

## § 51.11 BILLING AND ENFORCEMENT; NO FREE SERVICE.

(A) *Responsibility for payment.* Except as provided in divisions (C) and (D) of this section, the owner of the premises served by the Water Supply System shall be liable to the village for any charges and fees authorized by this subchapter.

(B) *Billing, collections and user payments.*

(1) Meters shall be read at least quarterly.

(2) The Village Clerk shall render bills for water service and all other charges in connection therewith. Bills for water service shall be sent periodically as determined by the village, and delivered to the user or owner of the premises. **No bill for water use shall be changed, altered or amended without consent of a majority of the Village Council. Except as otherwise provided in this subchapter, all bills shall be payable by day 30 following the mailing of the bill and shall be paid at the Village Hall.**

(3) The Village Treasurer or his or her designee shall collect all monies due for water service and all other charges in connection with the operation of the Water Supply System.

(4) If any billed charge for water service shall not be paid by day 30 following the mailing of the bill for which the charges were made, **a delayed payment charge of 10% of the amount of the bill shall be added thereto, plus interest in an amount determined by the Village Council resolution, and shall be collected therewith.**

(5) Failure of the user or owner of the premises served to receive any bill shall not relieve the person of the liability for the charges incurred, and the person shall notify the Village Clerk if a bill has not been received by day 15 of the end of a quarterly billing period.

(C) *Rates and charges to constitute lien on premises served.*

(1) **Tax lien.** Under the provisions of Public Act 178 of 1939, being M.C.L.A. §§ 123.161 through 123.167, as amended, and Act 94 of 1933, M.C.L.A. §§ 141.121, as amended, as security for the collection of water service supplied to any house or any other building or any premises, lot or lots, or parcel or parcels of land, the village shall have a lien upon the house or other buildings and upon the premises, 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 service to the premises or property supplied. This lien created herein shall be collected and enforced in the same manner as provided for the collection of taxes assessed upon the tax roll pursuant to Village Charter, except that the same shall not be enforceable for more than three years after it becomes effective.

(2) **The village shall annually, on April 1, certify to the appropriate tax assessing officer or agency, all unpaid water service charges for the services furnished to any premises, which, on the last day of March immediately preceding April 1, have remain unpaid for a period of six months or more, whereupon the charge shall be entered upon the next tax roll as a charge against the piece of property or premises served. The charges shall be collected and the lien thereof enforced in the same manner as general village taxes.**

(3) This lien remedy does not preclude any other remedy provided by law.

(4) *Lease exception.* Charges for water services furnished to any premises, as described in the preceding paragraph, shall not be a lien thereon if all of the following exist:

(a) A legally executed written lease between the owner of the premises and the tenant containing a provision that the owner of the premises shall not be liable for the paying of water services accruing subsequent to the filing of an affidavit by the owner with the Village Clerk;

(b) An affidavit filed by the owner with the Village Clerk containing statements as to the date of the execution of the lease, that the lease contains a provision holding the tenant liable for water

services on the premises, the expiration date of the lease; and 20 days' written notice shall be given to the village by the lessor of any cancellation, change in, or termination of the lease; and

(c) In the case of multiple tenancies in one building, the owner shall provide, at his or her cost, a separate meter, service line and curb box to each apartment or leasehold within the building that is to be servicing the tenants responsible for charges under this section.

(D) *Deposits.*

(1) *Deposit required by tenant.* If notice of a tenant's liability has been filed with the Village Clerk, the village shall render no further service to such premises until a cash deposit in a sum sufficient to cover three times the average quarterly bill for such premises, as estimated by the Village Clerk, has been made as security for the payment of such charges.

(2) *Deposit required for non-village service.* Whenever services are applied for under this chapter for premises located outside the village, the Village Clerk shall forthwith advise Council of such application, and no such service shall be furnished without the approval of Council, nor until a cash deposit in a sum sufficient to cover three times the average quarterly bill for such premises, as estimated by the Village Clerk, has been made as security for the payment to secure all bills and charges. However, the Council may waive this requirement in the event the property being served by the village water services is covered by an agreement with Putnam Township to provide for the collection of unpaid rates, fees, and charges and payment to the village by placing such unpaid rates, fees, and charges on the township's summer tax roll.

(3) The security deposit shall be retained by the village in a separate account established for that purpose and shall be forfeited to the village if the lessee of property contemplated in division (D)(1) above, or the owner on property outside of the village contemplated in division (D)(2) above, shall be or become delinquent in the payment of water rates or charges. Upon such forfeiture of a security deposit, the Village Clerk shall transfer as much of the sum of the deposit as is required to satisfy the delinquency to the credit of the proper account, and the remainder, if there be any, shall be transferred to the contingent reserve fund of the water department, as the case may be. The property affected shall not be served again unless a new security deposit be made in the same amount as the original, and disconnection preceding under division (G) below shall be commenced.

(4) Monies deposited with the village for tenants under this division (D), which shall not have been forfeited in the above described manner, shall be returned to the depositor upon his or her application at the expiration of the lease period. Such deposits may be left undisturbed to apply on renewals or extensions of a lease for which the original deposit was made. Upon a sublease or cancellation of a lease contemplated hereunder, security deposits shall, upon request, be returned to the depositor. In the case of a sublease, no such return shall be made unless there be a similar guarantee deposit made by the holder of such sublease. Monies deposited with the village under this division (D) for non-village property service, which shall not have been forfeited in the above described manner, shall be returned to the depositor when all services provided for in this chapter have been paid for in full and further services are not required.

(E) *Appeal of charges.* Any user shall have the right to appeal any rates, charges or fees levied in accordance with this subchapter. Appeals shall be directed to the village within 30 days of the billing or invoice date along with any supporting documentation. Any additional information required to resolve the appeal shall be obtained by the user at his or her expense. Resolution of appeals shall be made within 60 days by the Village Council or its designee in accordance with the best available data and this subchapter. All bills for rates and charges outstanding during the appeal process, including all late payment fees or delinquency charges, shall continue to be due and payable.

(F) *No free service.* No free service shall be furnished to any user of the Water Supply System.

(G) *Termination of water service by village.* The village reserves the right to terminate a user's water service in each case where payment for water service has not been timely received, and/or for

violation of any of the rules and regulations of the village relating to the Water System and/or the provisions of this subchapter.

(1) It is the policy of the village to discontinue water service under this code to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The village's form for application for water service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(a) That all bills are due and payable on or before the date set forth on the bill;

(b) That if any bill is not paid by or before that date, a second bill will be mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service may be discontinued for nonpayment; and

(c) That any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the village official in charge of water billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(2) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(3) When it becomes necessary for the village to discontinue water service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge in an amount set by Village Council.

(H) *Litigation.* In addition to discontinuing service to a delinquent user and/or placing a lien on any premises for unpaid charges, the village shall have the option of collecting all such delinquencies and penalties due by legal proceedings in a court of competent jurisdiction.

(Ord. 69, passed 10-24-2005; Ord. 94, passed 5-10-2010; Ord. 103, passed 4-11-2011; Ord. 164, passed 10-24-2022) Penalty, see § 51.99

## **§ 51.12 CONTRACT FOR SERVICE; INDEMNITY; LIABILITY OF VILLAGE FOR INTERRUPTION OF SERVICE; LIMITATION ON LIABILITY OF VILLAGE.**

(A) All provisions and sections of this subchapter and any amendments hereto shall be considered a part of the contract with every person that is supplied with water through the Water Supply System, and every person, by taking water from the Water Supply System, shall be considered to express his or her consent to be bound hereby, and whenever any provision or section of this subchapter is violated, the water may be cut off from the building or place of violation at the discretion of the village and shall not be turned on again except upon correction of the violation and payment of the expenses of same as provided in this subchapter.

(B) The user shall indemnify, save harmless and defend the village against all claims, demands, cost or expenses for loss, damage or injury to persons or property in any manner, directly or indirectly, growing out of the transmission and use of water by the user from the user's water service pipe installation.

(C) Should it become necessary to shut off the water to any user or users of the Water Supply System because of any accident or for the purpose of making repairs or extensions, the village shall endeavor to give timely notice to the users affected thereby and shall, so far as is practicable, use its

best efforts to prevent inconvenience and damages arising from any such causes, but the failure to give the notice shall not render the village liable in damages for any inconvenience, injury or loss which may result therefrom.

(D) The village shall not be responsible for interruptions of service because of natural calamities, equipment failures or actions of users of the Water Supply System. It shall be the responsibility of the user that all connected equipment remains in good working order. No claim shall be made against the village by reason of the breaking away of any water service pipe, corporation stop, curb stop or for any other interruption of the water supply.

(E) The village shall not be liable for any expense incurred by a permit holder or applicant in locating water mains, water service pipes, corporation stops, curb stops, compilation of water records or compliance with other requirements of this subchapter.

(Ord. 69, passed 10-24-2005)

### **§ 51.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) Any person found to be violating any provision of this chapter shall be served with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations. Any violation of the provisions of this chapter, unless the violation constitutes a crime under the laws of the state, is a municipal civil infraction subject to a fine of not more than \$500, court costs and costs of prosecution.

(2) A violation of this chapter is also declared to be a public nuisance and the village may enforce same by injunction or other remedy, including the right to correct the violation and recover the cost of obtaining the necessary correction from the owner or person in charge of the premises therefore.

(Ord. 69, passed 10-24-2005)