of East Bay Ordains:

Section 1. Findings of Fact, Purpose, and Intent.

The Township finds that East Bay Charter Township is facing rapid residential growth as documented in the Township's Comprehensive Plan. It is the policy of the Township to preserve its rural agricultural and recreational character and protect the precious natural features of the community including surface waters and ground waters. Without public utilities, much of the anticipated residential growth will occur in relatively low densities in rural areas consuming valued agricultural and woodlands, and potentially impacting the Township's natural features and rural character. Therefore, if public utilities are not available, the anticipated growth will erode and diminish the unique character of the community in a manner that is directly counter to the goals and objectives of the Comprehensive Plan.

Furthermore, the Township finds that low density patterns of development that promote the use of on-site septic tank disposal systems and individual wells carry the increased potential for pollution and contamination of ground water and surface waters. On-site septic tank disposal systems are subject to failure due to soil conditions or other reasons. Failure of potential failure of on-site systems poses a threat to the public health, safety and welfare; presents a potential for ill health, transmission of disease, mortality and economic blight; and constitutes a threat to the quality of surface and ground waters in the Township. Since public sanitary sewer systems and public water systems overcome this problem and are, therefore, essential to the health, safety and welfare of the people of the Township, it shall be the policy of the Township to encourage growth and development to occur where connection to public water and wastewater systems is feasible.

Furthermore, the Township finds that growth and development can be best managed in rational and sequential patterns that make use of existing public water and wastewater systems and roadways. In addition, such development is best located in proximity to existing and planned private investment in supporting patterns of development.

Therefore, to the greatest extent feasible, it is the purpose of this ordinance to use the public water and wastewater systems to guide the growth and development to areas of the Township planned for such growth.

Section 2. Definitions.

For the purposes of the Ordinance, the following definitions shall apply:

A. Abut: Used in connection with location of existing public utilities or a future extension thereof, the term "abut" shall mean any of the following:

1. To touch either at a point or along a common boundary; or

4.2. To be located within an area enclosed by the extension of the parcel's side lot lines into:

(a) An adjoining easement of any kind, or dedicated or non-dedicated public or private road right of way; or,

(b) An easement of any kind that is contiguous with and adjoining easement of any kind, or dedicated road right-of-way, or non-dedicated public or private road right-of-way.

B. Common Wastewater System: A privately-developed and publicly-owned wastewater collection and treatment system serving two or more land uses, designed, permitted, constructed and operated in accord with the requirements of the Grand Traverse County Health Department and/or the Michigan Department of Environmental Quality.

C. Common Water System: A privately-developed and publicly-owned water supply, treatment and distribution system serving two or more land uses, designed, permitted constructed and operated in accord with the requirements of the Grand Traverse County Health Department and/or the Michigan Department of Public Health and the Department of Environmental Quality and/or the Grand Traverse County Metro Fire Department.

D. Comprehensive Plan: The Comprehensive Plan of East Bay Charter Township as amended from time to time in accord with Act of the Public Acts of 1959, as amended. The Comprehensive Plan may also be referred to as the "Master Plan."

E. Growth Boundary: An established boundary reflected in Map 21 of the East Bay Charter Township Comprehensive Plan.

- F. Officially available for service:** Shall mean that point in time when a public water system or a public wastewater system is completed and has been approved for operation by the Township Engineer and any County or State regulatory agencies applicable.
- G. On-site Systems:** Conventional septic tank and drainfield systems or approved alternative systems and properly permitted individual potable water wells serving not more than one (1) use per system.
- H. Public Utilities:** The water system owned and maintained by East Bay Charter Township or any successor entity or authority established by, or in conjunction with the Township; and the public wastewater collection and treatment system owned and maintained by East Bay Charter Township or any successor entity or agency established by or in conjunction with East Bay Charter Township.
- I. Road:** Any existing or planned publicly controlled and dedicated or privately held vehicular access way, used or intended to be used for access to public or private lands and/or for the conveyance of traffic.
- J. Service Lead:** A pipe or other conveyance located on private property used to connect improvements on said private property to public utility systems.
- K. Qualified Agricultural Parcel:** A parcel of property that is zoned as "Agricultural-Rural (AG)" or any successor designation in the East Bay Charter Township Zoning Ordinance for land used for traditional agricultural activities where more than 50% of the surface area of the parcel is used for agricultural production for "farm products" as defined in Act 93 of 1981 as amended (the Right To Farm Act), however but "farm products" shall not include hay production unless all of the hay is used as a feed crop or sold as the same.

Section 3. Growth Boundary.

There is hereby established a growth boundary as reflected in the Future Land Use Map (Map 21) set forth in the East Bay Charter Township Comprehensive Plan. It is the purpose of the Ordinance to promote efficient and aesthetic growth to the north and west of this growth boundary, while seeking to promote conservation of natural features and rural character outside the boundary. Within the growth boundary, it is the policy of the Township to encourage the extension of public utilities to enable higher density residential and commercial and industrial growth to occur. Such extensions of public utilities shall be undertaken in accord with the provisions of this Ordinance. It is not the purpose of this Ordinance to prevent some growth and development outside of the growth boundary, but such development outside the growth boundary shall be

undertaken in accord with the East Bay Township Comprehensive Plan, the East Bay Charter Township Zoning Ordinance, and the requirements of this Ordinance.

Section 4. Public Utility Connections and Extensions. The following provisions shall govern connections to the public utilities of East Bay Charter Township:

A. Lands to the North and West of the Growth Boundary.

- 1. Except as provided below, lots or parcels used for an existing single-family home that abuts existing public utilities or a future extension thereof shall be connected to such systems if the existing on-site water well or septic system fails to function such that:

- (a) a new water well or septic system vault or drainfield must be installed to serve the single family home

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and

- (b) the distance from the public utilities to the nearest property line is 200 feet or less as measured in a straight line for service leads or along the Right-of-Way (or offered easement) for water or sewer main installation.

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Lots or parcels used for a single-family home that are greater than 200 feet from a public utility may connect to the then existing public utilities or they may seek to replace the on-site systems, if permitted by the Grand Traverse County Health Department. Provided, however, that nothing in this ordinance shall be deemed to prevent the voluntary connection of such existing lots or parcels used for detached, single-family housing to the existing public utilities or any further extensions thereof.

- 2. A Qualified Agricultural Parcel on which an existing one-family home is located that abuts existing public utilities or a future extension thereof shall be connected to such systems if:

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- (a) a new water well or septic system vault or drainfield must be installed for the single family home and

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- (b) the distance from the public utilities to the single family home is 200 feet or less as measured in a straight line for service leads or along the Right-of-Way (or offered easement) for water or sewer main installation.

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Nothing in this Ordinance shall prohibit the installation of a private water well on a Qualified Agricultural Parcel when the private water well is used only for the production of farm products.

3. Existing lots or parcels used for commercial, institutional or industrial purposes, or for two (2) or more attached residential units, either exclusively or in combination with other uses, as of the adoption of this Ordinance, and abutting the existing public utility systems shall be connected to said public utility systems within ten (10) years of the original adoption date of ordinance 109. ~~adoption of this ordinance.~~

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4. Existing lots or parcels used for commercial, institutional or industrial purposes, or for two (2) or more attached residential units, either exclusively or in combination with other uses, as of the adoption of the Ordinance, and abutting a future extension of the public utility systems shall be connected to said public utility systems within eighteen (18) months of the date when the public utility systems are officially available for service.

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5. Except as provided in ~~subparagraphs 6 and 7~~ hereof, new development of any kind and any land division resulting in five (5) or more parcels, initiated subsequent to the adopting of this Ordinance shall be connected to public utilities in accord within paragraph.

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(a) If any portion of the then existing public utility system is located within one-half mile (2,640 feet) of any portion of the property to be developed, said public utilities shall be extended to serve the new development. For the purposes of this Ordinance, such one-half mile distance shall be measured along the road right-of-way from the nearest portion of the then existing public utilities. Provided, however, if any portion of the then existing public utility system abuts a parcel with a contiguous boundary with the property to be developed, said public utilities shall be extended to serve the new development, regardless of the distance measured along the road right-of-way.

(b) The cost to extend public utilities shall be borne by the developer, applicant or property owner undertaking the proposed development. East Bay Charter Township may, but shall not be obligated to, participate in said cost to support any additional system capacity anticipated for future growth. The developer, applicant or property owner shall submit all close out/turnover documents to the Township prior to any connections to the extension of public utilities. No connections to the sewer or water mains will be allowed until the close out documents are submitted and the Township accepts the infrastructure into its system. The close out/turnover documents shall include, but shall not be limited to, actual cost of design and construction along with supporting documentation that establishes the accuracy of all costs incurred. The Township reserves the right to

request any additional documentation in order to satisfy itself regarding the costs of the project incurred by the developer.

(c) From the data provided by the developer, the Township will calculate a cost per front foot of assessable frontage along the project route. A utility payback agreement shall be prepared by the Township based on the cost per front foot. The agreement shall set forth the terms of reimbursement the developer, applicant or property owner shall be entitled to. The reimbursement amounts per front foot may vary from one agreement to the next based on the nature of the improvements, the extent of Township participation, if any, and other factors. However, the cost per front foot reimbursement shall be based on the following elements,

- i) Project route,
- ii) Front foot cost,
- iii) Term of agreement, and
- iv) Terms of amortization, if any, to apply to subsequent connection fees.

(d) Upon execution of the utility payback agreement, the Township Board will amend the water use ordinance and/or sewer use ordinance establishing the front foot cost for reimbursement for the extension.

(e) All extensions of the public utilities undertaken pursuant to this paragraph shall be completed in accord with the requirements of the Township Engineer and any applicable County and State requirements. No service leads shall be connected to any such extensions until the extension is officially available for service.

6. For new development of any kind and land divisions resulting in five (5) or more parcels, but located more than one-half mile (2,640 feet) from any then existing portion of the public utility system, water and wastewater services shall be provided by the developer, applicant, or property owner using one of the following approached, at the option of the developer, applicant or property owner:

(a) Public Utilities: Said public utilities may be extended to serve the new development regardless of the distance of the extension. The cost to extend public utilities shall be borne by the developer, applicant or property owner undertaking the proposed development. East Bay

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Charter Township may, but shall not be obligated to, participate in said cost to support any additional system capacity anticipated for future growth. All extensions of the public utilities undertaken pursuant to this paragraph shall be completed in accord with the requirements of the Township Engineer and any applicable County and State requirements. No service leads shall be connected to any such extensions until the extension is officially available for service.

- (b) Common Systems: ___—A common wastewater system and a common water system may be developed. Such common wastewater and water systems shall be appropriately designed, permitted, constructed and operated to comply with all local and state requirements. The developer or other entity satisfactory to the Township shall assume, or indemnify the Township from, any permitting obligation imposed by the rules and regulations of the County or State. In addition, any such common system shall be designed such that when complete and licensed to operate, it shall become part of the public system. In any event, the cost of design, permitting, construction and operation shall be borne by the developer or his successors and all normal benefit and riser charges shall apply, and shall be paid at the time of construction of the system.

- 7. New Residential development proposed to be located outside and approved subdivision or condominium on less than five (5) parcels shall connect to public utilities, if such utilities abut the parcels. If public utilities do not abut the parcels, on-site systems shall be used. At such time as public utilities are installed abutting the site, the then existing development shall be subject to the terms of Section 4, A, 1, of this ordinance.

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B. Lands to the South and East of the Growth Boundary

- 1. Public utility systems shall not be extended beyond the growth boundary, except as follows:
 - (a) In the event the extension of public utilities is deemed to be the most effective and economical method to address a situation of groundwater contamination as determined by the Grand Traverse County Health Department, the Michigan DEQ or another state or local authority. In such event, all costs of extending utilities shall be paid by the benefiting property owners and/or the authority ordering the extension, unless the Township Board officially elects to participate in such costs.
 - (b) Within a transitional area extending not more than one-half mile to the south or east of the growth boundary, public utilities may be extended

to proposed development, providing any residential area so served and any adjoining property that could be served as a result of the extension shall not exceed the density requirements set forth in Table 3 of Section 505 of the East Bay Charter Township Zoning Ordinance for property without central water or sewer service.

(c) In the event this Ordinance is amended by the East Bay Charter Township Board upon the recommendation of the East Bay Charter Township Planning Commission and in accord with an amendment of the Township Comprehensive Plan.

2. Common wastewater and water systems or on-site systems may be installed for new development located outside the growth boundary, providing any residential area so served and any adjoining property that could be served as a result of the extension shall not exceed the density requirements set forth in Table 3 of the Zoning Ordinance for property without central water or sewer service. Such common wastewater and water systems shall be appropriately designed, permitted, constructed and operated to comply with all local and state requirements. The developer or other entity satisfactory to the Township shall assume, or indemnify the Township from, any permitting obligation imposed by the rules and regulations of the County or State. In addition, any such common system shall be designed such that when complete and licensed to operate, it shall become part of the public system. In any event, the cost of design, permitting, construction and operation shall be borne by the developer or his successors.

Section 5. Violations

- A. Any persons found to be in violation of any provision of this Ordinance shall be served by the Township with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall within the period of time stated in such notice, permanently cease all violations.
- B. Any person who shall continue any violation beyond the time limit provided for in Section 6, A, hereof shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount not exceeding Five Hundred Dollars (\$500.00) for each violation.
- C. Any person violating any of the provisions of this Chapter shall become liable to the Township for any expense, loss, or damage occasioned the Township by reason of such violation.

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D. A violation of this Ordinance shall be a nuisance per se, and the Township shall have the right to seek injunctive or other equitable relief in a court of competent jurisdiction.

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Section 6. Severability. If any provision, paragraph, word, section or article of this Ordinance is invalidated in any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and articles shall not be affected and shall continue in full force and effect.

Section 7. Repealer. All Ordinances or parts of Ordinances adopted by the Charter Township of East Bay which are deemed inconsistent with the terms of this Ordinance are hereby rescinded.

Section 8. Effective Date. This Ordinance shall be effective thirty (30) days after being published in a newspaper of general circulation in the Township.

EAST BAY CHARTER TOWNSHIP

By:

Supervisor

Joe Bartke Glen Lile, Township

By:

Clerk

Jan Gee Sue Courtade, Township