

**CHARTER TOWNSHIP OF ALPENA
ORDINANCE NO. 144**

AN ORDINANCE TO AMEND CHARTER TOWNSHIP OF ALPENA ORDINANCE NO. 139 (THE SANITARY SEWER AND WATER ORDINANCE), IN ORDER TO PROVIDE ADDITIONAL DETAILS REGARDING THE TOWNSHIP'S LIENS UPON REAL PROPERTY FOR UNPAID CHARGES FOR WATER AND SEWER SERVICES AND THE PROCEDURES RELATED TO SUCH LIENS.

THE CHARTER TOWNSHIP OF ALPENA ORDAINS:

SECTION 1. AMENDMENT OF CHARTER TOWNSHIP OF ALPENA ORDINANCE NO. 139.

Charter Township of Alpena Ordinance No. 139 (the Sanitary Sewer and Water Ordinance) is amended as follows:

Section 19.9 ("Property Liens"), section 19.10 ("Lien Priority"), section 19.11 ("Lien Enforcement"), and section 19.12 ("Court Action") are deleted from Ordinance No. 139, and the following new section 19.9 ("Imposition of Lien Pursuant to Michigan Public Act 178 of 1939"), new section 19.10 ("Imposition of Lien Pursuant to Michigan Public Act 94 of 1933"), and new section 19.11 ("Other Enforcement Methods") are added to Ordinance No. 139 in place of the deleted sections:

19.9 Imposition of Lien Pursuant to Michigan Public Act 178 of 1939 - As allowed and as provided by Michigan Public Act 178 of 1939, as amended, the Charter Township of Alpena has as security for the collection of water and sewer rates, assessments, and charges due or to become due for the use and installation, repair, or maintenance to any house, building, and/or premises, a lien upon the house, building, and/or premises to which the water or sewer service was supplied. This lien becomes effective immediately upon the distribution of the water or the provision of sewer service to the house, building, and/or premises supplied, but shall not be enforceable for more than 5 years after it becomes effective. The official water and sewer service records of the Charter Township of Alpena shall constitute notice of the pendency of this lien. This lien shall be subject to foreclosure in the same manner as prescribed by the general laws of the state providing for the enforcement of tax liens, or in the same manner as the enforcement of mechanics' liens for nonpayment. This lien has priority over all other liens except taxes or special assessments, whether or not the other liens accrued or were recorded before the accrual of the water or sewer service lien created by Michigan Public Act 178 of 1939. However, the lien created by Michigan Public Act 178 of 1939 shall not apply if a lease has been legally executed, containing a provision that the lessor shall not be liable for payment of water or sewer system bills, providing the lease was executed prior to the supply of water or sewer service for which the charges are made and providing that the lessor has timely filed an affidavit with the Township Clerk that verifies the execution of a lease containing such a provision. The lessor shall give the Township twenty (20) days' advance written notice of any cancellation, change, or termination of the lease. The affidavit shall contain a notation of the expiration date of the lease.

19.10 Imposition of Lien Pursuant to Michigan Public Act 94 of 1933 - In addition to the lien imposed pursuant to Section 19.9 of this ordinance, charges for water and sewer service shall be a lien on the house, building, and/or premises to which the water or sewer service was supplied, as allowed and provided by Michigan Public Act 94 of 1933, as amended. Such charges that are delinquent for six (6) months or more may be certified annually by the Township Clerk on or before the first day of October of each year to the proper tax assessing officer or agency who shall enter the lien on the next tax roll against the house, building, and/or premises to which such service has been rendered, and such charges shall be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon the roll and the enforcement of the lien for the taxes. However, in a case when a tenant is responsible for the payment of the water or sewer charges and the Township is so notified in writing, then such charges shall not become a lien against the house, building, and/or premises pursuant to this section 19.10 of this ordinance after the date of the notice. In the event of the filing of such notice, the Township shall render no further service to the house, building, and/or premises until a cash deposit in the amount of \$200.00 is made as security for the payment of such charges.

19.11 Other Enforcement Methods - The Charter Township of Alpena, at its option, may institute an action in a court of competent jurisdiction if a person fails to pay the rates, assessments, or charges for water service or sewer service. However, the Township's attempt to pursue such remedies shall not invalidate or waive the liens created by this ordinance and the applicable statutes.

SECTION 2. EFFECTIVE DATE.

This ordinance shall become effective immediately upon its publication as required by law.

SECTION 3. PUBLICATION; RECORDATION; AUTHENTICATION.

This ordinance shall be published once, in full, in a newspaper of general circulation within the boundaries of the Township, and qualified under state law to publish legal notices, within 30 days after its adoption; this ordinance shall be recorded in the record of ordinances book of the Township; and the Township Supervisor and the Township Clerk shall authenticate this ordinance by placing his or her official signature upon this ordinance.

SECTION 4. SEVERABILITY.

The provisions of this ordinance are hereby declared to be severable, and if any clause, sentence, word, section, or provision is hereafter declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect the remainder of this ordinance, which shall continue in full force and effect.

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the Charter Township of Alpena Board of Trustees at a regular meeting held on the ____ day of _____, 2021.

I further certify that the following Board members were present at the meeting: _____, and that the following board members were absent: _____.

I further certify that the Board member _____ moved for adoption of the ordinance, and the motion was supported by the Board member _____.

I further certify that the following Board members voted upon roll call vote for the adoption of the ordinance: _____, and the following Board members voted against the adoption of the ordinance: _____.

Adopted and approved this ____ day of _____, 2021, by the Charter Township of Alpena Board of Trustees.

The Township Supervisor declared this ordinance adopted.

Dated: _____

Nathan Skibbe
Charter Township of Alpena Supervisor

Dated: _____

Michele Palevich
Charter Township of Alpena Clerk