

**ALAMO TOWNSHIP**  
**KALAMAZOO COUNTY, MICHIGAN**

**ORDINANCE 47-M**

**AN ORDINANCE TO ESTABLISH PROCEDURES TO FUND PUBLIC IMPROVEMENTS BY ESTABLISHMENT OF SPECIAL ASSESSMENT ROLLS AND DISTRICTS AND TO COLLECT THOSE SPECIAL ASSESSMENTS.**

**ALAMO TOWNSHIP ORDAINS:**

**Section 1. Title.**

This Ordinance may be known and hereinafter cited as the "Alamo Township Special Assessment Ordinance".

**Section 2. Definitions.**

The following terms, as used in this Ordinance, shall have the meanings herein ascribed to them:

**Cost:** The term "cost", when referring to the cost of any improvement, shall include the cost of surveys, plans, land, right-of-way, spreading of rolls, notices, advertising, legal and financial advice, financing and construction and all other costs incident to the making of such improvement, the special assessment therefor and the financing thereof.

**Improvement:** The term "improvement" means any public improvement, the whole or any part of the cost of which is assessable against one or more lots or parcels of land especially benefited thereby, in proportion to the benefit to be derived therefrom.

**Section 3. General Authority.**

The Township Board is hereby empowered to enact this Ordinance by all applicable statutes and under its general powers to promote and protect the health, safety and welfare of the residents of the Township.

**Section 4. Property Owner's Petition.**

The Township Board in order to ascertain whether or not a reasonable number of property owners to be assessed desire any particular improvement to be made, may request and receive a petition therefor, or may receive such a petition voluntarily presented, but in either event, such petition shall be advisory only and shall not be jurisdictional, except in cases where such a petition is specifically made jurisdictional by

law. Such petition shall be submitted on forms approved by the Township Board. The Township shall not be required to construct any improvement petitioned for, and the Township may proceed to construct an improvement without a petition having been filed or without fifty-one percent (51%) of the properties to be specially assessed having signed a petition upon a finding by the Township Board that the improvement will promote or protect the health, safety and welfare of some of the residents of Alamo Township.

#### **Section 5. Preliminary Proceedings.**

The Township Board may, by resolution, require the preparation of such maps, diagrams or plans as will indicate the scope of any improvement, any part of the cost of which is to be defrayed by special assessment, and an estimate or tabulation of the cost thereof. Whenever any land which should be included in the special assessment district may not be assessable for any reason, a written agreement may be reached providing for the payment of the owner's share of the cost of the improvement. Whenever any property is acquired for the purpose of any improvement, the cost thereof and of the proceedings required to acquire such property may be added to the cost of such improvement.

#### **Section 6. Township Board Determination; Direction to Prepare Roll.**

The Township Board may, by resolution, approve the maps, diagrams or plans and the estimate or tabulation of cost; authorize or ratify the improvement; determine the estimated life of such improvement; determine what proportion of such cost shall be paid by special assessment upon the property especially benefited and what part, if any, shall be borne by the Township at large; the number of annual installments in which the assessments may be paid; the interest to be charged; designate the district or land and premises upon which special assessments shall be levied; and direct the assessor to prepare a special assessment roll in accordance with the Township Board's determination.

#### **Section 7. Preparation of Roll Generally.**

When so directed by the Township Board, the Township Assessor shall prepare a special assessment roll, including all lots and parcels of land within the special assessment district designated by the Township Board and shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against the special assessment district as shall be proportionate to the benefit to such lot or parcel of land resulting from the improvement. If, by mistake or otherwise, any person shall be improperly designated as the owner of any lot or parcel of land, or if it is assessed without the name of the owner, or in the name of a person other than the owner, such assessment shall not, for any such cause, be vitiated, but shall, in all respects, be as valid upon and against such lot or parcel of land and the true owner as though assessed in the name of the proper owner.

#### **Section 8. Preparation of Roll After Completion of Improvement.**

Notwithstanding any provisions of this chapter, the Township Board may, in its sole discretion, delay the preparation of a special assessment roll, together with its

determination of the portion of costs to be assessed, the number of installments and land included in the District, until after the completion of the improvement, in which case the actual cost thereof shall be reported to the Township Board and a special assessment roll shall then be made, based upon such actual cost pursuant to its determinations.

**Section 9. Cost of Improvement and Assessment Line for Improvement; Payment as Prerequisite to Sewer Connection.**

All property adjoining or abutting on any street or alley through, in or along which a main sewer or other improvement shall be built or extended, shall be assessed for the cost of such improvement as the Township Board shall, by resolution, direct. Frontage for assessments shall be computed along as assessment line parallel to the street or alley right-of-way line. Such assessments or installments due shall be paid in full before a permit shall be issued for connecting said property with a main or lateral sewer, unless otherwise provided by the Township Board.

**Section 10. Assessment Line for Street Improvements.**

All property adjoining or abutting on any street or alley graded, paved or otherwise improved shall be assessed for the cost of such improvement, as the Township Board shall, by resolution, direct. Frontage for assessments shall be computed along an assessment line parallel to the street or alley right-of-way line.

**Section 11. Certification and Filing of Roll.**

When the assessment roll is completed, the Assessor shall certify it as true and accurate to the Township Board. Thereupon, the Assessor shall file with the Township Clerk, a copy of the assessment roll and Certificate, and it shall be available for public inspection.

**Section 12. Fixing Time and Place for Hearing; Notice of Hearing.**

Upon receipt of an assessment roll and certificate by the Township Clerk, the Township Board shall fix a time and place when it will meet and review such roll and shall direct the Township Clerk to give notice of such hearing. The notice shall specify the time and place of the hearing and shall be sent by the Township Clerk, by first-class mail, to each owner of property subject to assessment in accordance with law.

**Section 13. Conduct of Hearing; Objections to Roll; Township Board Action on Roll.**

- A. The hearing required by Section 12 may be held at any regular, adjourned or special meeting of the Township Board, which hearing may be adjourned from time to time. At such hearing, all interested parties shall be given an opportunity to be heard in such manner as may be required by law.

- B. At the hearing conducted under this Section, the Township Board may review the special assessment roll and shall consider any objections thereto. The Township Board may direct the Township Assessor to correct the roll as to any assessment or description of any lot or parcel of land, or other errors appearing therein. Any changes made in such roll shall be noted in the Township Board's minutes. After such hearing and review, the Township Board may confirm, void, or confirm as modified, the special assessment roll. If confirmed, the Township Board shall determine the due date thereof, the number, if any, of annual installments in which it may be paid, not exceeding twenty (20), establish the rate of interest chargeable on the unpaid balance from and after the due date, and establish penalties for late payment. Where installment payment is permitted, the Township Board may establish a collection fee not exceeding five (5%) percent of the unpaid balance to compensate for the accounting services required. The Township Clerk shall endorse the date of confirmation on each special assessment roll.

#### **Section 14. Assessment as Lien.**

All special assessments contained in any special assessment roll shall, from the date of confirmation of such roll, constitute a lien upon the respective lots or parcels of land assessed and, until paid, shall be charged against the respective owners of those lots and parcels. Such lien shall be of the same character and effect as the lien created for Township taxes and shall include accrued interest, collection fees, penalties and actual attorneys fees, if any, incurred in collection. No judgment or decree vacating a special assessment, shall destroy or impair the lien of the Township upon the premises assessed for such amount of the assessment.

#### **Section 15. Collection.**

- A. After confirmation, the special assessment roll shall be transmitted by the Township Clerk to the Treasurer for collection. The Treasurer shall divide the assessments into installments, when so ordered by the Township Board; provided that, if such division operates to make any installment less than ten (\$10.00) dollars, then the Treasurer shall reduce the number of installments so that each installment shall be above and as near ten (\$10.00) dollars as possible. The Treasurer shall mail statements of the several assessments to the respective owners, as indicated by the roll and the records of the Treasurer of the parcels of land assessed, stating the

amount of the assessment and the manner in which it may be paid; provided, however, that failure to mail any such statement shall not invalidate the assessment nor entitle the owner to an extension of time within which to pay the assessment.

- B. The Treasurer shall be charged with collecting all special assessments. After an assessment or any installment become delinquent, the Treasurer may add the entire assessment, with any interest, collection fee or penalty, to the annual tax bill of the lot or premises involved.
  
- C. In addition to any other remedies and without impairing the lien therefor, any delinquent special assessment, together with interest, collection fees, penalties and actual attorneys fees incurred, may be collected in an action at law in court having jurisdiction thereof. If in any such action it shall appear that, by reason of any irregularities or informalities, the assessment has not been properly made against the defendant or upon the premises sought to be charged, the court shall upon a showing or proof that expense has been incurred by the Township, which is a proper charge against the defendant or the premises in question, render judgment for the amount properly chargeable against such defendant or upon such premises.

#### **Section 16. Deficiency Assessments and Refunds.**

Should the assessments in any special assessment roll prove insufficient for any reason to pay the assessed portion of the cost of the improvement, the Township Board may make additional or supplemental assessments against the lots and parcels within the special assessment district to supply the deficiency, or the Township Board may determine that such deficiency shall be paid in part by the Township. Should the assessments levied prove to be more than necessary to defray costs of the improvements, the Township Board may, by resolution, order the excess, if less than five (5%) percent of the total project costs, to be transferred to the general fund, but if more than such amount, the whole excess shall be refunded to the then owners of the parcels assessed, as their names appear upon the Township tax roll. The excess shall be determined within one (1) year following the completion of construction and refunds shall first be applied as payments upon unpaid installments in the inverse order of the due dates thereof.

#### **Section 17. Reassessment in Event of Illegality.**

Whenever any special assessment shall be invalid for any reason, the Township Board shall, whether the improvement has been made or not, or whether any part of the assessment has been paid or not, have the right to cause a new assessment to be made

for the same purpose for which the former assessment was made, and according to the provisions herein.

**Section 18. Division or Combination of Lots After Assessment Confirmed.**

Should any parcels of land be divided or combined after a special assessment thereon has been confirmed, and before the assessment has been fully paid, the Assessor shall, as promptly as possible, apportion the uncollected amounts upon the several descriptions so divided or combined and report the same to the Township Board. Such report, as an amendment of the original lien, when confirmed by the Township Board shall be conclusive upon all parties and parcels, and all assessments thereafter made upon such land shall be according to such new description.

**Section 19. Single Lot Assessments.**

When any expense shall have been incurred by the Township upon or in respect to any single parcel or parcels in common ownership, which expenses may be or is chargeable against such parcels and the owner(s), and is not of the class required to be prorated among several lots and parcels of land in a special assessment district, an account of the costs or the labor, material or services for which such expense was incurred, verified by the Township Clerk, with a description of the lot and the name of the owner, if known, shall be reported to the Township Treasurer, who shall charge and bill the owner, if known. Such bill shall be sent by first-class mail to the owner(s) of the property to be assessed and such bill shall notify such owner(s) of the time of the meeting of the Township Board not sooner than ten (10) days thereafter, when the Township Board will meet for the purpose of adopting a resolution continuing a special assessment upon such property for such charges, unless the same are paid prior to the date of such meeting. Upon adoption of such resolution, the Township Board may establish a due date, authorize installment payments, and establish interest collection for and penalties for late payment as provided for in this Ordinance. After the adoption of such resolution, the Treasurer shall give notice of the amount so determined to the several persons chargeable therewith. Such notice shall be sent by first-class mail to the last known address of such persons as shown on the assessment roll of the Township, or by publication. Such notice shall state the basis of the assessment and the amount thereof, and shall give a reasonable time, not less than fifteen (15) days, within which payment shall be made to the Treasurer. In all cases where payment is not made within the time set, the assessment shall become collectible as any special assessment. The resolution referred to in this section shall be treated as the confirmation of a special assessment roll.

**Section 20. Severability Clause.**

Any and all sections, terms, provisions and/or clauses herein shall be deemed independent and severable. Should any court or competent jurisdiction hold any section, term, provision or clause void and/or invalid, all remaining sections, terms, provisions and/or clauses not held void and/or invalid shall continue in force and effect.

**Section 21. Repealer.**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed and shall be of no further force or effect upon the effective date of this Ordinance.

**Section 22. Effective Date.**

This Ordinance shall take effect on April 15, 2004.

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**CERTIFICATE**

I, Kathye LaCount, Alamo Township Clerk, do hereby certify that the foregoing Alamo Township Ordinance No. 47-M was adopted by the Alamo Township Board at a regular meeting held on March 8, 2004, and that the following is a record of the vote of the members of said Township Board on said Ordinance.

AYES: Vlietstra, Stoneburner, Feniger, LaCount

NAYS: Potter-Williams

ABSTENTIONS: None

ABSENT: None

Kathye LaCount  
Alamo Township Clerk