

ORDINANCE NO. 80-725

AN ORDINANCE AMENDING CHAPTER 41 OF THE CODE OF ORDINANCES OF THE CITY OF WARREN ENTITLED WATER AND SEWERS, ARTICLE IV, SECTION 41-182(c) PERTAINING TO SERVICE CHARGE FOR DISHONORED PAYMENTS

THE CITY OF WARREN ORDAINS:

SECTION 1. Section 41-182 of Article IV, **which presently reads 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 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 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 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.

Is amended to read:

Sec. 41-182. - Late payment; penalty.

- (a) (unchanged)
- (b) (unchanged)
- (c) **Payments for water and/or sewer services that are rendered by check, draft, negotiated order or instrument, credit card, electronic**

transmittal, or by any other means, and are returned, rejected or dishonored for insufficient funds, **closed accounts or for any other reason**, shall be replaced by a cash payment tendered by the customer together with a service charge as determined by city council resolution, **in addition to any other penalties or sums incurred under this ordinance.**

- (d) (unchanged)
- (e) (unchanged)
 - (1) (unchanged)
 - (2) (unchanged)
 - (3) (unchanged)
 - (4) (unchanged)
 - (5) (unchanged)
 - (6) (unchanged)
 - (7) (unchanged)
- (f) (unchanged)

80-714, § 5, 1-14-14)

SECTION 3. All other sections of Chapter 41 are not repealed by this Ordinance, and will remain unchanged and effective.

SECTION 4. This Ordinance shall take effect on January 5, 2015.

I HEREBY CERTIFY that the foregoing Ordinance No. 80-725 was adopted by the Council of the City of Warren at its meeting held on December 16, 2014.

PAUL WOJNO
City Clerk

Published: December 31, 2014