

## **ARTICLE R 4**

### **SECTION R 4.01 WATER RATE ORDINANCE**

#### **SECTION R 4.02 PURPOSE**

It is hereby determined to be desirable and necessary for the public health, safety and welfare of this Township that the Muskegon County Regional Water System be operated on a public utility rate basis in accordance with the provisions of Act 94, Public Acts of Michigan, 1933, as amended, being MCL 141.101 *et. seq.*

#### **SECTION R 4.03 DEFINITIONS**

Whenever the words "the System" are referred to in this ordinance, they shall be understood to mean the complete facilities of the Muskegon County Regional Water System including all pump stations, pumps, mains, laterals, service lines and transmission lines, including all appurtenances thereto and including all extensions and improvements thereto, which may hereafter be acquired.

Whenever the words "D.P.W. Board" are used in this ordinance, they shall be understood to mean the Muskegon County Board of Public Works.

Whenever the words "the Contract" are used in this ordinance, they shall be understood to mean the Muskegon County Regional Water System Management Contract ("Contract") dated April 14, 2005, as amended from time to time, between the County of Muskegon and the Townships of Dalton, Fruitland, Laketon and Muskegon.

Whenever the words "the Policy Board" are used in this ordinance, they shall be understood to mean the Muskegon County Regional Water System Policy Board as established by the Contract.

Whenever the words "revenues" and "net revenues" are used in this ordinance, they shall be understood to have the meanings as defined in Section 3, Act 94, Public Acts of Michigan, 1933, as amended.

#### **SECTION R 4.04 SYSTEM OPERATION**

The operation and maintenance of the System shall be under the general supervision and control of the D.P.W. Board, subject to the terms of the Contract. Pursuant to the terms of the Contract, this Township has retained the exclusive right to establish, maintain and collect rates and charges for water supply service to its residents and in such capacity this Township Board may employ such person or persons in such capacity or capacities as it deems advisable and may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient establishment, maintenance and collection of such rates and charges.

The D.P.W. Board shall conduct the above duties under policies formulated by the Policy Board established by the Contract. The Policy Board shall make such rules, regulations and by-laws governing the operation of the Water System, the collection of the charges therefore, and for the management and protection of the Water System as it may deem necessary. Such rules, regulations and by-laws shall have the same force and effect as ordinances once they are approved by the Townships and the Muskegon County Board of Public Works. The System Rules and Regulations are as stated in Appendix C.

## SECTION R 4.05 RATES AND CHARGES

Rates and charges to be charged for service furnished by the System shall be as provided in Appendices attached to and made a part of this ordinance. Rates and charges may be changed from time to time by resolution of the various municipalities based on the needs of the system and recommendation of the Policy Board.

### Water Rates

Monthly water rates for users of the System are as stated in Appendix B. The monthly ready-to-serve charge for water use shall be based upon meter size as stated in Appendix B. A commodity charge is imposed for all water used in excess of the minimum quantities as set forth in the schedule based on the applicable meter size as stated in Appendix B.

### Connection Charge

- A. Direct Connection: For each direct connection to lines of the System there shall be charged a fee as stated in Appendix B per single family residential equivalent unit (REU); provided, however, that credit against such charge shall be given for each unit of benefit specially assessed by law or contract, except the amount of such credit shall not exceed the amount of the connection charge.
- B. Indirect Connection: In order to defray the proportional share of the necessary over sizing of trunk lines and appurtenances, for each indirect connection to the System there shall be charged a fee of one-half the direct connection charge for each single family residential equivalent unit (REU). The indirect connection is defined as one made to lines added to the System after its original construction, the cost of which is paid for by private funds or other funds not belonging to the System (e.g., state grants).
- C. Equivalent User Factor: Each premises other than a single-family residence shall pay either a direct or indirect connection charge multiplied by a factor representing a ratio of water use by such class of premises to normal single family residential use, as stated in Appendix A.

The Equivalent User Factor shall be calculated for any establishment based on the use of the property at the time of original application for water service. Whenever the use of this property, from that stated in the original application, is changed, modified or enlarged, the Township shall charge an additional connection charge, based on the current connection charge schedule as listed in Section 4.05, subparagraph A, for the additional equivalent user units over the number originally purchased with the initial application. However, the Equivalent User Factor Charge shall not be revised below that for the initial application.

- D. Payment of Connection Charge: Connection charges as set forth above may be paid in cash upon application for connection to the System or paid over a fifteen (15) year period in fifteen (15) approximately equal installments, the first such installment to be due and payable upon application for connection to System and the balance at yearly intervals thereafter, with each installment bearing interest at the rate established from time to time and stated in Appendix B.

### Special Rates

For miscellaneous or special services for which a special rate shall be established, such rates shall be fixed by the Township Board in consultation with the System Policy Board.

### Billing

Bills will be rendered monthly. The due date shall be determined by the Policy Board and shall be stated on each bill. The due dates shall be no less than fifteen (15) days after the bill is mailed. Payments received after the due date shall bear a penalty of ten percent (10%) of the amount of the bill.

### Enforcement

The charges for services which are pursuant to Section 21 of Act 94 of the Public Acts of 1933, being MCL 141.121, are hereby made a lien on all the premises served whenever such charges are delinquent for a period of six months. The Township official or officials in charge of the collection thereof shall certify annually on October 1 of each year such delinquencies to the tax assessing officer of the Township, and said assessing officer shall enter such charges on the tax roll, and said amount shall be collected in the same manner as real estate taxes are collected on the premises.

In addition to the foregoing, this Township shall have the right to shut off water service to any premises for which charges for water service are more than three (3) months delinquent, and such service shall not be re-established until all delinquent charges and penalties and a turn on charge, to be specified by this Township Board, have been paid. Further, such charges and penalties may be recovered by the Township by court action.

### Transfer of Connection Charge Lien

When a parcel of property which is subject to a lien agreement for the payment of the connection charge in installments is acquired by a new owner, such owner has the right to assume the lien agreement under the following terms and conditions:

- A. The new owner pays a fee as stated in Appendix B to cover the cost of executing and recording of the necessary documents.
- B. The new owner signs a new lien agreement for the balance of the payments due and owing.
- C. The new owner shall provide the Township Clerk with the necessary documents showing the transfer of ownership.

### Annual Rate Adjustment

Annually, the D.P.W. Board shall submit an Operations and Maintenance budget to the System Policy Board. On approval by that Board, the budget shall be submitted to each jurisdiction's legislative branch for formal approval as necessary.

The approval of the budget shall incorporate any necessary rate and fee schedules so as to provide

sufficient funds to operate the System.

**SECTION R 4.06 MANDATORY CONNECTION**

A. “Available Public Water Supply” Defined.

For purposes of this section, the term “available public water supply” means a System water main located within a right-of-way, easement, highway, street, or other public way that crosses or abuts upon the parcel on which a building is located, and which passes not more than 200 feet from the nearest point of the building.

B. Events Requiring Connection.

The owner of any building in which plumbing fixtures are installed and for which there is an available public water supply (i.e., a water main within 200 feet as described in subsection A above) must, at the owner’s expense, connect the building to the System in accordance with this section. Connection must occur:

1. Within 120 days of the conveyance (by deed, land contract, or other similar instrument) of the parcel upon which building is located.
2. When the existing well serving the building runs dry, is contaminated, or otherwise fails. (The owner of the property may not, for the purpose of avoiding mandatory connection, improve, expand, rehabilitate, re-drill, deepen, or otherwise extend the useful life of a failed well).
3. For a newly constructed building with an available public water supply, connection to the System must be made before a certificate of occupancy is issued. The Township or any entity administering the Michigan Construction Code on the Township’s behalf is authorized to withhold a building permit until the connection is made.

C. Continued Use of Wells After Connection.

After a connection is made to the System, a noncontaminated well on the subject parcel may remain in use for irrigation and other similar uses occurring outside the building(s) on the parcel. For purposes of clarity, such wells may be used to clean animals, personal property, or the exterior of the premises, but shall in no event be used for human consumption or bathing.

**SECTION R 4.07 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.

**SECTION R 4.08 EXPENSES**

The rates established hereby are estimated to be sufficient to provide for the payment of the expenses of administration and operation, such expenses for maintenance of the said System as are necessary to preserve the same in good repair and working order, to provide for the payment of the debt service obligations, and to provide for such other expenditures and funds for said System as this ordinance may require. Such rates shall be fixed and revised by resolution of the Township board from time to

time as may be necessary to produce these amounts.

**SECTION 4.09 OPERATING YEAR**

The System shall be operated on the basis of an operating year commencing on October 1 and ending on the last day of September next following.

**SECTION 4.10 SYSTEM REVENUE**

The revenues of the System shall be set aside as collected and deposited in a depository account in the Township's duly designated depository of Muskegon, Michigan, a bank duly qualified to do business in Michigan, in an account to be designated MUSKEGON COUNTY REGIONAL WATER SYSTEM RECEIVING FUND (hereinafter, for brevity, referred to as the "Receiving Fund"), and said revenues so deposited shall be transferred from the Receiving Fund periodically in the manner and at the times specified in the Contract to the Muskegon County Regional Water System Pooled Account.

- A. Operation, Maintenance and Debt Service. The D.P.W. Board shall pay from and charge to the said Pooled Account, first, all costs of operation, maintenance and management of the System and second, debt service costs of the bonds to be issued by the County to finance construction of the System. Operation, maintenance and management costs shall include but not be limited to costs of water purchased, wages and salaries for labor and administration related to the System, materials expense, supplies, utility charges and insurance.
- B. Surplus Monies. Any surplus monies remaining from time to time in the Pooled Account shall be retained by the D.P.W. Board to pay other System costs, such as repair, replacement or extension and improvement of the System and as a debt service reserve.
- C. Township Remittances. The Township treasurer shall remit to the Pooled Account all monthly collections of rates and charges other than charges for inspections of connections in the manner and at the times specified in the Contract following such collection.
- D. Bank Account. All moneys belonging to the Receiving Fund may be kept in one bank account, in which event the moneys shall be allocated on the books and records of this Township within this single bank account, in the manner above set forth. Any other public corporation acting as operating agent for this Township shall be authorized to act for this Township to establish, maintain and fund the aforesaid account.

**SECTION R 4.11 HARDSHIP**

The owner or owners of a single-family residence in which residence said owner or owners reside and upon which a connection charge or special assessment has been imposed may submit a hardship application to this Township Board seeking a deferment in the partial or total payment of the connection charge or special assessment provided for herein based upon a showing of financial hardship, subject to and in accordance with the following:

- A. The owners of the premises shall, under oath, complete a hardship application provided by this Township Board and file said application, together with all other information and

documentation reasonable required by this Township, with this Township Board not less than sixty (60) days prior to the due date of such charge. An application shall be completed and filed by each and every legal and equitable interest holder in the premises, excepting financial institutions having security interests in the premises.

- B. Hardship applications shall be reviewed by this Township Board, and after due deliberation of hardship applications, this Township Board shall determine in each case whether there has been an adequate showing of financial hardship, and shall forthwith notify the applicants of said determination.
- C. An applicant aggrieved by the determination of this Township Board may request the opportunity to appear before this Township Board in person for the purposes of showing hardship and presenting any argument for additional evidence. A denial of hardship following such a personal appearance before this Township Board shall be final and conclusive.
- D. In the event that the Township Board makes a finding of hardship, the Township Board shall fix the amount of partial or total deferment of the charge so imposed, and in so doing, shall require an annual filing of financial status by each applicant, providing that upon a material change of financial status of an applicant, said applicant shall immediately notify the Clerk of this Township so that a further review of the matter may be made by this Township Board, and provided further that the duration of the deferment granted shall be self-terminating upon the occurrence of any one of the following events:
  - 1. A change in the financial status of any applicant which removes the basis for financial hardship.
  - 2. A conveyance of any interest in the premises by any of the applicants, including the execution of a new security interest in the premises or extension thereof.
  - 3. A death of any of the applicants.
- E. Upon a determination of this Township Board deferring all or part of the charges imposed, the owners of the premises shall, within one (1) month after such determination, execute and deliver to this Township, as the secured party, a recordable security instrument covering the premises guaranteeing payment of the deferred amounts on or before the death of any of the applicants or, in any event, upon the sale or transfer of the premises. Said security interest shall guarantee payment of an amount necessary to cover all fees and charges deferred and all costs of installation and connection, if applicable, the consideration for said security interest being the grant of deferment pursuant to this ordinance.

#### **SECTION R 4.12 CRIMINAL VIOLATION**

Any unauthorized person who shall take water from the System without payment therefore, or disturb, tap into, change, obstruct, or interfere with the System and any person who shall intentionally damage the System shall be responsible for a civil infraction and subject to fines as published by the Township from time to time. Each day's continued violation shall constitute a separate and distinct offense.

**SECTION R 4.13 SEVERABILITY**

If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

**SECTION R 4.14 REPEAL**

All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, repealed.

**SECTION R 4.15 PUBLICATION**

This ordinance shall be published, as necessary, in a newspaper of general circulation within the boundaries of the Township and qualified under State law to publish legal notices, promptly after its adoption, and the same shall be recorded in the Ordinance Book of the Township and such recording authenticated by the signatures of the Supervisor and the Township Clerk.

**SECTION R 4.16 EFFECTIVE DATE**

This ordinance shall become effective 30 days after its publication.

ADOPTED: October 17, 2005

AMENDED: July 16, 2012

PUBLISHED: August 12, 2012

EFFECTIVE: September 11, 2012

AMENDED: October 21, 2013

PUBLISHED: October 27, 2013

EFFECTIVE: November 26, 2013

AMENDED: December 19, 2022

PUBLISHED: January 8, 2023

EFFECTIVE: February 7, 2023