

## CHAPTER 52: WATER

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#### ***Cross-reference:***

*Municipal powers - utility powers, see Charter § 2.3*

### **GENERAL PROVISIONS**

#### **§ 52.01 DEFINITION.**

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**SYSTEM.** All water mains, water supply facilities and their appurtenances which the city has or shall have possession of and operating responsibility for (whether owned by the city or not), either now in existence in the city or hereafter acquired or constructed in the city, together with all works, plants, instrumentalities and properties used or useful in connection therewith in the obtaining of a water supply or in the treatment or distribution of water, including the Northwest Ottawa County Water System in the city, and all extensions, enlargements and improvements thereto in the city.

(Ord. 48, passed 8-10-77)

### **§ 52.02 COMPLIANCE.**

Connection to the system, directly or indirectly, and the use of water therefrom for all purposes shall only be in compliance with this chapter, as amended, and in compliance with all standards and regulations of the city and county applicable thereto, as amended.

(Ord. 48, passed 8-10-77) Penalty, see § 52.99

### **§ 52.03 APPLICATION FOR CONNECTION.**

No connection shall be made to the system without obtaining a permit therefor. Application for such permit shall be made by the premises title holder or land contract purchaser and filed with the City Manager or his or her representative. The City Manager or his or her representative shall issue such permit when all prescribed conditions have been met. Such permit shall be issued subject to such regulations as may be established and amended by the City Council from time to time.

(Ord. 48, passed 8-10-77) Penalty, see § 52.99

### **§ 52.04 INSTALLATION REQUIREMENTS.**

(A) All public water mains shall be installed in a public right-of-way or easement and shall be constructed and installed in accordance with the written requirements of the Director of the Department of Public Works. Unless waived in writing by the Director of the Department of Public Works, all sewer mains shall run the entire distance along which the parcel that benefits from the water main adjoins the public right-of-way or easement.

(B) No parcel may be serviced by the public water system unless the parcel abuts the public right-of-way or easement in which the water main lies.

(Ord. 227, passed - -)

## ***REGULATIONS***

### **§ 52.15 CROSS CONNECTION REGULATIONS.**

(A) *Purpose.* The purpose of this section is to provide for and regulate the public health, safety, and general welfare by regulating and controlling connections to the public water supply in order to prevent entry into the public water supply of water of questionable quality, or water which is contaminated with waste or other contaminants.

(B) *Legal authority.* This section is enacted pursuant to the authority granted by § 5.9 of the City Charter.

(C) *Rules applying to text.* The following rules of construction apply to the text of this section:

(1) The particular shall control the general;

(2) The headings which title various paragraphs of this section are for convenience only and are not to be considered in any construction or interpretation of the section or as enlarging or restricting

the terms and provisions of the section in any respect;

(3) The word “shall” is always mandatory and not discretionary; the word “may” is permissive;

(4) Words used in the present tense shall include the future, words used in the singular number shall include the plural, and words used in the plural number shall include the singular, unless the context clearly indicates the contrary;

(5) The word “person” includes a firm, association, partnership, joint venture, corporation, limited liability company, trust, municipal or public entity or any other legal entity, or a combination of any of them, as well as a natural person;

(6) Any word or phrase not defined in subsection (C)(4) or (C)(5) of this section shall be considered to be defined in accordance with its common or standard definition.

(D) *Definitions.* The following listed words and phrases are defined for the purpose of their use in this section. These definitions shall apply in the interpretation and enforcement of this section unless otherwise specifically stated.

**BACKFLOW.** Water of questionable quality, or which is contaminated with wastes or other contaminants, which enters a public water supply system due to a reversal of flow.

**CROSS CONNECTION.** A connection or arrangement of piping or appurtenances through which a backflow could occur.

**PROGRAM.** The cross connection control program referred to in subsection (H) of this section.

**SECONDARY WATER SUPPLY.** A water supply system maintained in addition to a public water supply, including, but not limited to, (i) water systems supplied from ground or surface sources not meeting the requirements of M.C.L.A. §§ 325.1001 to 325.1023, or the requirements of any similar successor Michigan statute, or (ii) water from a public water supply which in any way has been treated, processed, or exposed to any possible contaminant or which has been stored in other than an approved storage facility. A private water storage tank supplied from the system shall be deemed a **SECONDARY WATER SUPPLY** unless it is designated as and is approved by the water utility for potable water storage and usage.

**SUBMERGED INLET.** A water pipe or extension thereto from a public water supply terminating in a tank, vessel, fixture, container, or appliance which may contain water of questionable quality, or water contaminated by waste or other contaminants, and which is not protected against backflow.

**SYSTEM.** The city water supply and distribution system.

**WATER UTILITY.** The City Water Department.

(E) *Prohibitions.* The following cross connections are prohibited:

(1) A cross connection between the system and a secondary water supply.

(2) A cross connection with a submerged inlet.

(3) A cross connection between the system and piping immersed in a tank or vessel which may contain a contaminant.

(4) A cross connection between the system and piping which may contain sanitary waste, a chemical contaminant, or any other type contaminant including, but without limitation, a cross connection between the system and a lawn sprinkler system or a fire sprinkler system.

(F) *Piping identification.* When a secondary water supply is used in addition to the system, exposed public water and secondary water supply piping shall be identified by distinguishing colors or tags and so maintained so that each pipe may be readily traced in its entirety. If piping is installed in a manner so that it is impossible to trace in its entirety, the system shall be protected at the service connection in a manner acceptable to the water utility.

(G) *Water outlet labeling.* Any water outlet which could be used for potable or domestic purposes and which is not supplied by the system shall be labeled in a conspicuous manner as:

**WATER UNSAFE FOR DRINKING**

(H) *Cross connection program.* The water utility is hereby authorized and directed to prepare a comprehensive cross connection control program for the elimination and prevention of cross connections including, but not limited to, provisions pertaining to the installation, maintenance, testing, reporting, and inspecting of backflow prevention devices, piping labeling, and water outlet labeling. The program shall also provide for discontinuation of water service from the system pursuant to the provisions of subsection (L) of this section. The program shall be administered by the water utility. The provisions of the program, and all amendments thereto, shall be approved by resolution of the City Council. The program shall meet with the approval of the Michigan Department of Environmental Quality Drinking Water and Radiologic Protection Division. Any violation of the program shall be deemed a violation of this section.

(I) *Inspection.* The program shall include procedures and arrangements for the water utility, or its authorized inspection agent, to complete cross connection inspections and re-inspections. The frequency of the inspections and re-inspections shall be provided for in the program and shall be based on the potential health hazard which exists.

(J) *Entry, information, and presumption.* The water utility, or its authorized inspection agent, shall have the right to enter at any reasonable time any premises served with a public water supply by a connection to the system for the purpose of cross connection inspections and re-inspections. On request, the owner, lessee, or occupant of any property so served shall furnish to the water utility or its authorized inspection agent any pertinent information regarding the water piping system or systems on the property. The refusal of such information or the refusal of access, when requested, shall be deemed

to be evidence of the presence of a cross connection.

(K) *Protective devices.* A user of the system shall, as is provided in the program, provide an appropriate means to protect against the hazards of each and every cross connection on the user's premises.

(L) *Termination of water service.* The water utility is hereby authorized and directed to terminate water service from the system, after following those procedures provided for in the program, to any premises which is in violation of this section or the program. The water utility is also authorized to take such other precautionary measures as the water utility deems necessary to eliminate any danger of contamination of the system. If the water utility determines that there is an actual threat to the public health, through poisoning or through the spread of disease by sewage, industrial fluids or waste, the water service may be terminated immediately as is provided in the program.

(M) *Owner responsibilities.* The owner(s) and occupant(s) of any premises connected to the system, at their sole expense, shall have all of the following duties and responsibilities:

- (1) To eliminate all cross connections on the premises,
- (2) To install, maintain, test, or have tested, all backflow prevention devices on the premises.
- (3) To correct any malfunction of a backflow prevention device revealed by testing.

(4) To inform the water utility in writing of any proposed or modified cross connection and also of any existing cross connection which has not been previously disclosed to the water utility in writing.

(5) To refrain from installing a bypass around any backflow prevention device unless there is a suitable backflow prevention device on the bypass. If it is not possible to shut down operations in order to test a backflow prevention device, additional devices shall be provided as necessary to allow testing the backflow prevention device.

(N) *Backflow prevention devices.* All backflow prevention devices shall be approved and installed as is provided in the program. All backflow prevention devices shall be tested as is provided in the program.

(O) *Program fees.* The City Council may by resolution establish fees to be charged to customers of the system that are reasonably related to the cost of the services provided to the customer in connection with the administration and enforcement of this section and the program for the elimination and prevention of cross connections.

(P) *Administrative liability.* No water utility officer, agent, or employee, or any officer, agent, or employee of the city, shall render himself or herself personally liable for any damage that may accrue to any person, firm, association, corporation, partnership, joint venture, or combination of any of them as the result of any act, decision or other consequence or occurrence arising out of the discharge of his or her duties and responsibilities pursuant to this section or the program or both.

(Ord. 48, passed 8-10-77; Am. Ord. 189, passed 3-18-02) Penalty, see § 52.99

#### **§ 52.16 WORK IN RIGHT-OF-WAY.**

All work in the street right-of-way or on public easements, including service lines to the property line, shall be constructed and performed by the city or its agents or contractors.  
(Ord. 48, passed 8-10-77) Penalty, see § 52.99

#### **§ 52.17 METERS.**

(A) *Meter reading.* The City Manager or his or her representative shall have the right to enter at any reasonable time any premises connected to the system for the purpose of reading the water meter or otherwise inspecting the piping system or systems connected to the system.

(B) *Meter failure.* If any meter shall fail to register properly, the department shall estimate the consumption on the basis of former consumption and bill accordingly.

(C) *Inaccurate meters.* A consumer may require that the meter be tested. If the meter is found accurate, a charge of \$5 will be made. If the meter is found defective, a new meter will be installed and no charge will be made.  
(Ord. 48, passed 8-10-77)

#### **§ 52.18 WATER SERVICE LINES.**

(A) The owner of each premises served by water shall maintain the service line from the street right-of-way to the building, structure or other improvement served with city (municipal, public) water in good condition with no leaks, breaks or other malfunction.

(B) Each water service line shall serve not more than one premises, although a single premises may be served with more than one service line.

(C) Each water service line shall be separately metered. Water service lines connecting the city system only to a fire suppression system need not be metered.

(D) For purposes of this section, the term **PREMISES** refers to every building or area of a building that is capable of single-family or single-business use.  
(Ord. 48, passed 8-10-77; Am. Ord. 241, passed 9-4-07) Penalty, see § 52.99

#### **§ 52.19 REPAIR OF METERS AND THE LIKE.**

If the meter, remote reading device, meter horn or angle valve is damaged for any reason, all required repair and replacement shall be at the expense of the premises owner. If the meter, meter horn or angle valve malfunctions or is defective, repair or replacement shall be at the expense of the city.  
(Ord. 48, passed 8-10-77)

#### **§ 52.20 DAMAGE TO FACILITIES.**

No person, except an employee of the city or its authorized representative in the performance of his or her duties, shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the Northwest Ottawa Water System in the city.

(Ord. 48, passed 8-10-77) Penalty, see § 52.99

### **§ 52.21 HYDRANT USE.**

No person, except an employee of the city or its authorized representative in the performance of his or her duties, shall open or use any fire hydrant except in case of emergency, without first securing written permission from the City Manager and paying such charges as may be prescribed.

(Ord. 48, passed 8-10-77) Penalty, see § 52.99

### **§ 52.22 EMERGENCY CONSERVATION RULES.**

(A) *Generally.* When weather or other extraordinary conditions place unusual water use demand upon the system or when the system water supply or capacity is reduced due to mechanical failure, catastrophe or other physical limitations, and low pressure or reduced volumes threaten the public health, safety or welfare, the City Manager or his or her designee is hereby empowered to make all rules necessary to conserve and protect the public health, safety, and welfare and the integrity of the system. Such rules may restrict or prohibit less essential water uses to the extent deemed necessary to assure an adequate supply for essential domestic and commercial needs and for firefighting.

(B) *Effective date of rules.* Rules promulgated under this section shall become effective immediately and shall remain in effect until modified or rescinded by further order of the City Manager or his or her designee or by resolution of the City Council.

(C) *Notice.* Notification of rules promulgated under this section shall become effective immediately and shall remain in effect until modified or rescinded by further order of the City Manager or his or her designee or by resolution of the City Council.

(D) *Exceptions.* The City Manager or his or her designee may grant exceptions to these rules in cases where outdoor irrigation is necessary to preserve nursery stock or newly established landscaping which is required by city codes or the Soil Erosion and Sedimentation Control Act or where necessary to prevent imminent financial loss to the water customer.

(E) *Penalty.* Any person who violates any rule made pursuant to this section shall, upon conviction, be punished as prescribed in § 52.99.

(F) *Termination of service.* The City Manager or his or her designee shall have the power and authority to shut off and discontinue the water service provided to any water customer who violates any rule made pursuant to this section. Water service shall only be restored at such time as the City Manager or his or her designee is reasonably satisfied that future violations of rules promulgated pursuant to this section will not occur and when the water customer has paid a turn-on charge to the city in an amount to be established and adjusted from time to time by City Council resolution.

(G) *Injunction.* The enforcement of any rules promulgated under this section may be by injunctive action. The imposition of civil liability herein prescribed shall not preclude the city from instituting an appropriate action to prevent violation of any rules promulgated under this section.

(Ord. 48, passed 8-10-77; Am. Ord. 179, passed 3-6-00; Am. Ord. 203, passed 8-4-03)

### **§ 52.23 CITY LIABILITY.**

The city shall not be liable for any failure or deficiency in the supply of water to consumers whether occasioned by shutting off the water to make necessary repairs or connections or for any other cause.

(Ord. 48, passed 8-10-77)

### ***RATES AND CHARGES***

#### **§ 52.35 WATER CONNECTION FEES AND CHARGES.**

(A) *Connection fee.* The city shall charge a connection fee for each connection to the water system. Connection fees shall be established and modified by resolution of the City Council. The connection fee will be based on the size of the meter serving the premises and upon any subsequent enlargements of water meter size. Water connection fees paid for a connection will not be refunded in the event of a subsequent reduction in water meter size or disconnection from the system. A water connection fee is to be paid at the time a building permit or construction permit is issued.

(B) *Frontage charge.* Those premises adjacent to a system main which either (1) have not been included in a special assessment district to pay any part of the cost of such main; or (2) have been included in a special assessment district but have not been assessed for the water main which will provide the water service, shall pay a frontage charge to connect to the system. No frontage charge shall be made where the system main adjacent to the connecting premises was constructed as part of a development in which the premises are located when a private party or the city on behalf of and at the expense of a private party has constructed such a main. Frontage charges shall be established and modified by resolution of the City Council. A frontage charge is to be paid at the time a building permit or construction permit is issued.

(C) *Water service charge.* The city shall charge a water service charge based upon the diameter of a water service line. The water service charge covers the live tap to the water main, stop box, the water main line to the property line and the water meter. Water service charges shall be established by resolution of the City Council. A water service charge shall be paid at the time a building permit or construction permit is issued.

(D) *Fire protection charge.* Unmetered water service lines connecting the system to only a fire suppression system will not pay a connection fee, frontage charge or service charge but will pay a fire protection charge as established by resolution of the City Council.

(E) *Meter removal and re-installation fee.* If a customer desires that a water meter be removed and re-installed, the customer shall pay a fee in an amount established by resolution of the City Council. Such fee shall be paid prior to the time that a water meter is re-installed.

(Ord. 48, passed 8-10-77; Am. Ord. 49, passed 1-25-78; Am. Ord. 241, passed 9-4-07)

***Cross-reference:***

*Sewer connection charges, see § 51.68*

#### **§ 52.36 [RESERVED.]**

#### **§ 52.37 WATER RATES.**

Rates for water supplied to each premises connected to the system, for the readiness to serve

charge, and for standby fire line connections, shall be determined by the City Council and shall be established by a resolution adopted and amended from time to time by the City Council. No free service shall be furnished by the system to the city or to any person, firm or corporation, public or private, or to any public agency or instrumentality. The city shall pay for water supplied to it or any of its departments or agencies at the rates established pursuant to this section from time to time. In addition,

the city shall pay for water used through fire hydrants for fire protection and other purposes at the rates established pursuant to this section from time to time.

(Ord. 48, passed 8-10-77; Am. Ord. 49, passed 1-25-78)

***Cross-reference:***

*Sewer use rates, see § 51.69*

**§ 52.38 BILLING PROCEDURES; DISCONTINUING SERVICE.**

Charges for water service shall be billed, mailed and shall come due in accordance with a resolution by the City Council. Bills not paid on or before a due date shall be subject to a quarterly charge equal to 6% of the unpaid amount. Customers whose bills are not paid within five days after the due date shall be mailed a reminder bill. If the bill is not paid within ten days after the date of mailing of such reminder bill, a 72-hour shut-off notice will be mailed. If the bill is not paid within 72 hours after the date of mailing such shut-off notice, the customer's water service may be turned off immediately without further notice. A charge established by resolution of the City Council shall then be charged to the customer and shall be paid together with all unpaid charges before the service is restored. Water use and service charges, connection fees, frontage charges and fire protection charges shall constitute a lien on the property served. On or before May 1 of each year, the City Treasurer shall deliver to the City Clerk a certified statement of all water use and service charges, connection fees, frontage charges, fire protection charges and interest charges thereon six months or more past due and unpaid. The City Clerk shall then place charges on the next general tax roll and the same shall be collected and said lien shall be enforced as provided for general city taxes.

(Ord. 48, passed 8-10-77; Am. Ord. 195, passed 7-15-02; Am. Ord. 241, passed 9-4-07)

***Cross-reference:***

*Similar provision regarding sewer service, see § 51.70*

***Statutory reference:***

*Delinquent charges as a lien; enforcement and exceptions regarding service to tenants, see M.C.L.A. § 141.121*

**§ 52.39 FISCAL YEAR.**

The system shall be operated on the basis of a fiscal year beginning July 1 of each year and ending on June 30 of the next year.

(Ord. 48, passed 8-10-77)

**§ 52.40 RECORDS AND REPORTS.**

The city should cause to be maintained and kept proper books of record and account in which shall be made full and correct entries of all transactions relating to the operation of the system. Not less than six months after the close of each fiscal year of the system, the city shall cause to be prepared a statement in reasonable detail showing the cash income and disbursements of the system at the beginning and close of the operating year and such other information as may be necessary to enable

any taxpayer of the city, user or beneficiary of the service provided by the system to be fully informed as to all matter pertaining to the financial operation of the system during such fiscal year. Such annual statement shall be filed in the office of the City Clerk where it will be open to public inspection. Such books of record and account shall be audited annually by a certified accountant to be designated by the City Council and a certified copy of such audit shall be filed with the City Clerk. Such audit may be a part of the general city audit.

(Ord. 48, passed 8-10-77)

**§ 52.99 PENALTY.**

(A) Any person or customer found guilty of violating any of the provisions of this chapter other than § 52.22, or any regulations or rules adopted pursuant thereto, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in § 10.99. The city may in addition to the penalties herein set forth maintain any proper action for the abatement of any condition allowed to exist in violation of the provisions of this chapter.

(B) Any person or customer violating § 52.22 or any regulations or rules adopted pursuant thereto shall be responsible for a civil infraction subject to a fine. Increased civil fines will be imposed for repeated violations that occur within a six- month period. The civil fine for a first offense is \$50. The civil fine for the first repeat offense is \$250. The civil fine for the second repeat offense is \$500. The city shall also be entitled to equitable relief to abate the violations and to such other relief as may be available to the city pursuant to M.C.L.A. §§ 600.8301 et seq. and §§ 600.8701 et seq., being Chapters 83 and 87 of the Michigan Revised Judicature Act, as amended at the present time or in the future.

(C) The City Manager, employees of the city designated in writing by the City Manager, and police officers of the city are authorized officials to issue civil infraction citations for violations of § 52.22.

(Ord. 48, passed 8-10-77; Am. Ord. 203, passed 8-4-03)