

WEST TRAVERSE TOWNSHIP
EMMET COUNTY, MICHIGAN

WATER SYSTEM ORDINANCE
NO. 01-1

AN ORDINANCE to provide for connection to the West Traverse Township water system; to provide for the imposition, collection and enforcement of charges and fees for connection thereto and services therefrom; and to provide for other matters relative to the West Traverse Township water system and the use thereof.

ARTICLE 1 - TOWNSHIP WATER UTILITY

SECTION 1. Definitions. In the interpretation of this Ordinance the following definitions shall apply unless the context clearly indicates otherwise:

- (a) The term "Township" shall be defined to mean the Township of West Traverse, Emmet County, Michigan.
- (b) The term "System" shall be defined to mean all water mains, water supply facilities and their appurtenances which the Township has or shall have possession of and operating responsibility for (whether owned by the Township or not), either now in existence in the Township or hereafter acquired or constructed in the Township, together with all works, plants, instrumentalities and properties used or useful in connection therewith in the obtaining of a water supply or in the treatment or distribution of water, including water supply system facilities previously owned by the City of Harbor Springs and/or private parties and now owned or hereafter acquired by the Township, and all extensions, enlargements and improvements thereto in the Township. The System shall specifically include the Township's interest in all boundary street water mains and all connections thereto.
- (c) The term "water connection" shall mean that part of the water distribution system connecting the water main with the premises served.
- (d) The term "water main" shall mean that part of the water distribution system located within the easement lines of streets or other public easements or rights-of-way and that are designed to supply more than one (1) water connection.

SECTION 2. Service Connections. Application for water connections shall be made to the Township on forms prescribed and furnished by it. Water connections and water meters shall be installed in accordance with rules, regulations, and policies of the Township and upon payment of the required connection and tap fees. All meters, and all parts of water connections located within the easement lines of streets or other public rights-of-way, including but not limited to service line corporations and curb stop boxes, shall be the property of the Township. The water connection from the curb stop box to the service point shall be owned and maintained by the owner of the premises

being served, in accordance with the provisions of this Ordinance and any rules, regulations, and policies adopted pursuant to this Ordinance. Connection fees and meter installation charges shall not be less than the cost of materials, installation and overhead attributable to such installations.

SECTION 3. Turning on Water Service. No person, other than an authorized employee, representative, or designee of the Township, shall turn on or off any water service, except that a licensed plumber may turn on water service for testing his work (after which it must be immediately turned off) upon receiving a written order from the Township; provided, that upon written permit from the Township, water may be turned on for construction purposes only, prior to the granting of a certificate of occupancy for the premises, and upon payment of the charges applicable thereto.

SECTION 4. Water Meters. All premises using water shall be metered, except as otherwise provided in this Ordinance. No person, except a Township employee, representative, or designee shall break or injure the seal, or change the location of, alter, or interfere in any way with any water meter.

SECTION 5. Access to Meters. The Township shall have the right to shut off the supply of water to any premises where a representative or designee of the Township is not able to obtain access to the meter. Any qualified employee, representative, or designee of the Township shall at all reasonable hours have the right to enter the premises where such meters are installed for the purpose of reading, testing, removing or inspecting same and no person shall hinder, obstruct or interfere with such employee, representative, or designee in the lawful discharge of his duties in relation to the maintenance and reading of such water meter.

SECTION 6. Reimbursement for Damages. Any damage which a meter may sustain resulting from carelessness of the owner, agent or tenant, or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water or steam backing from a boiler, shall be paid by the owner of the property to the Township on presentation of a bill therefor; and in cases where the bill is not paid, the water shall be shut off and shall not be turned on until all charges have been paid to the Township.

SECTION 7. Meter Failure. If any meter shall fail to register properly, the Township shall estimate the consumption on the basis of former consumption and bill accordingly.

SECTION 8. Inaccurate Meters. A consumer may require that the meter be tested. If the meter is found accurate, a reasonable charge for inspection will be assessed, based on actual cost to remove, ship and test the meter. This charge will be assessed against the consumer. If the meter is found defective, it shall be repaired or an accurate meter installed and no charge shall be made.

SECTION 9. Accuracy Required. A meter shall be considered accurate if when tested it registers not to exceed two (2%) percent more or two (2%) percent less than the actual quantity of water passing through it. If a meter registers in excess of two (2%) percent more than the actual quantity of water passing through it, it shall be considered "fast" to that extent. If a meter registers in

excess of two (2%) percent less than the actual quantity of water passing through it, it shall be considered "slow" to that extent.

SECTION 10. Bill Adjustment. If a meter has been tested at the request of a consumer and shall have been determined to register "fast" the Township shall credit the consumer with a sum equal to the percent "fast" multiplied by the amount of all bills incurred by said consumer, within the six (6) months prior to the test, and if a meter so tested is determined to register "slow", the Township may collect from the consumer a sum equal to the percent "slow" multiplied by the amount of all the bills incurred by the consumer for the prior six (6) months. When the Township on its own initiative makes a test of a water meter, it shall be done without cost to the consumer, other than his paying the amount due the Township for water used by him as above provided, if the meter is found to be "slow."

SECTION 11. Hydrant Use. No person, except an employee, representative, or designee of the Township in the performance of his duties, shall open or use any fire hydrant except in case of emergency, without first securing a written permit from the Township and paying such charges as may be prescribed.

SECTION 12. Water Scarcity. The Township Supervisor, or his representative or designee may, by written order, subject to review and modification or reversal by the Township Board, regulate, limit, or prohibit the use of water. Such order may restrict less essential water uses to the extent deemed necessary to assure an adequate supply for essential domestic and commercial water needs and for fire protection. Notice of the promulgation of any such order shall be published in a newspaper of general circulation in the Township as soon as reasonably possible after promulgation. Violation of such an order shall constitute a violation of this Ordinance and shall be subject to the penalties and other remedies hereinafter prescribed in this Ordinance.

SECTION 13. Additional Regulations. The Township Board may make and issue additional rules, regulations, and policies concerning the Water Distribution System, connection thereto, meter installations and maintenance, connection, tap, and meter installation fees, hydrants and water mains and the appurtenances thereto, not inconsistent herewith. Such rules, regulations, and policies shall be effective upon approval by the Township Board. Any rules, regulations, and policies now in effect shall continue until changed in accordance with this section.

SECTION 14. Cross Connections. No cross connections which would violate the water supply cross connection rules of the Michigan Department of Health contained in paragraphs R325.11401 through R325.11407 of the Michigan Administrative Code, as the same shall be amended, changed or supplemented from time to time, shall be made. The Township Supervisor, or his representative or designee, shall have the right to enter at any reasonable time any premises connected to the System for the purpose of inspecting the piping system or systems related thereto for cross connections. On request, the owners, lessees or occupants of any premises served by the System shall furnish to the Township Supervisor, or his representative or designee, any pertinent information relating to the piping system or systems on such premises. The

Township Supervisor, or his representative or designee, is authorized and directed to discontinue water service after reasonable notice to any premises where a cross connection has been made in violation of this Ordinance. In addition, the Township Supervisor, or his representative or designee, shall take such other precautionary measures as shall be necessary to eliminate any danger of contamination of the System. Water service which has been discontinued because of a cross connection shall not be restored until the cross connection has been eliminated and a fee to be established and adjusted from time to time by Township Board resolution has been paid to the Township.

SECTION 15. Connection to Water Distribution System. Subject to the provisions of this section, the owner of a house, building, unit, or other structure used for human occupancy, employment, recreation or other purposes situated within the Township or any area under the jurisdiction of the Township is hereby required at the owner's expense to install a suitable water line and facilities to connect directly with an available water main in accordance with the provisions of this Ordinance when given official notice to do so. An "available water main" means a water main connected to the Township's Water Distribution System that is located in a public easement or right-of-way that crosses, adjoins, or abuts a subject property and that passes within three hundred (300) feet of a subject house, building, unit or structure. Such connection shall not be required for houses, buildings, units, or other structures that have water supplied by a private water well existing on the effective date of this Ordinance. However, upon the failure of any such well, such well shall not be repaired or replaced, but connection to the water system shall instead be required in accordance with this Ordinance. This prohibition of repair or replacement of existing wells shall not apply to the repair or replacement of well pumps.

ARTICLE 2 - WATER RATES AND FEES

SECTION 1. Definitions. In the interpretation of this Ordinance the following definitions shall apply unless the context clearly indicates otherwise:

(a) Connection Fees are the fees charged by the Township or its designee for installation of a water connection line from a curb stop box to the premises being served.

(b) A "Direct Tap-in Fee" shall mean the fee that is to be paid to the Township to defer the Township's costs for construction, repair and renovation of the Water Distribution System. The Direct Tap-in Fee shall be paid whenever a person connects directly to the Water Distribution System.

(c) "Indirect Tap-in Fees" shall mean fees that are charged to a person (a "developer") for water to a development or structure which will contain more than one water service unit (i.e., more than one Water Meter Equivalent Unit).

(i) An Indirect Tap-in Fee shall be charged to a developer for each metered unit (or equivalent) exceeding one which is to be served by the Water Distribution System.

(ii) If the service lines for the additional service units are located in a private street without a public easement for the service lines, or if the developer otherwise owns and maintains the system, the Indirect Tap-in Fees shall be paid at the time the first connection is made to the Township's Water Distribution System. If the service lines for the additional service units are located in a public easement or right-of-way and are owned and operated by the Township, payment of the Indirect Tap-in Fees may be deferred until water or sewer service is to be established for the additional units within the developer's system.

(d) "Person" shall mean any individual, firm, association, entity, public or private corporation, or public agency or instrumentality.

(e) "Premises" shall mean each lot, unit, or parcel of land, building or premises having any connection to the Water Distribution System of the Township.

(f) A "Water Meter Equivalent" shall be based on the standard one-inch water meter, the same being the normal residential-size meter within the Township's Water Distribution System. The number of "Meter Equivalents" for billing purposes for water meter sizes exceeding one inch shall be based on the cross-sectional area of the larger meters in relationship to the one-inch meter. The Township shall determine and adopt by resolution a table of Water Meter Equivalents for fee determination purposes.

SECTION 2. Fixing Rates and Fees. The rates and fees to be charged for water service furnished by the Township shall be as prescribed by the Township Board by resolution which may also prescribe billing procedures and penalties for late payment.

SECTION 3. Free Service Prohibited. No free water or sewer service shall be furnished by the Township to any person, or to any public or private agency. In addition, the Township may charge an annual fire hydrant rental charge to each person benefitted by a fire hydrant in such amount as shall be determined by resolution of the Township Board.

SECTION 4. Collection. The Township Board or its representative or designee is hereby authorized to enforce the payment of charges for water service to any premises by: (1) initiating a legal action for collection of such charges against the person or persons benefitting from such water; and/or (2) discontinuing the water service to such premises. Service discontinuation shall be subject to the provisions of Article 3, of this Ordinance. Instituting a legal action for collection of such charges and/or termination of service as aforesaid, shall not impair the lien hereinafter provided for such charges, or waive the right to enforce such lien, all such rights and remedies being cumulative remedies and not alternative remedies.

SECTION 5. The Statutory Lien.

(a) Pursuant to Act 178, Public Acts of 1939 (MCL 123.161 et seq., MSA 5.2531(1) et seq.), the Township shall have a lien, as security for the collection of water rates, or any assessments, charges, or rentals due or to become due, respectively, for the use or for the use or consumption of water supplied to any house or other building or any premises, unit or units, lot or lots, or parcel or parcels of land, upon the house or other building and upon the premises, unit or units, lot or lots, or parcel or parcels of land upon which the house or other building is situated. This lien shall become effective immediately upon the distribution of the water system service to the premises or property supplied, but shall not be enforceable for more than 3 years after it becomes effective.

(b) To the extent permitted by law, the Township may also place on the Township tax rolls for collection by the Township any delinquent water and electric utility bills owed to the City of Harbor Springs for utility services provided to city customers in the Township or to the Township's customers in the Township's water service area.

SECTION 6. Evidence and Notice of the Lien. The official records of the of the Township shall constitute evidence of the amount of, and of the pendency of, said lien.

SECTION 7. Priority of the Lien; Exception.

(a) The lien created based on the charges for water service shall have priority over all other liens except taxes or special assessments, whether or not such other liens accrued or were recorded prior to the accrual of the water or sewage disposal service lien herein created.

(b) The only exception from the attachment of the statutory lien shall be as follows: When the owner of any premises has leased the premises to a tenant who has agreed, pursuant to a written lease agreement, to be responsible for payment of water and/or sewer charges provided to such premises, the owner may relieve the premises subject to the lease agreement from the statutory lien by filing an affidavit with the Township in such form as is prescribed by the Township, which: (1) states that such a lease has been executed; and (2) states the expiration date of the lease term. Relief from the lien shall be effective for charges accruing after the date the affidavit is filed with the Township as aforesaid, until the expiration of the lease term, provided: if the owner of the premises shall fail to give at least 20 days advance notice to the Township of: (1) any early cancellation or termination of the lease agreement; or (2) the tenant's abandonment of the premises during the lease term, the statutory lien shall attach to the premises for any unpaid water and/or sewer charges, without exception, the provisions of this section notwithstanding.

SECTION 8. Assessment of Unpaid Charges. The Township Board, at or after its first regular meeting in October of each year, may review, approve, and certify all unpaid charges for water services to any premises on which a lien for unpaid utility charges exist, and which have remained unpaid for six (6) months. The Township Board shall then direct the Township Assessor to place the same on the next tax roll of the Township, to be collected in the same manner as general Township taxes.

ARTICLE 3 - TERMINATION OF UTILITY SERVICE

SECTION 1. Notice of Termination. The provisions of this Section shall govern all terminations of water service for nonpayment of water charges and/or installments and surcharges. If by the payment date shown on the Township's water bill, the Township has not received complete payment of the amounts shown on the bill, the Township, in its discretion, may mail to, or personally serve upon the customer a notice of termination, to be mailed or served at least three (3) days after the payment date. The notice of termination shall contain the following:

The date;

The amount to be paid;

The proposed date of termination, which shall be at least fifteen (15) days from the date of notice of termination;

Notice that unless the Township receives complete payment of the amount shown prior to the date of termination, water services shall be terminated;

Notice that in lieu of paying the entire amount shown, a customer, within ten (10) days of the date of the notice, may notify the Township that he disputes the correctness of all or part of the amount shown.

SECTION 2. Time for Termination. If, prior to the date of termination, the Township has not received complete payment of the amount shown on the notice of termination, or the customer has not timely notified the Township that he disputes the correctness of all or part of the amount shown on the notice of termination, then the Township may terminate water service provided to the customer on the date of termination. The Township shall terminate water service for nonpayment of water charges and/or installments and surcharges only during the hours of 9:00 a.m. to 3:00 p.m., Monday through Thursday. No terminations shall be permitted on a legal holiday or on the day before a legal holiday.

SECTION 3. Timely Payment. If the Township receives payment of the entire amount shown on the notice of termination prior to the date of termination, such payment shall be considered a timely and complete payment for purposes of this Section.

SECTION 4. Disputed Bills. At any time within ten (10) days after the date of the notice of termination, a customer may dispute the correctness of all or part of the amount shown in accordance with the provisions of this Section. A customer shall not be entitled to dispute the correctness of all or part of the amount if all or part of the amount was the subject of a previous dispute. The procedure for customer disputes shall be as follows:

(1) Within ten (10) days after the date of notice of termination, the customer shall notify the Township, in writing, that he disputes all or part of the amount shown on the utility bill or the notice of termination, stating as completely as possible the basis for the dispute.

(2) If the Township determines that the present dispute is untimely or that the customer previously disputed the correctness of all or part of the amount shown, the Township shall mail to the customer a notice stating that the present dispute is untimely or invalid. The Township shall then proceed as if the customer had not notified the Township of the present dispute.

(3) If the Township determines that the present dispute is timely, the Township, within three (3) days after receipt of the customer's notice, shall arrange an informal meeting between the customer and the Township Supervisor, being the official hereby designated by the Township to resolve disputes between the Township and its customers relating to water charges.

(4) Based on the Township's records, the customer's allegations, and all other relevant materials available to the Township Supervisor, the Township Supervisor shall resolve the dispute, attempting to do so in a manner satisfactory to both the Township and the customer.

(5) Within two (2) days after completion of the meeting, the Township Supervisor shall mail to the customer a copy of his decision resolving the dispute. His decision shall be final and binding on the Township and the customer.

SECTION 5. Termination Postponed - Second Notice. Until the date of the Township Supervisor's decision, the utility shall not terminate the utility service of the customer and shall not issue a further notice of termination to him solely for nonpayment of the disputed amounts. If the Township Supervisor determines that the customer must pay some or all of the disputed amount, the Township shall promptly mail to, or personally serve upon the customer, a second notice of termination, which shall contain the following:

The date;

The amount to be paid;

The date of termination, which shall be at least fifteen (15) days after the date of the second notice of termination;

Notice that unless the Township receives complete payment of the amount shown prior to the date of termination, water service shall be terminated.

If, prior to the date of termination, the Township has not received complete payment of the amount shown on the second notice of termination, then the Township may terminate water service provided to the customer on the date of termination.

SECTION 6. Suit for Collecting Utility Charges. The Township may institute suit for the collection of rates which have been unpaid for a period of sixty (60) days after the due date thereof in any court of competent jurisdiction, but no attempt to collect such water rates, by any process, shall in any way invalidate or waive the lien provided for herein.

SECTION 7. General Rule as to Deposits. Deposits for water shall be required in three (3) cases:

- (a) If the Township provides any utility service to a customer located outside of its Township limits;
- (b) If an owner of property within the Township limits files an affidavit as to the lease of the premises as provided in Article 2, Section 7 of this Ordinance; or,
- (c) If any customer is delinquent in paying water bills and as a result thereof, the Township terminates water service to such customer pursuant to Article 3 of this Ordinance.

SECTION 8. Amount of Deposit. The amount of the deposit required shall be determined from time to time pursuant to resolution duly adopted by the Township Board.

SECTION 9. Return of Deposit. A deposit required under this Article shall be returned to the customer, or at the option of the Township, applied to the customer's final billing, upon termination of water service to the customer.

SECTION 10. General Rules as to Utility Deposits held by the Township. All water deposits shall be pooled and held in a non-interest bearing account, provided the Township shall be required to maintain sufficient records to identify the customers in whose names such deposits are being maintained.

ARTICLE 4 - VIOLATIONS; MISCELLANEOUS PROVISIONS

SECTION 1. Civil Infraction: The Township Supervisor, Township Clerk, or any other individual designated by the Township Board may issue a citation for violation of the Ordinance. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not more than \$500.00, in addition to all other costs, damages, expenses, and other fees and remedies provided or allowed by law.

Each and every day such violation continues shall be deemed a separate and distinct violation. Whoever assists in the commission of such violation shall be responsible for a separate violation. The owner of any building or structure, lot or land or part thereof, where anything in violation of this Ordinance shall be placed or shall exist, any architect, builder, contractor, agent, corporation, entity or person employed in connection therewith and who assists in the commission of such violation shall also be responsible for a separate violation.

The issuance of a citation for a municipal civil infraction shall not in any limit the Township from seeking enforcement of an action to abate any nuisance created by a violation of this Ordinance and to recover any costs, expenses, damages, and fees, including attorney fees, that may be permitted or allowed by law in connection with such abatement and the enforcement of this Ordinance.

SECTION 2. Administrative Liability: No officer, agent or employee of the Township shall render himself or herself personally liable for any damages that may accrue to any person as a result of any act required or permitted in the discharge of his duties under and in the enforcement of this Ordinance.

SECTION 3. Severability, Pronouns and Captions: This Ordinance and the various sections, subsections, sentences, phrases, and clauses thereof are hereby declared to be severable. If any section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby declared that the remainder of this Ordinance shall not be affected thereby. Pronouns shall be read as masculine, feminine or neuter as may be appropriate. Captions appearing at the beginning of any section shall not be deemed a part of this Ordinance and shall have no independent significance.

SECTION 4. Repeal: All ordinances or parts thereof which are in conflict in whole or in part with any of the provisions of this Ordinance as of the effective date of this Ordinance as hereby repealed to the extent of such conflict.

SECTION 5. Effective Date: This Ordinance shall take effect thirty (30) days after publication in the manner provided by law.