

**Port Huron Charter Township
Utilities and Services/Water Supply System**

Ordinance # 225

An ordinance to protect the public health, safety and general welfare of persons and property within the Township by re-adopting and amending an ordinance establishing a Utilities and Services/Water Supply System, providing for the funding and enforcement, thereof.

THE CHARTER TOWNSHIP OF PORT HURON, ST. CLAIR COUNTY, STATE OF MICHIGAN, ORDAINS:

SECTION 1: TITLE

This ordinance shall be known and cited as Port Huron Charter Township Water Ordinance.

SECTION 2: DETERMINATION OF NECESSITY AND PURPOSE

It is hereby determined to be necessary for the public health, safety and welfare of the residents of Port Huron Charter Township to acquire, construct, expand and maintain a Water Supply System, in accordance with detailed maps, plans and specifications as approved from time to time by the Township Board.

The acquisition, construction, expansion and maintenance of the Township Water Supply System shall be authorized and the regulation of water taps and water use in Port Huron Charter Township provided for hereunder, pursuant to state law and, to the extent preempted by federal law, such applicable federal law.

SECTION 3: DEFINITIONS

(a) The System. Whenever the words "the System" are referred to in this Chapter, they shall be understood to mean the complete Water Supply System of Port Huron Charter Township, including all water mains, water transmission lines, valves, meters, hydrants, pumps, pump houses, pump stations, storage facilities, treatment facilities, and all other appurtenances and facilities used or useful in the supply and distribution of water for domestic, commercial or industrial uses and for fire protection purposes, including all appurtenances and attachments thereto and including all extensions and improvements thereto, which may hereafter be acquired.

(b) Township Board or Board. Whenever the words "Township Board" or "Board" are referred to in this Chapter, they shall be understood to mean the duly elected governing board of the Port Huron Charter Township.

(c) Township Water User. Whenever the words "Township water user" or "water user" are referred to in this Chapter, they shall be understood to mean each residential, commercial, industrial or other consumer of water from the System. In the case of any multiple unit residential building or multiple unit industrial or commercial property or building, each unit shall be a separate Township water user required to independently comply with the requirements of this Chapter.

SECTION 4: OPERATIONS

System Management and Operation.

(a) Under Supervision and Control of Board. The construction, alteration, expansion, maintenance and management of the System shall be under the supervision and control of the Township Board.

(1) Employ Persons. The Board may also 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.

(2) Make Rules, Orders, and Regulations. The Board may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient management and operation of the System.

(3) Budget. The Township shall cause to be established on an annual basis a budget for operation of the System and shall fund the System with a sum sufficient to meet operation and maintenance expenses of the System.

(4) Operating Year. The System shall be operated on the basis of an operating year commencing on January 1st and ending on December 31st.

(b) Connections, Taps, Meters and Shutoffs, Generally.

(1) Application for water tap or connections shall be made to the Township on forms prescribed and furnished by the Township.

(2) All water users shall be individually metered. The Township may, in its sole discretion, agree to provide service on estimated rate charges where it is not practical to install a meter.

(3) Each Township water user shall have an individual shutoff box for his water line which shall be located at the street or curb side or such other location as shall be determined by the Township or its designee.

(4) Water connections, water meters and water shutoffs shall be installed in accordance with rules and regulations established by the Township Board or its

designee and upon payment of the required connection fees as determined by Resolution of the Township Board, from time to time.

(5) All connections, meters and shutoffs shall be the property of the Township. The specifications and location of all meters shutoffs and connections shall be determined by the Township or its designee.

(6) Each unit, apartment, or other division of a premises that results in the creation of a separate water user shall have its own water tap, meters and shutoff box.

(i) All existing multiple unit premises that do not currently include a separate water tap, meter or shutoff box for each water user or unit on the premises may continue such use until the water lines in the premises become obsolete, are destroyed, or otherwise are replaced or if their use ceases for a period of six (6) months or longer.

(ii) If the Township discontinues service to such premises hereunder, it may, in its sole discretion, refuse to reconnect service until such time as the requirements of this section are met.

(7) No person shall willfully or carelessly break damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the System. Nor shall any person direct or cause another to do so. Violation of this Section shall constitute a municipal civil infraction pursuant to provisions of this Code.

(8) No person shall damage, destroy, disturb, tamper with, disconnect, or break or injure the seal of, cause to be bypassed or partially bypassed, or change the location of any water meter. Nor shall any person direct or cause another to do so. Violation of this Section shall constitute a municipal civil infraction pursuant to provisions of this Code.

(9) Any damage which a water meter may sustain resulting from carelessness of the owner, agent or tenant or from neglect of any of them to properly secure and protect the meter, as well as any damage which may be caused by frost, hot water or steam backing from a boiler, shall be billed to the owner of the property at the time of discovery.

(10) The Township shall have the right to shut off the supply of water to any water user where the Township is not able to obtain access to the water meter. Any qualified employee of the Township shall, at all reasonable hours, have the right to enter the premises where water meters are installed for the purpose of reading, testing, removing or inspecting the meters, and no person shall hinder, obstruct or interfere with such employee in the lawful discharge of his duties.

(c) Service Lines.

(1) Service Lines Defined. Service line means a pipe or other water line intended to provide water service from lateral mains to an individual water user.

(2) Maintenance Responsibility. All service lines shall be maintained by the Township from the point they leave a lateral main to a shutoff box or valve. The balance of the service line shall be maintained by and shall be the sole responsibility of the customer or water user.

(3) Specifications and location. The specifications for and location of all service lines, both between the water main and the shutoff box or valve and between the shutoff box or valve and the connection to the water user's building shall be determined by the Township or its designee.

(d) Private Lines.

(1) Private Lines Defined. Private line means a pipe or water line, other than a service line, intended to provide water service from a service line to one or more water users.

(2) New Private Lines Prohibited; Existing Private Lines to be Phased Out. Each Township water user shall be serviced by a service line connected directly to the System. The installation of new private lines, new connections to existing private lines and the replacement of obsolete private lines is prohibited.

(3) Use and Maintenance of Existing Private Lines. All existing private lines may continue in use until they become obsolete or their use ceases for a period of six (6) months or longer.

(i) It shall be the sole responsibility of those serviced by existing private lines to maintain those private lines according to standards established by the Township for maintenance of service lines at the sole cost of the individual customer or customers which they service. Maintenance of private lines shall include but not be limited to observing and insuring compliance with all sanitary requirements applicable to other water lines within the System, including but not limited to the requirement to perform all ordinary repair due to freezing conditions, flow restrictions, leaks or other similar conditions but does not include replacement due to obsolescence.

(4) Disconnection of Private Water Lines; Reconnection Through Service Lines. If, at any time, the Township determines that a private line is not properly maintained as required under Paragraph (2) and, as a consequence, creates a

threat to the safety of the System, the Township may, at its discretion and at the cost of the users of the private line, disconnect the private line from the System. A private line disconnected from the System hereunder shall not be reconnected to the System. Those serviced by the disconnected private line must reconnect to the System through service lines installed pursuant to this Chapter.

(e) Authority to Restrict Water Use. The Township shall have the right, in the case of emergencies or other special situation, to restrict the use of water for lawn sprinkling or other uses as may be necessary to properly respond to an emergency or special situation.

(f) Authority to Shut Off and Connect or Reconnect Water Service. No person, other than an authorized employee of the Township, shall shut off, turn on, connect or reconnect any water service. Violation of this Section shall constitute a municipal civil infraction pursuant to provisions of this Code.

SECTION 5: FEES AND CHARGES

Water Service Rates and Charges.

The rates to be charged for water service furnished by the System shall be as follows:

(a) Operation and Maintenance Charges. All Township water users shall pay Water Rate Fees for the purpose of defraying the costs of administration, operation and maintenance of the System, which shall be established by Resolution of the Township Board, from time to time.

(1) Deposited in Water Fund. All such Water Rate Fees collected by the Township Treasurer shall be deposited in a water fund established by the Township.

(2) In Addition to Connection Fees. The foregoing Water Rate Fees shall be in addition to Connection Fees, which Connection Fees shall be paid prior to tap and which shall be the actual cost incurred in making the water tap or connection.

(b) Water Connection Fees. All those applying for connection to, and those maintaining connection to, the System shall pay Water Connection Charges as set forth, herein.

(1) Rates Established. The following rates shall be the uniform rates for all future connections to the Port Huron Charter Township Water System:

(i) Capital Charge. All persons connecting to the Water System within the Township shall pay a Capital Charge which shall be determined by Resolution of the Township Board, from time to time.

(ii) Lateral Benefit Charge. Each premises served by a water service line or a private line, where that water line was not installed by the property owner at his expense or as a result of a Special Assessment District, shall, in addition to the Capital Charge defined above, pay a Lateral Benefit Charge, which shall be in such amount as established by Resolution of the Township Board of Trustees, from time to time.

(A) Front Footage Measurement. The Lateral Benefit Charge shall be based on a front foot measurement shall be computed along the side of the parcel to be served on the side adjoining the easement or right-of-way in which the water main is located or to be installed;

(iii) Ready to Serve Charge. All persons connecting to the Water System within the Township shall pay a Ready to Serve Charge which shall be determined by Resolution of the Township Board, from time to time.

(iv) Other Charges. The Township Board may, by Resolution, establish other appropriate charges for service from the Water System as may be necessary.

(3) Payment Options.

(i) Cash. All new construction shall pay the Lateral Benefit Charge in cash. Existing structures on the effective date of this Chapter shall have the option of making the payment in cash, or

(ii) Time Payments. Existing structures on the effective date of this Chapter may pay the Lateral Benefit Charge over a period of six (6) years in equal annual installments. The first installment thereupon shall be made upon the issuance of a permit and each subsequent installment shall be made on July 1st of each year.

(A) Grant of Lien Executed. If time payment is elected, the amount of Lateral Benefit Charge shall be increased by interest at the rate of six percent (6%) per year on the unpaid balance and the owner shall execute a Grant of Lien to the Township to secure payment of the amount due.

(B) Default Interest. Any default in time payment shall carry interest at the rate of one percent (1%) per month and shall be added to the next tax roll and thereafter carry interest at the delinquent tax rate.

SECTION 6: BILLING AND ENFORCEMENT

The Township shall bill for water and water service as set forth, herein.

(a) Metered Water Charges. Billing for metered water charges shall be made quarterly and shall be due and payable on the due date specified in the bill. If not paid by the due date, a ten percent (10%) penalty shall be added.

(b) Senior Citizen Discount. Quarterly charges for water may be supplemented by appropriation from the Water Fund of Port Huron Charter Township of an amount equal to thirty percent (30%) per billing, provided the senior citizen, hereinafter defined, meets all of the following requirements:

(1) The senior citizen shall own, occupy and reside upon the property served. To qualify as a senior citizen, the owner or spouse must be sixty-five (65) years or older.

(2) The senior citizen household income, as defined by the Michigan Income Tax Act, shall not exceed a sum to be determined by Resolution of the Township Board, from time to time.

(3) The senior citizen shall not utilize the property served for rental purposes.

(4) The senior citizen's property shall be located within Port Huron Charter Township.

(5) All persons seeking senior citizen's discount shall reapply for such discount on an annual basis.

(c) Past Due and Unpaid Charges.

(1) Lien on Property. Charges for services furnished by the System to any premises shall be a lien thereon.

(2) Charges Added to Tax Roll. Whenever any such charge against any piece of property shall be delinquent for six (6) months, the Township official or officials in charge of the collection thereof shall certify annually on or about November 1st to the tax assessing officer of the Township the fact of such delinquency, whereupon such charge shall be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general township taxes against such premises are collected and the lien thereof enforced.

(3) Tenants Excluded; Tenant Billing Arrangements; Conditions.

(i) Filing of Affidavit With Lease; Cash Security Deposit. When a water user is a tenant who is responsible for payment of any such charge against such premises pursuant a provision in a legally executed, written lease or rental agreement, and notice is provided to the Township as set forth herein below, then no such charge shall become a lien against such premises from and after the date of such notice, provided all of the following conditions are met:

(A) The owner of the premises shall notify the Township with respect to the execution of such a lease or rental agreement containing such a provision in a signed and notarized affidavit, the form of which shall be established and provided by the Township;

(B) A copy of the legally executed lease or rental agreement shall be attached to the affidavit required under paragraph (3)(i)(A);

(C) Before the water account can be placed in a tenant's name, the tenant must make and keep fully funded a cash security deposit as security for the payment of water charges thereto and complete and file with the Township a Tenant Deposit Agreement in a form to be established and provided by the Township. The cash security deposit shall be of a sum certain as determined by Resolution of the Township Board, from time to time. Upon written notification to the Township that the tenancy has been terminated, the cash security deposit will be applied to any unpaid charges, with the balance refunded to the tenant.

(D) The owner of the premises must maintain a separate water meter and separate water shutoff for the affected premises as set forth in this Chapter so that the Township can terminate water service in the event of non-payment of charges by the tenant.

(E) If a tenant responsible for payment of water charges fails to timely pay such charges, the Township shall terminated water service to the premises. Water to such premises shall remain disconnected until the outstanding charges are paid, together with disconnection and connection fees.

(ii) Owner Responsible for Charges Incurred Before All Requirements Are Met. All utility charges incurred before receipt of the affidavit, a copy of the legally executed lease or rental agreement, *and* a fully funded cash security deposit required hereunder shall remain a lien on the premise and shall be the obligation of the owner of the premises.

(iii) Owner Responsible to Notify Township of Changes in Tenancy. A property owner who has filed an affidavit hereunder shall be obligated to notify the Township within twenty (20) days of any cancellation, change in, or termination of the tenancy of the premises or the lease or rental agreement. Failure to so notify the Township shall nullify any arrangement for tenant billing and any unpaid charges that result from such failure to notify the Township shall remain a lien upon the premises.

(iv) No Reconnection Until Account Made Current. Where the water service to any premises is turned off to enforce the payment of water service charges or sewage disposal service charges, the water service shall not be reconnected until all delinquent charges, disconnection and reconnection fees have been paid and the cash security deposit replenished, regardless of whether the tenant who failed to pay for water service remains in the premises.

(v) No Change in Account for Unit Without Individual Water Shutoff. This Section shall not apply to any Township water user or premises that does not have an individual water shutoff as required in this Chapter for all water users and no tenant billing arrangement may be established hereunder with respect to such premises.

(4) Alternative Tenant Utility Billing Arrangement. A property owner and tenant may, at their option, agree in writing, on a form to be provided by the Township, that the tenant's name may be added to the utility account and the tenant billed for utility charges but that, upon non-payment of utility charges by the tenant, the name on the account shall revert solely to that of the landlord. In such case, the landlord must maintain an individual shut off for each water user as required in this Chapter. The tenant shall be required to fund a cash security deposit in an amount to be determined by Resolution of the Township Board, from time to time. Any charges for services furnished by the System to the premises remaining unpaid after application of the cash security deposit shall be a lien upon the premises and shall be added to the tax roll as set forth in Section 6(c)(1), above.

(d) Special Rates. For miscellaneous services for which a special rate shall be established, such rates shall be fixed by Resolution of the Township Board.

(e) Free Service. No free service shall be furnished by said System to any person, firm or corporation, public or private, or to any public agency or instrumentality.

(f) Rate Revision Authorized. The rates established hereunder or by Resolution of the Township Board are and shall be estimated to be sufficient to provide for the payment of the expenses of operation and maintenance of the System and are necessary to preserve the same in good repair and working order; to provide for the payment of the interest upon and the principal of any bonds as and when the same become due and

payable, and the creation of any reserve therefore that may be required; and to provide for such other expenditures and funds for the System as may be required. Such rates shall be fixed and revised from time to time by Resolution of the Township Board as may be necessary to produce these amounts.

(g) Miscellaneous.

(1) Surplus Moneys. Moneys remaining in the Water Account at the end of any operating year may, at the option of the Township Board, be used for any other system need or any other lawful purpose connected with the Water System; provided however, that if there should be any deficit in any fund maintained for the Water System then transfers shall be made from surplus money to such accounts to the extent of such deficits.

(2) Investment of Moneys. Moneys in any fund or account established by the provisions of this Chapter, including moneys derived from the proceeds of sale of any bonds, may be invested in obligations of the United States of America, in the manner and subject to the limitations provided in Act 94, Public Acts of Michigan, 1933, as amended. In the event such investments are made, the securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds from which such purchase was made. Income received from such investments shall be credited to the fund from which said investments were made.

(3) Issuance of Bonds to Fund improvements, Expansion. The right is reserved, in accordance with the provisions of Act 94, Public Acts of Michigan, 1933, as amended, to issue bonds payable from the revenues of the System, for the purposes of improvements to and extensions of the System.

SECTION 7: SAVING CLAUSE

If any section, paragraph, clause or provision of this Ordinance shall be held invalid for any reason, the same shall not affect the validity of the other provisions of this Ordinance, which shall remain in full force and effect.

SECTION 8: EFFECTIVE DATE

This Ordinance shall take immediate effect. All Ordinances or parts of Ordinances in conflict are hereby repealed.

The above Ordinance was offered for adoption by Township Board Member Reilly, and was seconded by Township Board Member Johnson, the vote being as follows:

YEAS: Reilly, Johnson, Colby, Collins, Davis, Lewandowski

NAYS: None

ABSTAIN/ABSENT: Shonka

ORDINANCE DECLARED ADOPTED:

By: Benita Davis, Clerk
Charter Township of Port Huron

CERTIFICATION

I hereby declare that the above is a true copy of an ordinance adopted by the Charter Township of Port Huron Board at a board meeting held on November 15, 2010, at the Charter Township of Port Huron Hall, pursuant to the required statutory procedures.

Dated: 11/15/2010

Benita Davis, Township Clerk
Charter Township of Port Huron