

## ORDINANCE NO. 226 WATER ORDINANCE

### ARTICLE I. GENERAL

#### Section 1. Purpose

The purpose of this ordinance is to regulate and control the construction, installation, extension, service connection and operation of the Larkin Township Water System, to implement the Township's responsibilities and obligations to the City of Midland under the Agreement by which Larkin Township acquires water from the City of Midland to serve the Township Water Service Area, to prescribe procedures for establishing and collecting charges for Public Water Service and to provide penalties for the violation of such regulations and this ordinance.

#### Section 2. Definitions

When used in this ordinance, the following terms shall be construed as defined in this section, unless a different definition shall be adopted for any article of this chapter.

**Agreement.** That certain Water Services Agreement between the City and the Township, dated June 10, 1997, and any amendments thereto, whereby the City has agreed to sell and supply to the Township potable treated water to the residents and businesses of the Township and to service and manage the public water distribution system owned by the Township, lying within the Water Service Area.

**City.** The City of Midland, Bay and Midland Counties, Michigan, a municipal corporation.

**City Treasurer.** The duly appointed officer of the City, or his authorized representative.

**City Water System.** The public water supply, treatment and distribution system owned and operated by the City.

**Cross connection.** A connection or arrangement of piping or appurtenances through which backflow could occur.

**Larkin Township Water System No. 1.** The special assessment district created by resolution of the Township Board on August 5, 1997, for the purpose of constructing certain water system improvements.

**MUGA Area.** That portion of the Township designated as the MUGA Area within the Agreement, as same may be amended from time to time, and to which water service is restricted pursuant to the Agreement.

**Township.** Larkin Township, Midland County, Michigan.

Township Water Service Area. The area within the Township identified as the Township Water Service Area within the Agreement.

Township Water System. The public water distribution system owned by the Township and lying entirely within Larkin Township Water System No. 1 or within any other portion of the Water Service Area that receives a public water distribution system.

Water connection or service. A tap into a water main.

Water extension. That part of the customer's water supply system extending from the end of the water connection into the premises served and ending at the City's water meter.

Water main. That portion of the water distribution system lying in the public right-of-way and of a size adequate to serve more than one customer.

### Section 3. Where mains are installed; grant of easement.

All water mains shall be installed in public rights-of-way. However, where it is deemed necessary by the Township Board that certain water mains be installed in private property, the property owner shall grant an easement to the Township for the purposes of installation of water mains and inspection and maintenance thereof. Additionally, all property owners shall grant the Township and/or City an easement for the purpose of meter reading, inspection and maintenance.

### Section 4. Structure to have individual connection.

Every dwelling, building or structure furnished City water shall have its individual water connection. Duplex residences shall have separate connections for each dwelling unit. Townhouses or apartments shall have separate connections installed for each dwelling unit.

### Section 5. Elimination of cross connections required; adoption of water supply cross connection rules.

Cross connection of the Township Water System with any other water supply system shall not be permitted.

It shall be the duty of the City to cause inspections to be made of all properties served by the Township Water System where cross connections are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the City and as approved by the Michigan Department of Health.

The City shall have the right to enter at any reasonable time any property serviced by connection to the Township Water System for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessee or

occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed prima facie evidence of the presence of cross connections.

The City is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any cross connection or other violation of this section exists, and to take other precautionary measures deemed necessary to eliminate any danger of contamination of the Township Water System. Water service to such property shall not be restored until the water connection or cross connection has been eliminated.

Potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this section and by the applicable State and Township Plumbing Codes.

This section does not supersede the applicable State and Township Plumbing Codes, but shall be considered supplementary to them.

#### Section 6. No branches or connections allowed off extension.

There shall be no branches or connections off the extension pipe connecting the water supply main with the water meter.

#### Section 7. Contamination

No person or entity shall permit water supplied to them from the City Water System or the Township Water System to be mixed or mingled with water from any other source. All persons, entities and customers of the Township Water System shall prudently take measures to guard against all forms of contamination of water supplied by the City Water System or the Township Water System.

#### Section 8. Extending water service beyond Township Water Service Area.

It shall be unlawful for any person or entity who purchases water from the City, or is serviced by the Township Water System, to extend water service to facilities located outside of the Township Water Service Area without the express approval of the Township Board. The Township Board or its designee shall enforce this section and shall be authorized to make application in the proper court for writ or injunction restraining any person from violating this section.

#### Section 9. Use of water from fire hydrant without permission.

It shall be unlawful for any person to use water from a fire hydrant without obtaining permission from the City.

Section 10. Who may turn on and off service.

No person, other than an authorized employee of the City or the Township shall turn on or off any water service, except that a licensed plumber may turn on a water service for testing an extension system, after which the plumber shall immediately turn the water service off.

Section 11. City's declaration of water emergency.

At such time as the City shall determine that water consumption within the City and Township has or is about to exceed the supply available to the City and Township for its uses on a continuing basis (such use to include the Township Water System), the City may declare that a water emergency exists.

Section 12. Water uses prohibited during water emergency.

When the City has declared that a water emergency exists, the use and withdrawal of water by any person from the Township Water System for any of the following purposes is hereby prohibited:

- (a) Watering of yards. The sprinkling, watering or irrigation of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, vegetables, flowers and any other vegetation.
- (b) Cleaning out door surfaces. The washing of sidewalks, driveways, filling station aprons, porches, patios and other outdoor hard surface areas.
- (c) Swimming pools. Swimming and wading pools not employing a filter and recirculating system.
- (d) Escape through defective plumbing. The escape of water through defective plumbing, which shall mean the knowing permission for defective plumbing to remain out of repair.

Section 13. Declaration of existence of emergency.

When the City shall have declared that a water emergency exists, notice thereof shall be given by releasing such declaration to the official newspaper of the Township and to all radio stations maintaining studios within the City and/or Township. Such notice shall advise of the time of commencement of such emergency and that such emergency shall continue until notice of termination is given by the City through the same media.

Section 14. Termination of emergency.

When the City shall determine that the conditions which caused the declaration of a water emergency no longer exist, it shall so declare and give notice of such determination as provided in Section 13.

Section 15. Penalty for violation of water emergency regulations.

Any person who shall, during any water emergency, use or withdraw water from the Township Water System for any of the purposes prohibited in Section 10 shall have violated this ordinance and shall be subject to its penalty provisions. In addition to those penalties, if said person refuses to discontinue such violation, he/she and the premises served shall be subject to the discontinuance of water service during the continuance of such emergency.

ARTICLE II. SERVICE AND METERS

Section 16. Customer written agreement with City.

Each customer of the Township Water System shall be required as a condition of obtaining and continuing to receive water service, to sign a written agreement indicating said customer agrees to comply with and is governed by the ordinances, rules, regulations and policies as may be adopted by the City relating to such water service. The City shall have the right to refuse to supply water service to any customer who refuses to sign such agreement.

Section 17. Cost of service, extension, installation, connection and capital fees.

The cost of the installation of water service and extension within the Township Water Service Area shall be determined as follows:

- (a) The installation from the main to the curb box, which shall be located on the street side of the property line, shall include the tapping of the main, the furnishing and installing of all necessary valve, pipe and fittings from the main to the curb box plus the cost of the meter and the meter fittings. The cost thereof, payable in advance, shall be in accordance with the City Code of Ordinances.
- (b) If the service installation is installed by customer request between December 1 and March 31, an additional charge shall be added to the service connection fee in accordance with the City Code of Ordinances.
- (c) Any additional connection or capital fees in accordance with the City Code of Ordinances.

Section 18. Single water connection per assessment, dividing a premises, additional costs for premises not having previously paid for a water main.

- (a) Each parcel of land assessed within Larkin Township Water System No. 1 or other assessment district created by the Township Board for purpose of constructing water system improvements within the Township Water Service Area, shall be entitled make one water connection tap into a water main, paid by way of the assessment district. Additional water

connections or tap in may be provided to assessed parcels or parcels having an existing water connection, provided same is not prohibited under the terms of the Agreement and provided same does not impair the operation or maintenance of the City or Township Water Systems. In such event, the applicable amount specified in Section 18(c) shall be paid for each additional water connection.

- (b) Should any parcel be divided after a special assessment thereon has been confirmed, and before the full collection thereof, the remaining unpaid balance and corresponding credit for payments made shall be allocated, in full, to that portion of the parcel retained by the owner making the division. In the event that the owner making the division does not retain any remaining parcel, the owner shall submit to the Township Supervisor written notification of the division, which notification shall designate which parcel is to be subject to the lien of the unpaid special assessment and enjoy the credits for payments made thereon. The Township Supervisor shall record this designation on the tax and assessment rolls accordingly. The remaining unpaid balance and corresponding credit for payments made may not be divided or allocated between parcels. Parcels to which the assessment lien and credit have not been allocated shall be deemed premises or parcels which have not borne the expense of the construction of water mains through special assessment and subject to the charges set forth in Section 18.(c) of this Ordinance.
- (c) In addition to the costs set forth in the previous section of this Ordinance, for premises obtaining a water connection in addition to that paid by way of assessment district or premises which have not borne the expense of the construction of water mains through special assessment, a water connection permit shall not be granted to connect to the Township Water System until the following payments have been made to the Township:
  - (1) In cases where the premises connects, directly or indirectly, to a water main installed as part of Township Water System No. 1, payment in the amount of four thousand three hundred dollars (\$4,300.00) for each connection.
  - (2) In cases where the premises connects, directly or indirectly, to a water main installed as part of Township Water System No. 2, payment in the amount of five thousand four hundred and eleven dollars (\$5,411.00) for each connection.
  - (3) In cases where the premises connects, directly or indirectly, to a water main installed as part of Township Water System No. 3 or as part of Township Water System No. 3-A, payment in the amount of ten thousand five hundred twenty dollars (\$10,520.00) for each connection.

- (4) The connection fees for Township Water Districts No. 1, No. 2, No. 3 and No. 3-A, above, are to be paid whether or not the premises is adjacent to the Township water main.
- (5) In cases where the premises lies adjacent to the Eastman Road transmission line between Hurley Road and Bombay Road, payment in the amount of twelve thousand three hundred seventy-five dollars (\$12,375.00) for each connection.
- (6) In cases where the premises does not lie adjacent to the Eastman Road transmission line between Hurley Road and Bombay Road but obtains water from a connection to that transmission line, payment in the amount of eight thousand seven hundred seventy-five dollars (\$8,775.00) for each connection.
- (7) In cases where the premises lies adjacent to a water main installed as part of Township Water System No. 4 - Blueberry Lane, payment in the amount of nineteen thousand seven hundred thirty-four and 60/100 dollars (\$19,734.60) for each connection.
- (8) In cases where the premises does not lie adjacent to a water main installed as part of Township Water System No. 4 - Blueberry Lane but which obtains water from Water System No. 4 - Blueberry Lane, payment in the amount of nine thousand eight hundred sixty-seven and 30/100 dollars (\$9,867.30) for each connection.
- (9) In all instances (1) through (8), above, payment shall also be made by the owner of the property to the City or Water District No. 1 of Midland County, as applicable, pursuant to the City or Water District No. 1 Code of Ordinances and regulations.
- (10) All costs for extensions of water mains not part of the Township Water System and owned by the Township, leads from water mains, ancillary equipment or ancillary appliances, which are not provided for in the City or Water District No. 1 installation and City or Water District No. 1 charges, shall be borne by the property owner. The amounts of special assessments, as well as the foregoing charges payable to the Township, represent repayment of the Township capital expenses and its readiness to serve only.

Section 19. Structures and customers to have water meter and inside shutoff valve.

Every dwelling, building or structure furnished Township water shall have its own water meter and inside shutoff valve. Every customer furnished Township water shall have their own water meter and shutoff valve inside the dwelling, building or structure.

Section 20. City meters to be used.

Meters to be used in the installation of the service and extension pursuant to shall be only those which are obtained from the City.

Section 21. Meter installation; when City provides same; charges.

- (a) The City shall provide and maintain at its expense all meters for measuring water supplied to Township customers in accordance with the then current ordinances, rules regulations and policies of the City. The City shall have the right to replace meters at its discretion.
- (b) Customers shall provide a suitable place for meter installation.
- (c) In event of the failure or refusal of a customer to provide a suitable place, or if in the judgment of the City damage may result to the meter through frost or other agency, the City may provide a suitable place for installation and charge the customer in accordance with the City Code of Ordinances. The amount of such charge may be assessed against the customer in the next ensuing quarter, and be collected in the same manner as other water charges.

Section 22. City may estimate consumption when meter fails or when unable to read meter.

In the event that a water meter shall fail to register properly, or the City is unable to gain entry to read the meter, the City is empowered to estimate the quantity of water used on the basis of information available and bill accordingly.

Section 23. Interfering, tampering with meters; ownership.

No person other than an authorized employee of the City shall break or injure the seal on, or change the location of, or alter or interfere in any way with any water meter. All meters are property of the City.

Section 24. Expense of negligent injury to be borne by occupant of premises.

Whenever a water meter is injured because of any act or negligence on the part of the owner or occupant of the premises where such meter is installed, the expense of the



City caused thereby shall be charged to and collected from such owner or occupant in the same manner as other water charges.

### ARTICLE III. RATES, CHARGES, BILLING

#### Section 25. Establishment of water rates.

The City shall establish water rates and collect water charges. The City may classify the users of water according to the quantities and types of water supplied and classes of service and charge such rates to users in each class as it may deem reasonable. Such rates shall be fixed and revised from time to time as may be necessary and the City and its City Council shall maintain such rates for services and water supplied by such water system as shall be sufficient to provide for all operating expenses of such system, required repairs and maintenance thereof, and the due payment of all the indebtedness. The City shall bill individually each Township customer in accordance with the City Code of Ordinances, and the rules, regulations and procedures of the City Water System.

The Township may make additional charges to water bills for Township customers. The amount of those additional charges shall be collected by the City and, upon collection, be remitted to the Township.

#### Section 26. Deposit for water service; refund.

- (a) Deposit required. Before any premises may be served with water service, a deposit shall be required from all applicants for service when the applicant is not the owner of the premises where the service is provided. Such deposit shall be in accordance with the City Code of Ordinances, but shall not be more than the amount of an estimated bill for six months' water usage for the applicable service, as estimated by the City.
- (b) Interest on security deposits. The City will apply interest to the deposit accounts of all users in accordance with the City Code of Ordinances. Accrued interest due shall be paid at the time the deposit is refunded.
- (c) Notification necessary to waive lien. When a tenant is responsible for payment of water bills and a lease has been executed containing a provision that the lessor not be liable for water charges, then it shall be the responsibility of the lessor to so notify the City and Township Clerk with an appropriate affidavit signed by both parties requesting a waiver or lien. The affidavit must state:

"Tenant is totally responsible for all charges for water and/or sewer service furnished to the said premises by the City of Midland and Larkin Township. Tenant understands that no service shall be commenced to the above address until there has been deposited with the City a sum sufficient to cover twice the average quarterly bill with

a one hundred ten dollar (\$110.00) minimum, and a copy of the lease including the affidavit furnished to the City. Tenant further understands that payment of charges for water and/or sewer service may be enforced by discontinuing the services to the premises."

The affidavit shall state the expiration date of the lease. Upon receipt of such notification, the City will waive its lien pursuant to Public Act 178 of the Public Acts of the State of Michigan, or 1939, as amended, and the water bills to the lessee within the term of the lease shall not be a lien against the property. Upon expiration of the lease, a new affidavit must be submitted to retain the lien waiver. Without such notification, water bills will be a lien against the property served regardless of any lease provisions between the parties. The water bills shall be in the name of the premises except as provided by this section concerning tenants.

- (d) Security deposits in lieu of lien. When the City has received and approved a request from the property owner for a waiver of lien, then a cash deposit will be required of the lessee as security for payment of all water charges. Said cash deposit shall be equal to two (2) times the estimated quarterly bill for water charges, but in no case, less than one hundred ten dollars (\$110.00). Refunds will be made when all bills are paid, and the service to such customer is discontinued.

#### Section 27. Rate for water used in construction when meter cannot be used.

For construction work where, due to weather or other conditions, it is impracticable to furnish a temporary meter connection, a minimum charge shall be made in accordance with the City Code of Ordinances. Water used should be metered or may be estimated by the water department, and the charges shall be in accordance with the City Code of Ordinances. In accordance with the City Code of Ordinances, a minimum charge per service connection shall be paid in advance; and an additional charge shall be made if the amount of water to be used is estimated to be greater than one thousand (1,000) gallons.

#### Section 28. Quarterly assessment, collection.

Charges for water consumed inside the Township Water Service Area shall be assessed and collected in four (4) quarterly periods, or more often if circumstances require.

#### Section 29. Computation of monthly billing.

Water service billed monthly shall be computed so that the total cost per quarter shall be the same as if billed quarterly.

Section 30. Reading, billing date, remote reading registers.

- (a) Water meters shall be read as nearly as possible within twenty (20) days of the end of each quarter, and the water charge shall be billed to customers within forty (40) days of the end of each quarter.
- (b) The customer shall have a water meter with a remote reading register installed so that the meter may be read from outside the building. The cost for remote reading meters shall be in accordance with the City Code of Ordinances for each meter. It may be paid in advance or added to the water bill.
- (c) In the event of a discrepancy between the readings on the water meter and the remote register, the consumption as shown on the water meter shall be used in calculating the billing or as otherwise provided for in this chapter.

Section 31. Payment of bills and charges.

Payment of all water bills, charges, fees and deposits for water service shall be made to the City Treasurer.

Section 32. When water bills are due and payable.

All water bills shall be due and payable at the Office of the City Treasurer in the City Hall on or before the date shown on the bill which shall be not less than fifty (50) nor more than sixty (60) days after the end of the quarter for which such bills are issued.

Section 33. Discontinuance for non-payment.

The City or Township may discontinue water service for nonpayment of water rates and charges if the customer is more than ninety (90) days delinquent.

Section 34. Enforcement of collection of water charges by assumpsit.

The payment of the charges for services and for water supplied may be enforced by an action of assumpsit instituted in the name of the Township or the City against such user.

Section 35. Unpaid water charges to be a lien; collection.

Unpaid water charges shall constitute a lien on the property served by the water connections; and if not paid within ninety (90) days of the billing date, such debt shall be collected in the same manner as general taxes or as otherwise provided by law.

Section 36. Reinstating water service; charge.

Water service which has been discontinued for the nonpayment of water bills or charges due the City or Township shall not be reinstated except upon the prepayment of a service charge in accordance with the City Code of Ordinances. There shall be an additional charge for reinstating service during other than normal working hours, based on the costs incurred. The service charge shall be added to the water bill.

Section 37. No responsibility for leaks in service beyond the meter.

The City and Township will assume no responsibility for excessive water bills caused by a leak in the water service beyond the water meter.

ARTICLE IV. MISCELLANEOUS

Section 38. Rule making by Township Board.

The Township Board may, by resolution, adopt such rules and regulations as it may deem necessary to administer the terms of this ordinance.

Section 39. Discontinuance for noncompliance.

The City or Township may discontinue water service for failure to comply with all ordinances, rules or regulations of the City relating to water use or this ordinance.

Section 40. Penalties

Any person or other entity who violates any provision of this Ordinance is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine of not more than \$500.00, plus costs, which may include all direct or indirect expenses to which the Township has been put in connection with the violation. In no case, however, shall costs of less than \$9.00 or more than \$500.00 be ordered. Each day that a violation exists shall be deemed a separate offense and violation. In addition, all violations of this Ordinance are declared a nuisance per se. The Township specifically reserves the right and shall have the authority to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to abate said nuisance and to compel compliance with this Ordinance.

Section 41. Repeal

All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 42. Effective Date

This Ordinance shall become effective thirty (30) days after publication thereof.

Adopted by the Township board, Township of Larkin, Midland County,  
Michigan.

Ordinance No. 226, adopted September 9, 1997

Amended by Ordinance No. 229, adopted May 13, 1998

Amended by Ordinance No. 234, adopted December 15, 1998

Amended by Ordinance No. 249, adopted October 10, 2006

Amended by Ordinance No. 252, adopted March 11, 2008

Amended by Ordinance No. 255, adopted February 14, 2012

Amended by Ordinance No. 261, adopted October 11, 2016

Amended by Ordinance No. 264, adopted August 8, 2017