

ORDINANCE NO. 80-714

AN ORDINANCE TO AMEND CHAPTER 41 OF THE CODE OF ORDINANCES OF THE CITY OF WARREN RELATING TO WATER AND SEWER

THE CITY OF WARREN ORDAINS:

SECTION 1. That the Code of Ordinances, Chapter 41, Article I, Section 41-1 through 41-20 ***WHICH PRESENTLY READS:***

Sections. 41-1---41-20.---Reserved.

IS HEREBY AMENDED TO READ AS FOLLOWS:

Section 41-1. Penalty.

- (a) The violation of any provision of Chapter 41, except as otherwise provided in subsection (b) and Section 41-169, is a municipal civil infraction which shall result in the assessment of a fine not less than one hundred dollars (\$100.00) or not more than one thousand dollars (\$1000.00) per violation, plus costs and other sanctions for each infraction.
- (b) In addition to Section 41-169(b), the following violations of Chapter 41 are a misdemeanor which shall, upon conviction, be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding ninety (90) days, or both, plus costs and other sanctions for each violation:
 - (1) ***Meters.*** Tampering with meter, breaking the seal of meter, removing or changing location of meter or interfering with reading of meter.
 - (2) ***Equipment.*** No unauthorized person shall break, damage, destroy, uncover, deface or tamper with or alter, any structure, property, appurtenance, or any other equipment which is part of the Water System.
 - (3) Any violation of section 41-21(a).
 - (4) Failure to allow access for repair, maintenance or installation after reasonable notice.
 - (5) Turning water service on without authorization by the City after the service was discontinued or disconnected by the City.

(6) **Use of fire hydrant without permission from authorized city department.**

SECTION 2. That the Code of Ordinances, Chapter 41, Article II, Section 41-26, ***WHICH PRESENTLY READS:***

Sec. 41-26. Discontinuance of service for violations; cost of resumption.

Any premises may be disconnected from the distribution pipes of the city waterworks system and the supply of water withheld from such premises upon violation by the owner or occupant of the premises of any provision of this article or of the regulations adopted pursuant thereto. Whenever the water is turned off from any premises because of any such violation, it shall not be turned on again until the owner or occupant has deposited with the department of public service the sum of one dollar and fifty cents (\$1.50) to cover the cost of labor.

IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 41-26. Discontinuance of service for violations; cost of resumption.

Any premises may be disconnected from the distribution pipes of the city waterworks system and the supply of water withheld from such premises upon violation by the owner or occupant of the premises of any provision of this article or of the regulations adopted pursuant thereto. **This includes, but is not limited to, failure to allow inspection, meter reading, maintenance/repair, installation, and/or replacement of water meters upon reasonable notice by the City.** Whenever the water is turned off from any premises because of any such violation, it shall not be turned on again until the owner or occupant has ~~deposited~~ **paid with** the department of public service **prior to commencement of the work** ~~the sum of one dollar and fifty cents (\$1.50)~~ **a fee** to cover the cost of labor **as determined by city council resolution.**

SECTION 2. That the Code of Ordinances, Chapter 41, Article II, Section 41-30, ***WHICH PRESENTLY READS:***

Sec. 41-30. Access to premises by city employees.

The employees of the water department have power and authority, with the permission of the occupant, at all reasonable hours to enter upon any premises where water is furnished from the city waterworks system, for the purpose of reading meters or the inspection of all pipes and fixtures connected with the waterworks system, and they shall have authority to require any defective pipes or fixtures to be repaired, removed or replaced where the same are not in compliance with the provisions of the regulations pertaining to the

waterworks system, and any person refusing or neglecting to make such repairs when so ordered shall be deemed guilty of violation of this article and liable to prosecution therefor.

IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 41-30. Access to premises by city employees.

The inspector or any of his or her agents shall have power and authority at all reasonable hours to enter upon any premises where water is furnished from the city waterworks system, for the purpose of reading, **installing, repairing and/or replacing water meters and/or** the inspection of all pipes and fixtures connected with the waterworks system, and they shall have authority to require any defective pipes or fixtures to be repaired, removed or replaced where the same are not in compliance with the provisions of the regulations pertaining to the waterworks system. ~~and~~ Any person refusing or neglecting to make such repairs when so ordered shall be deemed guilty of violation of this article and liable to prosecution therefor.

SECTION 4. That the Code of Ordinances, Chapter 41, Article II, Section 41-31, ***WHICH PRESENTLY READS:***

Sec. 41-31. Water meters.

- (a) The division of water supply shall install outside remote water meter reading devices on all buildings having a water line two (2) inches or smaller in diameter leading to the building. The meter reading devices shall be installed at no charge to the customer and shall remain the property of the division of water supply.
- (b) All customers who have purchased a remote water meter reading device shall receive credit for the full amount paid up to, but not exceeding, twenty-five dollars (\$25.00), which was the sum charged by the city for the remote meter reading device and the installation of the device.
- (c) Water meters may be installed upon any premises supplied with water, and any damage to the meter resulting from the failure of the owner, lessee or occupant to properly protect same shall be assessed against such owner, lessee or occupant. No person shall tamper with or remove the meter, or interfere with the reading thereof.
- (d) Upon filing an application for a permit for water service, there shall be paid such charge for a meter as prescribed by the regulations governing the waterworks system. All meters to be and remain the property of the City of Warren Water and Sewer System.

IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 41-31. Water meters.

- (a) **Water meter or meter. As used in this article, water meter or meter means the water meter and any equipment used for meter reading.**
- (a)(b) **The division of water supply shall install outside remote water meter reading devices on all buildings having a water line two (2) inches or smaller in diameter leading to the building. Except for the water meter replacement program associated with Meter Replacement Program, RFP W-7738, or determined by the Water Division Superintendent, the meter reading devices shall be installed with no charge to the cost to the customer and shall remain the property of the division of water supply. Failure to allow installation of water meters equipped with automatic remote reading devices may result in discontinuance of water service.**
- (c) **Water Meter Access/Location. Water meters shall be placed in an accessible location and in a manner satisfactory to the Water Division Superintendent. If the premises does not contain a basement or other suitable inside location, the meter may be installed at another location upon approval of the Water Division Superintendent. The owner or occupant is prohibited from creating, allowing, or having any obstruction which would preclude access by the City to the water meter. Upon reasonable notice, the City shall have the right to shut off the supply of water to any premises where the City employee or agent is unable to obtain access to the meter.**
- (b)(d) ~~All customers who have purchased a remote water meter reading device shall receive credit for the full amount paid up to, but not exceeding, twenty five dollars (\$25.00), which was the sum charged by the city for the remote meter reading device and the installation of the device.~~
- (e)(e) ~~Water meters may~~ **shall** be installed upon any premises supplied with water, and any damage to the **water** meter resulting from the failure of the owner, lessee or occupant to properly protect same shall be assessed against such owner, lessee or occupant. No person shall tamper with or remove the **water** meter, or interfere with the reading thereof. **If any water meter shall fail to register properly, the water division shall estimate the consumption on the basis of former consumption and bill accordingly. Any failure attributed to the water meter itself will be replaced at no cost to the owner.**
- (f) **Meter testing. An owner or occupant may require that the water meter be tested. If the water meter is found defective it shall be**

repaired or replaced at no cost to the owner or occupant. If an owner or occupant disputes the water bill, the Water Division Superintendent or his/her designee may review the matter for a determination as to whether the water meter is defective.

- (d)(g) Upon filing an application for a permit for water service, there shall be paid such charge for a **water** meter as prescribed by the regulations governing the waterworks system. All **water** meters ~~to be~~ and remain the property of the City of Warren Water and Sewer System.

SECTION 5. That the Code of Ordinances, Chapter 41, Article IV, Section 41-182, **WHICH PRESENTLY READS:**

Sec. 41-182. Late payment; penalty.

- (a) Bills not paid on or before the last net payment date as indicated on the face of the bill are subject to a three (3) percent penalty charge applied to the total unpaid balance.
- (b) If any bill for water or sewage disposal or any other service performed by the water and sewer system on the premises shall not be paid within thirty (30) days after same becomes due, then both water and sewage services may be discontinued to the premises until such bill shall be paid or arrangements for payment has been made together with the penalty and a service charge of forty dollars (\$40.00) and a deposit equal to the last unpaid bill. The director of public services shall be the only individual authorized to make arrangements for payment other than payment in full including all penalties, service charges and required deposits. The director of public services is the only individual authorized to discontinue services or make adjustments to water and sewer system bills.
- (c) Checks rendered in payment of water services that are returned by the financial institution for reasons of insufficient funds shall be replaced by a cash payment tendered by the customer together with a service charge of thirty dollars (\$30.00).
- (d) Section 15.4(c) of the City of Warren City Charter provides that, under certain circumstances, unpaid utility charges may be liened against the premises to which utility services were furnished, spread on the tax roll and collected in the same manner as city taxes. To the unpaid utility charges spread on the tax roll, the city will add a transfer fee equal to seventeen (17) percent of the unpaid utility charges.
- (e) Under Michigan State Law (MCL 123.165), the City Charter provision referenced above creating a lien on the premises shall not apply if:

- (1) A lease of the premises has been legally executed and filed with the water division which contains a provision that the lessor shall not be liable for payment of water or sewage system bills accruing subsequent to compliance with the requirements contained in section 5 of the Collection of Water Charges Act, Act 178 of the Public Acts of 1939, MCL 123.165; and
 - (2) An affidavit is filed with the water division attesting to the execution of a lease containing the provision required by section 5 of the Collection of Water Charges Act, Act 178 of the Public Acts of 1939; MCL 123.165; and
 - (3) The affidavit contains notice of the expiration date of the lease; and
 - (4) The affidavit contains a provision whereby the lessor agrees to provide twenty (20) days' notice of any cancellation, changes in or termination of the lease; and
 - (5) A security deposit in an amount sufficient to protect the system from loss in the event that lessees in the lease agreement fail to make timely usage payments. The amount required shall be determined in the sole discretion of the water division administration.
 - (6) All lessors seeking relief from the imposition of a lien must comply with each of the requirements set forth in this section regardless of the term of the lease.
 - (7) The water division shall keep a log of each affidavit and lease received including the date received, the expiration date of the lease, the amount of deposit received and name of lessee.
- (f) At its option, and in addition to the remedies set forth above, the city may bring suit in a court of competent jurisdiction for the collection of any water or sewage service charge which is thirty (30) days delinquent.

IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 41-182. Late payment; penalty.

- (a) Bills not paid on or before the last net payment date as indicated on the face of the bill are subject to a three (3) percent penalty charge applied to the total unpaid balance.
- (b) If any bill for water or sewage disposal or any other service performed by the water and sewer system on the premises shall not be paid within thirty

(30) days after same becomes due, then both water and sewage services may be discontinued to the premises until such bill shall be paid or arrangements for payment has been made together with the penalty and a service charge of ~~forty dollars (\$40.00)~~ **as determined by city council resolution** and a deposit equal to the last unpaid bill. The director of public services shall be the only individual authorized to make arrangements for payment other than payment in full including all penalties, service charges and required deposits. The director of public services is the only individual authorized to discontinue services or make adjustments to water and sewer system bills.

- (c) Checks rendered in payment of water services that are returned by the financial institution for reasons of insufficient funds shall be replaced by a cash payment tendered by the customer together with a service charge of ~~thirty dollars (\$30.00)~~ **as determined by city council resolution.**
- (d) Section 15.4(c) of the City of Warren City Charter provides that, under certain circumstances, unpaid utility charges may be liened against the premises to which utility services were furnished, spread on the tax roll and collected in the same manner as city taxes. To ~~the~~ unpaid utility charges spread on the tax roll, the city will add a transfer fee equal to seventeen (17) percent of the unpaid utility charges.
- (e) Under Michigan State Law (MCL 123.165), the City Charter provision referenced above creating a lien on the premises shall not apply if:
 - (1) A lease of the premises has been legally executed and filed with the water division which contains a provision that the lessor shall not be liable for payment of water or sewage system bills accruing subsequent to compliance with the requirements contained in section 5 of the Collection of Water Charges Act, Act 178 of the Public Acts of 1939, MCL 123.165; and
 - (2) An affidavit is filed with the water division attesting to the execution of a lease containing the provision required by section 5 of the Collection of Water Charges Act, Act 178 of the Public Acts of 1939; MCL 123.165; and
 - (3) The affidavit contains notice of the expiration date of the lease; and
 - (4) The affidavit contains a provision whereby the lessor agrees to provide twenty (20) days' notice of any cancellation, changes in or termination of the lease; and
 - (5) A security deposit in an amount sufficient to protect the system from loss in the event that lessees in the lease agreement fail to

make timely usage payments. The amount required shall be determined in the sole discretion of the water division administration.

- (6) All lessors seeking relief from the imposition of a lien must comply with each of the requirements set forth in this section regardless of the term of the lease.
 - (7) The water division shall keep a log of each affidavit and lease received including the date received, the expiration date of the lease, the amount of deposit received and name of lessee. **A service fee may be charged, as approved by city council, for maintaining and processing the landlord tenant agreements.**
- (f) At its option, and in addition to the remedies set forth above, the city may bring suit in a court of competent jurisdiction for the collection of any water or sewage service charge which is thirty (30) days delinquent.

SECTION 5. This Ordinance shall take effect on February 3, 2014.

I HEREBY CERTIFY that the foregoing Ordinance No. 80-714 was adopted by the Council of the City of Warren at its meeting held on January 14, 2014.

PAUL WOJNO
City Clerk

Published: January 29, 2014

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