

ORDINANCE NO. 53

AN ORDINANCE TO AMEND ORDINANCE NO. 46,
Enacted October 22, 1990 as the
Water Supply System Utility Ordinance

THE VILLAGE OF MARTIN, (ALLEGAN COUNTY, MICHIGAN) ORDAINS:

Section 1. Sections 3.3, 4.10, 4.19, 6.1, 6.4 and 6.7 of Ordinance No. 46 are hereby amended to read as follows:

"Section 3.3 Ownership. All Water mains or portions thereof located within public right-of-way or easements granted to the Village are and shall be the exclusive property of the Village, except to the extent required in conjunction with the financing of the System. All Water Service Pipes or portions thereof located on private property, easements granted to parties other than the Village or other land not under the ownership or control of the Village are and shall be the property of the owner of said property.

Section 4.10 Application. Before any connection shall be made to any Water Main, an application for same shall be made in writing by the owner of the Premises to be serviced, or by his authorized agent, and shall be filed with the Village Council. No service connection shall be made until the applicant therefor has agreed to pay water service bills promptly and has paid the fee for same in accordance with the following schedule:

(i) **Application Fee.** Applications for service shall be accompanied by an application fee of \$25.00;

(ii) **Tap-In Fee.** The tap in fee shall be \$2,000.00 for one inch (1") Water Service Pipes; \$3,000.00 for two inch (2") Water Service Pipes, \$4,000.00 for four inch (4") Water Service Pipes, and \$6,000.00 for six inch (6") and larger Water Service Pipes. The tap-in fee includes the meter. Premises subject to a special assessment confirmed by the Village Council on January 14, 2002, shall receive credit toward payment of the tap-in fee;

(iii) **Debt Service Charge.** The Debt Service Charge shall be \$2,000.00 for one-inch (1") Water Service Pipes; \$3,000.00 for two-inch (2") Water Service Pipes; \$4,000.00 for four-inch (4") Water Service Pipes; and \$6,000.00 for six-inch (6") and larger Water Service Pipes. Premises subject to a special assessment confirmed by the Village Council on January 14, 2002 and Premises for which a Tap-In Fee has been paid shall receive credit toward payment of the Debt Service Charge. At the option of the User, the Debt Service Charge shall be payable either in a lump sum or in annual

STATE OF MICHIGAN Allegan County
Joyce A. Watts Register of Deeds

RECORDED

April 03, 2008 08:38:10 AM
Liber 3219 Page 267-274 AM
FEE: \$35.00



Liber 3219 Page 267 #2008006494

Village of Martin
PO Box 234
Martin, MI 49070

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installments of principal, not exceeding thirty (30), with the first installment of principal due upon application for service connection, or for existing Users as of April 1, 2002, the first installment shall be due September 15, 2002, and subsequent installments shall be payable on or before September 15 of each year, with the final installment of principal due not later than September 5, 2031, with interest on the unpaid balance at a rate that is 1% higher than the average rate of interest payable by the Village on bonds issued to construct or improve the System.

(iv) Inspection Fee. An inspection fee shall be paid in advance in the amount of \$25.00;

(v) Turn-on Fee. A fee of \$15.00 shall be paid to turn on or off water service for any premises including premises used by seasonal or part-time occupants.

No service shall be initiated until all fees have been paid by the Owner of the Premises applying for service.

Section 4.19 Water Meters. Water meters shall be provided by the Village and installed upon each Premises supplied with water at the cost of the Owner and any damage to said meter shall be assessed to such Owner. No person shall tamper with or remove the water meter from the service or interfere with the reading thereof.

Section 6.1 Rates and Charges. A person or entity whose Premises are connected to the System shall be considered a User and shall pay a Readiness to Serve Fee of \$14.00 per month per Unit and a Commodity Fee of \$4.00 per 1,000 gallons of metered water usage; provided that until such time as the water meters have been replaced and are operational, in conjunction with the System improvements made for the Village by Allegan County in 2002, the Commodity Fee shall be charged at a flat rate of \$18.00 per month per Unit.

(i) Bulk Service Charges. There shall be a \$20.00 service availability charge for filling of tanks and a charge of \$1.00 per 100 gallons of water supplied.

(ii) Construction or unmetered Service Charge. There shall be a \$75.00 per month service charge for water supplied other than through a meter. Use of a fire hydrant as an unmetered outlet is not permitted.

(iii) Private Fire Hydrant Charge. There shall be a charge of \$100.00 per year per private hydrant. In no event shall anyone construct or maintain a private fire hydrant without first obtaining a permit as set forth in Section 4.23.

(iv) Public Hydrant Rental. The Village shall pay a hydrant rental of \$100.00 per hydrant per year from the General Fund for the general fire protection provided by the System to the Village and its residents.

Section 6.4 Delinquencies; Statutory Lien. Charges for water services are hereby made a lien on premises served by the System and whenever any such charge against any premises shall be delinquent for six (6) or more months, the Department or other official of the Village responsible for the collection thereof shall certify annually, not later than March 1 of each year, to the tax assessing officer the fact of such delinquency, whereupon such lien shall be entered by the assessing officer upon the next tax roll against the Premises to which the services were rendered and the charges shall be collected and the lien therefor enforced in the same manner as provided for the collection of taxes assessed upon the roll and the enforcement of the lien for the taxes. After service is terminated on account of delinquency, water service shall not be resumed until the Owner pays the delinquent amount in full along with a turn-on fee of \$15.00 and a deposit in an amount which shall be determined by the Treasurer. No deposit fee shall bear interest for the benefit of the owner, and any interest earned by said deposit fees shall be used for maintenance of the water system. For purposes of Article VI, water rates and charges shall include the Readiness to Serve Fee, the Commodity Fee, bulk service charges, unmetered service charges, private fire hydrant charges, the Miscellaneous User Fee, and installment payment of Tap-In Fees and Debt Service Charges.

Section 6.7 Billing of Water Rates and Charges. The Village Treasurer shall bill and collect all water rates and charges on a monthly basis. The Village Treasurer shall mail each User a bill on or before the 1st day of each month. Payment of the bill which is rendered by the Village is due and payable on or before the 20th day of the month. Payment of said bill shall be made at a location designated by the ^{Village} Township. If water rates and charges are not paid on or before the due date, then a penalty in the amount of 10% shall be added to the balance due. Partial payments will be applied first to outstanding penalties, if any, and then to water rates and charges."

Section 2. New Sections 2.1(a)(1), 2.1(a)(2), 2.1 (e)(1), 2.1(g)(1), 2.1(j)(1), 2.1(m)(1), 6.8, 6.9 and 6.10 shall be added to Ordinance No. 46, which shall read as follows:

"Section 2.1(a)(1). "Commodity Fee" is a periodic charge levied on Users on the basis of water consumption for operation, maintenance and replacement costs and debt service on debt incurred to pay for the System.

Section 2.1(a)(2). "Debt Service Charge" means the amount charged to Users of the System to pay principal, interest and administrative costs of retiring debt incurred for construction or improvement of the System.

Section 2.1(e)(1). "Miscellaneous User Fee" means an amount charged to Users for miscellaneous services and related administrative costs associated with the System.

Section 2.1(g)(1). "Potable Water" refers to water intended for human consumption or prolonged bodily contact which is free from impurities in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the applicable requirements of the Federal Drinking Water Standards and to the regulations of the Allegan County Health Department and the Michigan Department of Environmental Quality."

Section 2.1(j)(1). "Readiness to Serve Fee" is a periodic charge levied on Users based upon Units for operation, maintenance and replacement costs and debt service on debt incurred to pay for the System.

Section 2.1(m)(1). "Unit or Units" shall mean a standard basis of measuring the relative quantity of water typically used in conjunction with the occupancy of a freestanding single-family residential dwelling (but such term shall not necessarily be related to actual use arising from any particular dwelling). A table of Unit factors listing the relative relationship between the various Users of the System is set forth in Appendix A to Ordinance No. 46. The assignment of Unit(s) to a particular User shall be determined from time to time by the Village, based upon available information and investigation of the use to which the User's property is put. The assignment of Unit(s) for any use not enumerated in the table of Unit factors shall, in the sole discretion of the Village, be based upon the most similar use enumerated.

Section 6.8. Unpaid Water Rates and Charges; Remedies. If water rates and charges are not paid on or before the due date, the Village, pursuant to Act 178 of the Public Acts of Michigan of 1939, as amended, may

(a) discontinue the services provided by the System by disconnecting the Premises from the System, and the service so discontinued shall not be reinstated until all sums then due and owing, including penalties, interest and all expenses incurred by the Village for shutting off and turning on the service, shall be paid to the Village;

(b) institute an action in any court of competent jurisdiction for the collection of the amounts unpaid, including penalties, interest and reasonable attorney fees; or

(c) enforce the lien created in Section 6.4 above.

These remedies shall be cumulative and shall be in addition to any other remedy provided in this ordinance or now or hereafter existing at law or equity.

Under no circumstances shall action taken by the ~~Township~~^{Village} to collect unpaid water rates and charges, penalties and interest, invalidate or waive the lien created by Section 6.4 above.

Section 6.9. Leased Premises; Security Deposit. A lien shall not attach for water rates and charges to a Premises which is (a) separately metered and (b) subject to a legally executed lease that expressly provides that the tenant (and not the landlord) of the Premises or a dwelling unit thereon shall be liable for payment of water rates and charges, effective for services which accrue after the date an affidavit is filed by the landlord with the Village. This affidavit shall include the names and addresses of the parties, the expiration date of the lease and an agreement by the landlord to give the Village 20 days written notice of any cancellation, change in or termination of the lease. The filing of the affidavit by the landlord shall be accompanied by a true copy of the lease and a security deposit in an amount which shall be determined by the Treasurer. Upon the failure of the tenant to pay the water rates and charges when due, the security deposit shall be applied by the Village against the unpaid balance, including interest and penalties. Upon notification by the Village, the tenant shall immediately make sufficient payment to the Village to cover the amount of the security deposit so advanced. Upon the failure of the tenant to do so within ten (10) days of said notification, the penalties, rights and remedies set forth in this Ordinance shall be applicable with respect to the unpaid water rates and charges, including interest and penalties. The security deposit shall be held by the Village without interest and shall be returned to the landlord upon proof of termination of the lease.

Section 6.10. Miscellaneous User Fee. The Village may, from time to time, charge a Miscellaneous Use Fee, as necessary, for miscellaneous services, repairs and related administrative costs associated with the System, including without limitation, excessive inspection services not covered by the Inspection Fee."

Section 3. New Article IV-A shall be added to Ordinance No. 46, which shall read as follows:

"ARTICLE IV-A

Use of Public Water

Section 4.1A. Mandatory Connection. As a matter of public health, the owners of all improved Premises in the Village which are used for human occupancy, employment, recreation or other purposes, which require the use of Potable Water and which abut any right-of-way, easement, highway, street, or public way in which there is now or hereafter located a public Water Main that is not more than 200 feet from the nearest point of a structure used for said purposes, are hereby required to connect said Premises to the System in accordance with this Ordinance.

Section 4.2A. Connection Deadline. As a matter of public health, a connection to the System required hereunder, shall be completed with respect to existing improved Premises within ninety (90) days after written notice by the Village that the System is available for connection. Newly constructed structures required to connect shall be connected prior to occupancy thereof. Persons who fail to complete a required connection to the System shall be liable for a civil penalty equal in amount to the Readiness to Serve Fee and Commodity Fee that would have accrued based upon reasonably expected water usage and been payable had the connection been made when and as required.

Section 4.3A. Enforcement in the Event of a Failure to Connect. In the event a required connection to the System is not made at the time required by Section 4.2A, the Village shall require the connection to be made immediately after notice given by first class or certified mail or by posting on the property. The notice shall give the approximate location of the available System and shall advise the Owner of the Premises of the requirement and enforcement provisions provided by Village ordinance. In the event the required connection is not made within 30 days after the date of mailing or posting of the written notice, the Village may bring an action in a court of competent jurisdiction for a mandatory injunction or court order to compel the Owner to immediately connect the Premises to the System.

Section 4.4A. Voluntary Extension of and Connection to System. The owner of an improved Premises, now situated or hereafter constructed within the Village, but not located adjacent to a public Water Main (within the meaning of Section 4.1A), may elect to extend the System with respect to the affected Premises in accordance with Section 4.1 and connect thereto, subject to the provisions of Section 4.1. The Owner of the Premises in this circumstance shall, in addition to all requirements imposed by this Ordinance, subject to the provisions of Section 4.1, pay all expenses of the extension of the System. The owner of an improved Premises, now situated or hereafter constructed within the Village and located more than 200 feet from a public Water Main located in a right of way, easement, highway, street or public way which crosses, adjoins or abuts upon the property, may elect to connect said structure to the System in compliance with this Ordinance.

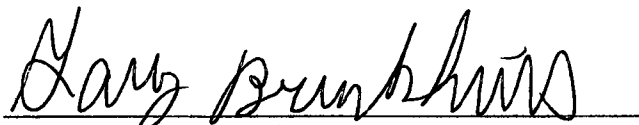
Section 4.5A. Private Water Wells Permitted Only for Non-Drinking Water Purposes. If the System is available to a Premises within the meaning of Section 4.1A, the Owner of the Premises shall not drill a new water well for Potable Water, e.g. drinking, purposes but, upon approval of the County Health Department, may drill a new water well for nonpotable use, e.g. non-drinking water use. After a Premises is connected to the Water System, the existing private water well shall either (i) be capped and abandoned in accordance with applicable county and state requirements or (ii) upon approval of the County Health Department, maintained for nonpotable use. For purposes of this section, permissible nonpotable uses include lawn watering, irrigation, automobile or equipment washing, use in a building's heating or cooling system and similar uses not involving human consumption or

prolonged bodily contact. All fixtures connected to a private water well maintained for nonpotable use shall be located outside of structures intended for human occupancy, employment, recreation or similar purposes. In addition, piping connected to a private water well shall be physically and completely separated from all plumbing used for public water in accordance with Village and/or State cross connection requirements."

Section 4. Publication. A true copy or a summary of this Ordinance shall be published in the Penasee Globe at the earliest possible time after the adoption of the Ordinance by the Village.

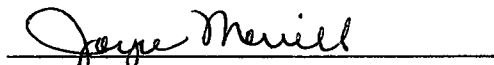
Section 5. Effective Date. This Ordinance shall be in full force and effect on April 1, 2002.

Passed passage and adopted by the Village Council of the Village of Martin, County of Allegan, Michigan, on March 11, 2002, and approved by me on March 11, 2002.



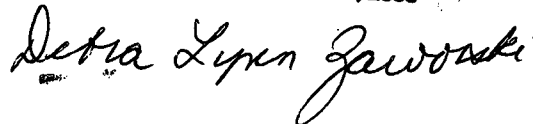
Gary Brinkhuis, President
Village of Martin

Attest:



Joyce Merrill, Clerk
Village of Martin


DEBRA LYNN ZAWORSKI
Notary Public, Allegan County, MI
My Commission Expires Dec. 22, 2008



Debra Lynn Zaworski

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Village Council of the Village of Martin, County of Allegan, State of Michigan, at a regular meeting held on March 11, 2002, and that public notice of said meeting was given pursuant to Act No. 267, Public Act of Michigan of 1976, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for said meeting.

I further certify that said Ordinance has been recorded in the Ordinance Book of the Village and such recording has been authenticated by the signatures of the President and the Village Clerk.

Joyce Merrill
Joyce Merrill, Village Clerk

CERTIFICATE OF PUBLICATION

I, the undersigned, Village Clerk of the Village of Martin, County of Allegan, Michigan, hereby certify pursuant to the Village Charter that Village Ordinance No. 53 or a summary thereof was published in the Penasee Globe, on MARCH 25, 2002.

Dated: March 25, 2002

Joyce Merrill
Joyce Merrill, Village Clerk

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DEBRA LYNN ZAWORSKI
Notary Public, Allegan County, MI
My Commission Expires Dec. 22, 2008

Debra Lynn Zaworski

Village of Martin

From: "Joyce Watts" <JWatts@ALLEGANCOUNTY.ORG>
To: "Village of Martin" <martinmi@charterinternet.com>
Cc: "Patty Fales" <PFales@ALLEGANCOUNTY.ORG>
Sent: Friday, February 08, 2008 10:37 AM
Subject: RE: Water Ordinance

[http://www.legislature.mi.gov/\(S\(d4zb5yj04nqnp5455mr5esa5\)\)/mileg.aspx?page=home](http://www.legislature.mi.gov/(S(d4zb5yj04nqnp5455mr5esa5))/mileg.aspx?page=home)

Please log onto the Michigan Legislature website [link above] and look up Act 103 of 1937. This statute contains the majority of recording requirements.

If the document you sent us was not recordable, we would have attached a rejection check-sheet to tell you what was wrong. Please refer to the reasons which we indicated on this sheet as being deficient, or bring the document into the office to discuss the situation with one of the acceptance specialists.

Joyce Watts
 Allegan County Clerk-Register

*Grave to Joyce
 to take over to
 Allegan 4/1/08*

-----Original Message-----

From: Village of Martin [mailto:martinmi@charterinternet.com]
Sent: Friday, February 08, 2008 9:29 AM
To: Joyce Watts
Subject: Fw: Water Ordinance

Second request.....same as before
 Thanks

----- Original Message -----

From: Village of Martin
To: Joyce Watts
Sent: Thursday, January 10, 2008 9:26 AM
Subject: Re: Water Ordinance

Joyce,

Primed again to get the mandatory connection to our water system for any local property sale into your system so that a new deed cannot be completed until connection is confirmed. I think you called me with the answer to my question of just what constitutes a "Recordable Format," but I sure can't remember what all you said. Apparently what I originally sent you is not recordable, but what do we need to do to make it that way? Thanks.

Don Flower
 Trustee

----- Original Message -----

From: Joyce Watts
To: Village of Martin

Sent: Wednesday, June 20, 2007 8:49 AM
Subject: RE: Water Ordinance

One thing I forgot to address was the recording fee:

1st. page - \$14.00

Each additional or attached page \$3.00

Make check payable to Allegan Co. Register of Deeds.

Thank you.
Joyce Watts

-----Original Message-----

From: Village of Martin [mailto:martinmi@charterinternet.com]

Sent: Wednesday, June 20, 2007 9:31 AM

To: Joyce Watts

Subject: Fw: Water Ordinance

Joyce,

Not sure your system will allow me to send attachments, but as my voice mail indicates, I'm not sure what a "Recordable Format" is. Please advise. Thanks

Don Flower

Village of Martin Trustee

----- Original Message -----

From: James K. White

To: martinmi@charterinternet.com

Sent: Tuesday, June 19, 2007 2:59 PM

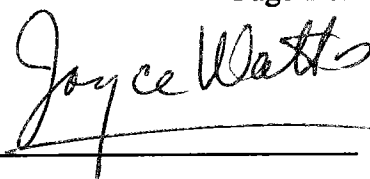
Subject: Sewer Ordinance

Don,

Attached are my correspondence to you and its enclosures. Please call me if you have questions.

James K. White
Mika Meyers Beckett & Jones PLC
Attorneys at Law
900 Monroe Avenue, N.W.
Grand Rapids, MI 49503-1423
Ph: 616.632.8000
Fax: 616.632.8002
Direct: 616.632.8034
E-mail: jwhite@mmbjlaw.com
Website: www.mmbjlaw.com

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Village of Martin

From: "Village of Martin" <martinmi@charterinternet.com>
To: "Joyce Watts" <JWatts@ALLEGANCOUNTY.ORG>
Sent: Thursday, January 10, 2008 9:26 AM
Subject: Re: Water Ordinance

Joyce,

Second request sent 2/8/08

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Don Flower

Village of Martin Trustee

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To: martinmi@charterinternet.com
Sent: Tuesday, June 19, 2007 2:59 PM
Subject: Sewer Ordinance

Don,

Attached are my correspondence to you and its enclosures. Please call me if you have questions.

James K. White
 Mika Meyers Beckett & Jones PLC
 Attorneys at Law

1/10/08

Village of Martin

From: "Joyce Watts" <JWatts@ALLEGANCOUNTY.ORG>
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Village of Martin Trustee

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To: martinmi@charterinternet.com
Sent: Tuesday, June 19, 2007 2:59 PM
Subject: Sewer Ordinance

Don,

Attached are my correspondence to you and its enclosures. Please call me if you have questions.

James K. White
Mika Meyers Beckett & Jones PLC
Attorneys at Law
900 Monroe Avenue, N.W.
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Ph: 616.632.8000
Fax: 616.632.8002
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E-mail: jwhite@mmbjlaw.com
Website: www.mmbjlaw.com

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Mika Meyers Beckett & Jones PLC

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Steven L. Dykema
Leonard M. Hoffius¹

Retired
Ernest A. Mika
Veryl N. Meyers

Also Admitted In
¹Colorado
²Illinois
³New York
⁴Ohio
⁵Wisconsin

June 19, 2007

Mr. Don Flower
Village of Martin
1586 S. Main St.
P.O. Box 234
Martin, MI 49070

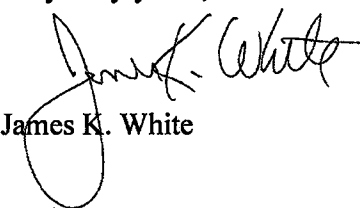
Re: Village of Martin Water Ordinance Questions

Dear Don:

I am writing in follow-up to your e-mail of June 15 in which you made inquiry as to mandatory connection provisions in the Village Water Ordinance. A quick review of my file indicated a letter dated March 11, 2002 (copy enclosed) to Joyce Merrill with proposed amendments to the Village Water Ordinance, which had been discussed by the Village Council at a special meeting on February 25, 2002. The ordinance amendment was adopted by the Village Council at the March 11, 2002 meeting and was published in the Penasee Globe-Wayland on March 25, 2002 (copies attached). The ordinance amendment adds new Article IV-A to the existing Village Water Ordinance and addresses the issue of mandatory connection on Pages 6, 7 and 8.

If you have questions or require additional assistance from us, please call.

Very truly yours,


James K. White

JKW:sgc
Encl.
By E-mail
H:\jkw\cin\martin\Flower lt1.doc

Joyce Wattz
Recordable
Copy of Ord
Copy of minutes
Req of deeds

MIKA, MEYERS, BECKETT & JONES, PLC
ATTORNEYS AT LAW

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MARK A. KEHOE

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JEFFREY A. DeVREE
DANIEL R. KUBIAK
MARK A. VAN ALLSBURG⁶
ELIZABETH K. BRANSDORFER

900 MONROE AVENUE, N.W.
GRAND RAPIDS, MICHIGAN 49503-1423

TELEPHONE (616) 632-8000
FAX (616) 632-8002

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MICHAEL X. HIDALGO
DANIEL J. FARMETER, JR.
ANDREA D. CRUMBACK
JENNIFER A. PUPLAWA
BENJAMIN A. ZAINEA
RONALD M. REDICK

OF COUNSEL
JAMES B. BECKETT
JOHN C. JONES
STEVEN L. DYKEMA

RETIRED
ERNEST A. MIKA
VERYL N. MEYERS

ALSO ADMITTED IN
¹ COLORADO
² DISTRICT OF COLUMBIA
³ ILLINOIS
⁴ OHIO
⁵ WISCONSIN
⁶ WYOMING

March 11, 2002

Joyce Merrill, Clerk
Village of Martin
1586 S. Main St.
P.O. Box 234
Martin, MI 49070-0234

Re: Amendments to Village Water Ordinance

Dear Joyce:

I am forwarding to you the amendments to the Village Water Ordinance which we have prepared following the discussions by the Village Council at the special meeting on February 25.

In particular, the amendments primarily relate to the addition of a debt service charge, which is the same amount as the tap-in fee. We have provided that property owners who are subject to a special assessment (i.e., virtually everyone in the Village) or who have paid a tap-in fee shall receive credit against the debt service charge. In this manner, the debt service charge will apply to other users of the system which are primarily located outside of the Village limits but subject to the same rates and charges as Village customers. As discussed with the Village Council, we have provided that the debt service charge may be payable in annual installments over time on the same basic terms as the special assessments; however, we have provided that the final payment must be due and payable not later than September 15, 2031, which is the final payment for the special assessments. In this way, if someone connects to the water system five years from now and is subject to the debt service charge, they will only be entitled to pay in 25 installments instead of 30.

The other primary change relates to clarifying the billing and due dates and the 10% penalty for delinquent payments. Related to billing and collection is some additional language we added relative to remedies available to the Village to enforce delinquent payments.

I have forwarded with this letter both a blacklined copy of these changes and a clean copy of the changes.

Ms. Joyce Merrill, Clerk
March 11, 2002
Page 2

Please note that following adoption of this ordinance amendment by the Village Council that the ordinance amendment must be published one time in full in the Penasee Globe.

As we also discussed, we have provided in Section 5 that the ordinance will be in full force and effect on April 1, which falls 21 days after tonight's Village Council meeting. This is consistent under Chapter VI, Section 4 of the Village Charter which provides that "no ordinance imposing a penalty shall take effect in less than 20 days after its passage." You should make arrangements to have the ordinance published one time in full in the Penasee Globe at the earliest possible time.

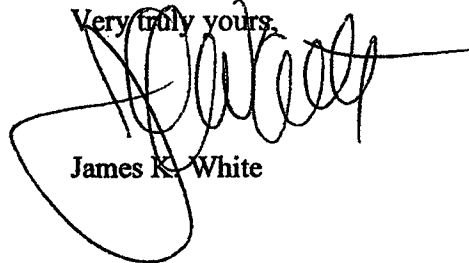
I would appreciate receiving a certified copy of the ordinance as adopted by the Village Council, together with a copy of the Affidavit of Publication for my file.

On other matters related to the water project, I can report that the order from the Michigan Department of Treasury for the issuance of the county bonds was issued on February 28, 2002. In addition, Rural Development has issued a further amendment to its letter of conditions, dated March 4, in which Rural Development has approved the number of properties specially assessed, including the 24 properties which were given a \$1,000 credit for their prior connection fee.

Following adoption of the water ordinance, the only unresolved issue that I am aware of is the scheduling of the closing date. Based on a timetable issued by Tom Deneau in accordance with the DEQ letter of consent, it appears that the closing may not take place until mid-April although I have not had an opportunity to discuss this timetable with Mr. Deneau. As soon as I have something further with regard to a closing, I will be in touch with you.

If you have questions on these matters tonight, do not hesitate to call me at my home number (616) 942-0948.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. White', with a large, sweeping loop at the bottom.

James K. White

JKW:sgc
Encl.
By Facsimile

VILLAGE OF MARTIN

COUNTY OF ALLEGAN

MICHIGAN

Minutes of a regular meeting of the Village Council of the Village of Martin, County of Allegan, Michigan, held in the Martin Village Hall located at 1586 S. Main Street, Martin, Michigan, on the 11th day of March, 2002, at 7:30 p.m. Local Time.

PRESENT: Members: Braden, Brinkhuis, Flower,
Merrill, Porter, Rambadt, Slocum

ABSENT: Members: None

It was moved by Member Porter and supported by Member Slocum that the following Ordinance be adopted under the authority of the Revenue Bond Act of 1933, being Act 94 of the Public Acts of Michigan of 1933, as amended.

ORDINANCE NO. 53

AN ORDINANCE TO AMEND ORDINANCE NO. 46,
Enacted October 22, 1990 as the
Water Supply System Utility Ordinance

The Ordinance was then discussed.

Upon roll call, the vote upon motion adopting said Ordinance was as follows:

YEAS: Members: All

NAYS: Members: None

The Village Clerk declared the Ordinance adopted.

The following is Ordinance No. 53 as adopted.



03/07/2008

VILLAGE OF MARTIN

Dear Sir:

I am returning this instrument and call attention to the following error(s):

✓

THE DOCUMENT IS NOT PROPERLY NOTARIZED

✓

THE ACKNOWLEDGEMENT IS NOT DATED

✓

THE ACKNOWLEDGEMENT IS NOT SIGNED

✓

NO ONE IS NAMED IN THE ACKNOWLEDGEMENT

✓

ALL PARTIES SIGNING ARE NOT ACKNOWLEDGED

✓

NOTARY COMMISSION EXPIRATION DATE MUST BE STATED

✓

PLEASE INDICATE THE COUNTY AND OR STATE WHERE EXECUTED

✓

NAMES MUST BE TYPED BENEATH ALL SIGNATURES

Corrected documents should be returned to this office. PLEASE RETURN THIS LETTER WHEN RESUBMITTING DOCUMENTS.

JOYCE A. WATTS
ALLEGAN COUNTY REGISTER OF DEEDS
113 CHESTNUT STREET
ALLEGAN, MI 49010
Questions? Please call (269) 673-0390



03/07/2008

VILLAGE OF MARTIN

Dear Sir:

I am returning this instrument and call attention to the following error(s):

✓

THERE SHOULD BE NO DISCREPANCY BETWEEN THE NAME AS PRINTED BENEATH THE SIGNATURE AND THE NAME SET FORTH IN THE ACKNOWLEDGMENT

✓

THE NAME AND ADDRESS OF THE PERSON WHO DRAFTED THE DOCUMENT MUST APPEAR ON THE FACE OF THE DOCUMENT

Corrected documents should be returned to this office. PLEASE RETURN THIS LETTER WHEN RESUBMITTING DOCUMENTS.

JOYCE A. WATTS
ALLEGAN COUNTY REGISTER OF DEEDS
113 CHESTNUT STREET
ALLEGAN, MI 49010

Questions? Please call (269) 673-0390

Revised 3/11/02

VILLAGE OF MARTIN
COUNTY OF ALLEGAN
MICHIGAN

Minutes of a regular meeting of the Village Council of the Village of Martin, County of Allegan, Michigan, held in the Martin Village Hall located at 1586 S. Main Street, Martin, Michigan, on the 11th day of March, 2002, at 7:30 p.m. Local Time.

PRESENT: Members: Brandon, Brinkhuis, Flower, Merrill,
Porter, Rambadt, Slocum

ABSENT: Members: None

It was moved by Member Porter and supported by Member Slocum that the following Ordinance be adopted under the authority of the Revenue Bond Act of 1933, being Act 94 of the Public Acts of Michigan of 1933, as amended.

ORDINANCE NO. 53

**AN ORDINANCE TO AMEND ORDINANCE NO. 46,
Enacted October 22, 1990 as the
Water Supply System Utility Ordinance**

The Ordinance was then discussed.

Upon roll call, the vote upon motion adopting said Ordinance was as follows:

YEAS: Members: Brinkhuis, Porter, Slocum, Brandon,
Flower, Rambadt, Merrill

NAYS: Members: None

The Village Clerk declared the Ordinance adopted.

The following is Ordinance No. 53 as adopted.

ORDINANCE NO. 53

AN ORDINANCE TO AMEND ORDINANCE NO. 46,
Enacted October 22, 1990 as the
Water Supply System Utility Ordinance

THE VILLAGE OF MARTIN, (ALLEGAN COUNTY, MICHIGAN) ORDAINS:

Section 1. Sections 3.3, 4.10, 4.19, 6.1, 6.4 and 6.7 of Ordinance No. 46 are hereby amended to read as follows:

"Section 3.3 Ownership. All Water mains or portions thereof located within public right-of-way or easements granted to the Village are and shall be the exclusive property of the Village, except to the extent required in conjunction with the financing of the System. All Water Service Pipes or portions thereof located on private property, easements granted to parties other than the Village or other land not under the ownership or control of the Village are and shall be the property of the owner of said property.

Section 4.10 Application. Before any connection shall be made to any Water Main, an application for same shall be made in writing by the owner of the Premises to be serviced, or by his authorized agent, and shall be filed with the Village Council. No service connection shall be made until the applicant therefor has agreed to pay water service bills promptly and has paid the fee for same in accordance with the following schedule:

(i) **Application Fee.** Applications for service shall be accompanied by an application fee of \$25.00;

(ii) **Tap-In Fee.** The tap in fee shall be \$2,000.00 for one inch (1") Water Service Pipes; \$3,000.00 for two inch (2") Water Service Pipes, \$4,000.00 for four inch (4") Water Service Pipes, and \$6,000.00 for six inch (6") and larger Water Service Pipes. The tap-in fee includes the meter. Premises subject to a special assessment confirmed by the Village Council on January 14, 2002, shall receive credit toward payment of the tap-in fee;

(iii) **Debt Service Charge.** The Debt Service Charge shall be \$2,000.00 for one-inch (1") Water Service Pipes; \$3,000.00 for two-inch (2") Water Service Pipes; \$4,000.00 for four-inch (4") Water Service Pipes; and \$6,000.00 for six-inch (6") and larger Water Service Pipes. Premises subject to a special assessment confirmed by the Village Council on January 14, 2002 and Premises for which a Tap-In Fee has been paid shall receive credit toward payment of the Debt Service Charge. At the option of the User, the Debt Service Charge shall be payable either in a lump sum or in annual

installments of principal, not exceeding thirty (30), with the first installment of principal due upon application for service connection, or for existing Users as of April 1, 2002, the first installment shall be due September 15, 2002, and subsequent installments shall be payable on or before September 15 of each year, with the final installment of principal due not later than September 5, 2031, with interest on the unpaid balance at a rate that is 1% higher than the average rate of interest payable by the Village on bonds issued to construct or improve the System.

(iv) Inspection Fee. An inspection fee shall be paid in advance in the amount of \$25.00;

(v) Turn-on Fee. A fee of \$15.00 shall be paid to turn on or off water service for any premises including premises used by seasonal or part-time occupants.

No service shall be initiated until all fees have been paid by the Owner of the Premises applying for service.

Section 4.19 Water Meters. Water meters shall be provided by the Village and installed upon each Premises supplied with water at the cost of the Owner and any damage to said meter shall be assessed to such Owner. No person shall tamper with or remove the water meter from the service or interfere with the reading thereof.

Section 6.1 Rates and Charges. A person or entity whose Premises are connected to the System shall be considered a User and shall pay a Readiness to Serve Fee of \$14.00 per month per Unit and a Commodity Fee of \$4.00 per 1,000 gallons of metered water usage; provided that until such time as the water meters have been replaced and are operational, in conjunction with the System improvements made for the Village by Allegan County in 2002, the Commodity Fee shall be charged at a flat rate of \$18.00 per month per Unit.

(i) Bulk Service Charges. There shall be a \$20.00 service availability charge for filling of tanks and a charge of \$1.00 per 100 gallons of water supplied.

(ii) Construction or unmetered Service Charge. There shall be a \$75.00 per month service charge for water supplied other than through a meter. Use of a fire hydrant as an unmetered outlet is not permitted.

(iii) Private Fire Hydrant Charge. There shall be a charge of \$100.00 per year per private hydrant. In no event shall anyone construct or maintain a private fire hydrant without first obtaining a permit as set forth in Section 4.23.

(iv) Public Hydrant Rental. The Village shall pay a hydrant rental of \$100.00 per hydrant per year from the General Fund for the general fire protection provided by the System to the Village and its residents.

Section 6.4 Delinquencies; Statutory Lien. Charges for water services are hereby made a lien on premises served by the System and whenever any such charge against any premises shall be delinquent for six (6) or more months, the Department or other official of the Village responsible for the collection thereof shall certify annually, not later than March 1 of each year, to the tax assessing officer the fact of such delinquency, whereupon such lien shall be entered by the assessing officer upon the next tax roll against the Premises to which the services were rendered and the charges shall be collected and the lien therefor enforced in the same manner as provided for the collection of taxes assessed upon the roll and the enforcement of the lien for the taxes. After service is terminated on account of delinquency, water service shall not be resumed until the Owner pays the delinquent amount in full along with a turn-on fee of \$15.00 and a deposit in an amount which shall be determined by the Treasurer. No deposit fee shall bear interest for the benefit of the owner, and any interest earned by said deposit fees shall be used for maintenance of the water system. For purposes of Article VI, water rates and charges shall include the Readiness to Serve Fee, the Commodity Fee, bulk service charges, unmetered service charges, private fire hydrant charges, the Miscellaneous User Fee, and installment payment of Tap-In Fees and Debt Service Charges.

Section 6.7 Billing of Water Rates and Charges. The Village Treasurer shall bill and collect all water rates and charges on a monthly basis. The Village Treasurer shall mail each User a bill on or before the 1st day of each month. Payment of the bill which is rendered by the Village is due and payable on or before the 20th day of the month. Payment of said bill shall be made at a location designated by the ~~Township~~ ^{Village}. If water rates and charges are not paid on or before the due date, then a penalty in the amount of 10% shall be added to the balance due. Partial payments will be applied first to outstanding penalties, if any, and then to water rates and charges."

Section 2. New Sections 2.1(a)(1), 2.1(a)(2), 2.1 (e)(1), 2.1(g)(1), 2.1(j)(1), 2.1(m)(1), 6.8, 6.9 and 6.10 shall be added to Ordinance No. 46, which shall read as follows:

"Section 2.1(a)(1). "Commodity Fee" is a periodic charge levied on Users on the basis of water consumption for operation, maintenance and replacement costs and debt service on debt incurred to pay for the System.

Section 2.1(a)(2). "Debt Service Charge" means the amount charged to Users of the System to pay principal, interest and administrative costs of retiring debt incurred for construction or improvement of the System.

Section 2.1(e)(1). "Miscellaneous User Fee" means an amount charged to Users for miscellaneous services and related administrative costs associated with the System.

Section 2.1(g)(1). "Potable Water" refers to water intended for human consumption or prolonged bodily contact which is free from impurities in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the applicable requirements of the Federal Drinking Water Standards and to the regulations of the Allegan County Health Department and the Michigan Department of Environmental Quality."

Section 2.1(j)(1). "Readiness to Serve Fee" is a periodic charge levied on Users based upon Units for operation, maintenance and replacement costs and debt service on debt incurred to pay for the System.

Section 2.1(m)(1). "Unit or Units" shall mean a standard basis of measuring the relative quantity of water typically used in conjunction with the occupancy of a freestanding single-family residential dwelling (but such term shall not necessarily be related to actual use arising from any particular dwelling). A table of Unit factors listing the relative relationship between the various Users of the System is set forth in Appendix A to Ordinance No. 46. The assignment of Unit(s) to a particular User shall be determined from time to time by the Village, based upon available information and investigation of the use to which the User's property is put. The assignment of Unit(s) for any use not enumerated in the table of Unit factors shall, in the sole discretion of the Village, be based upon the most similar use enumerated.

Section 6.8. Unpaid Water Rates and Charges; Remedies. If water rates and charges are not paid on or before the due date, the Village, pursuant to Act 178 of the Public Acts of Michigan of 1939, as amended, may

(a) discontinue the services provided by the System by disconnecting the Premises from the System, and the service so discontinued shall not be reinstated until all sums then due and owing, including penalties, interest and all expenses incurred by the Village for shutting off and turning on the service, shall be paid to the Village;

(b) institute an action in any court of competent jurisdiction for the collection of the amounts unpaid, including penalties, interest and reasonable attorney fees; or

(c) enforce the lien created in Section 6.4 above.

These remedies shall be cumulative and shall be in addition to any other remedy provided in this ordinance or now or hereafter existing at law or equity.

Under no circumstances shall action taken by the ^{Village} ~~Township~~ to collect unpaid water rates and charges, penalties and interest, invalidate or waive the lien created by Section 6.4 above.

Section 6.9. Leased Premises; Security Deposit. A lien shall not attach for water rates and charges to a Premises which is (a) separately metered and (b) subject to a legally executed lease that expressly provides that the tenant (and not the landlord) of the Premises or a dwelling unit thereon shall be liable for payment of water rates and charges, effective for services which accrue after the date an affidavit is filed by the landlord with the Village. This affidavit shall include the names and addresses of the parties, the expiration date of the lease and an agreement by the landlord to give the Village 20 days written notice of any cancellation, change in or termination of the lease. The filing of the affidavit by the landlord shall be accompanied by a true copy of the lease and a security deposit in an amount which shall be determined by the Treasurer. Upon the failure of the tenant to pay the water rates and charges when due, the security deposit shall be applied by the Village against the unpaid balance, including interest and penalties. Upon notification by the Village, the tenant shall immediately make sufficient payment to the Village to cover the amount of the security deposit so advanced. Upon the failure of the tenant to do so within ten (10) days of said notification, the penalties, rights and remedies set forth in this Ordinance shall be applicable with respect to the unpaid water rates and charges, including interest and penalties. The security deposit shall be held by the Village without interest and shall be returned to the landlord upon proof of termination of the lease.

Section 6.10. Miscellaneous User Fee. The Village may, from time to time, charge a Miscellaneous Use Fee, as necessary, for miscellaneous services, repairs and related administrative costs associated with the System, including without limitation, excessive inspection services not covered by the Inspection Fee."

Section 3. New Article IV-A shall be added to Ordinance No. 46, which shall read as follows:

"ARTICLE IV-A

Use of Public Water

Section 4.1A. Mandatory Connection. As a matter of public health, the owners of all improved Premises in the Village which are used for human occupancy, employment, recreation or other purposes, which require the use of Potable Water and which abut any right-of-way, easement, highway, street, or public way in which there is now or hereafter located a public Water Main that is not more than 200 feet from the nearest point of a structure used for said purposes, are hereby required to connect said Premises to the System in accordance with this Ordinance.

Section 4.2A. Connection Deadline. As a matter of public health, a connection to the System required hereunder, shall be completed with respect to existing improved Premises within ninety (90) days after written notice by the Village that the System is available for connection. Newly constructed structures required to connect shall be connected prior to occupancy thereof. Persons who fail to complete a required connection to the System shall be liable for a civil penalty equal in amount to the Readiness to Serve Fee and Commodity Fee that would have accrued based upon reasonably expected water usage and been payable had the connection been made when and as required.

Section 4.3A. Enforcement in the Event of a Failure to Connect. In the event a required connection to the System is not made at the time required by Section 4.2A, the Village shall require the connection to be made immediately after notice given by first class or certified mail or by posting on the property. The notice shall give the approximate location of the available System and shall advise the Owner of the Premises of the requirement and enforcement provisions provided by Village ordinance. In the event the required connection is not made within 30 days after the date of mailing or posting of the written notice, the Village may bring an action in a court of competent jurisdiction for a mandatory injunction or court order to compel the Owner to immediately connect the Premises to the System.

Section 4.4A. Voluntary Extension of and Connection to System. The owner of an improved Premises, now situated or hereafter constructed within the Village, but not located adjacent to a public Water Main (within the meaning of Section 4.1A), may elect to extend the System with respect to the affected Premises in accordance with Section 4.1 and connect thereto, subject to the provisions of Section 4.1. The Owner of the Premises in this circumstance shall, in addition to all requirements imposed by this Ordinance, subject to the provisions of Section 4.1, pay all expenses of the extension of the System. The owner of an improved Premises, now situated or hereafter constructed within the Village and located more than 200 feet from a public Water Main located in a right of way, easement, highway, street or public way which crosses, adjoins or abuts upon the property, may elect to connect said structure to the System in compliance with this Ordinance.


Section 4.5A. Private Water Wells Permitted Only for Non-Drinking Water Purposes. If the System is available to a Premises within the meaning of Section 4.1A, the Owner of the Premises shall not drill a new water well for Potable Water, e.g. drinking, purposes but, upon approval of the County Health Department, may drill a new water well for nonpotable use, e.g. non-drinking water use. After a Premises is connected to the Water System, the existing private water well shall either (i) be capped and abandoned in accordance with applicable county and state requirements or (ii) upon approval of the County Health Department, maintained for nonpotable use. For purposes of this section, permissible nonpotable uses include lawn watering, irrigation, automobile or equipment washing, use in a building's heating or cooling system and similar uses not involving human consumption or

prolonged bodily contact. All fixtures connected to a private water well maintained for nonpotable use shall be located outside of structures intended for human occupancy, employment, recreation or similar purposes. In addition, piping connected to a private water well shall be physically and completely separated from all plumbing used for public water in accordance with Village and/or State cross connection requirements."

Section 4. Publication. A true copy or a summary of this Ordinance shall be published in the Penasee Globe at the earliest possible time after the adoption of the Ordinance by the Village.


Section 5. Effective Date. This Ordinance shall be in full force and effect on April 1, 2002.

Passed passage and adopted by the Village Council of the Village of Martin, County of Allegan, Michigan, on March 11, 2002, and approved by me on March 11, 2002.



Gary Brinkhuis, President
Village of Martin

Attest:



Joyce Merrill, Clerk
Village of Martin

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Village Council of the Village of Martin, County of Allegan, State of Michigan, at a regular meeting held on March 11, 2002, and that public notice of said meeting was given pursuant to Act No. 267, Public Act of Michigan of 1976, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for said meeting.

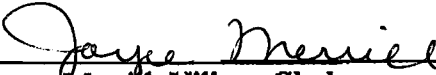
I further certify that said Ordinance has been recorded in the Ordinance Book of the Village and such recording has been authenticated by the signatures of the President and the Village Clerk.


Joyce Merrill, Village Clerk

CERTIFICATE OF PUBLICATION

I, the undersigned, Village Clerk of the Village of Martin, County of Allegan, Michigan, hereby certify pursuant to the Village Charter that Village Ordinance No. 53 or a summary thereof was published in the Penasee Globe, on March 25, 2002.

Dated: March 25, 2002


Joyce Merrill, Village Clerk

H:\KWC\CLN\Martin\Ordinance Amend 2.wpd

ORDINANCE NO. 53

AN ORDINANCE TO AMEND ORDINANCE NO. 46,

Enacted October 22, 1990 as the

Water Supply System Utility Ordinance

THE VILLAGE OF MARTIN, (ALLEGAN COUNTY, MICHIGAN) ORDAINS:

Section 1. Section 3.3, 4.10, 4.19, 6.1, 6.4 and 6.7 of Ordinance No. 46 are hereby amended to read as follows:

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Section 4.10 Application. Before any connection shall be made to any Water Main, an application for same shall be made in writing by the owner of the Premises to be serviced, or by his authorized agent, and shall be filed with the Village Council. No service connection shall be made until the applicant therefor has agreed to pay water service bills promptly and has paid the fee for same in accordance with the following schedule:

(i) Application Fee. Applications for service shall be accompanied by an application fee of \$25.00.

(ii) Tap-In Fee. The tap in fee shall be \$2,000.00 for one inch (1") Water Service Pipes; \$3,000.00 for two inch (2") Water Service Pipes; \$4,000.00 for four inch (4") Water Service Pipes; and \$6,000.00 for six inch (6") and larger Water Service Pipes. The tap-in fee includes the meter. Premises subject to a special assessment confirmed by the Village Council on January 14, 2002 shall receive credit toward payment of the tap-in fee.

(iii) Debt Service Charge. The Debt Service Charge shall be \$2000.00 for one-inch (1") Water Service Pipes; \$3,000.00 for two-inch (2") Water Service Pipes; \$4,000.00 for four-inch (4") Water Service Pipes; and \$6,000.00 for six-inch (6") and larger Water Service Pipes. Premises subject to a special assessment confirmed by the Village Council on January 14, 2002 and Premises for which a Tap-In Fee has been paid shall receive credit toward payment of the Debt Service Charge. At the option of the User, the Debt Service Charge shall be payable either in a lump sum or in annual installments of principal, not exceeding thirty (30), with the first installment of principal due upon application for service connection, or for existing Users as of April 1, 2002, the first installment shall be due September 15, 2002, and subsequent installments shall be payable on or before September 15 of each year, with the final installment of principal due not later than September 5, 2031, with interest on the unpaid balance at a rate that is 1% higher than the average rate of interest payable by the Village on bonds issued to construct or improve the System.

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(iii) Private Fire Hydrant Charge. There shall be a charge of \$100.00 per year per private hydrant. In no event shall anyone construct or maintain a private fire hydrant without first obtaining a permit as set forth in Section 4.23.

(iv) Public Hydrant Rental. The Village shall pay a hydrant rental of \$100.00 per hydrant per year from the General Fund for the general fire protection provided by the System to the Village and its residents.

Section 6.4 Delinquencies: Statutory Lien. Charges for water services are hereby made a lien on premises served by the System and whenever any such charge against any premises shall be delinquent for six (6) or more months, the Department or other official of the Village responsible for the collection thereof shall certify annually, not later than March 1 of each year, to the tax assessing officer the fact of such delinquency, whereupon such lien shall be entered by the assessing officer upon the next tax roll against the Premises to which the services were rendered and the charges shall be collected and the lien therefor enforced in the same manner as provided for the collection of taxes assessed upon the roll and the enforcement of the lien for the taxes. After service is terminated on account of delinquency, water service shall not be resumed until the Owner pays the delinquent amount in full along with a turn-on fee of \$15.00 and a deposit in an amount which shall be determined by the Treasurer. No deposit fee shall bear interest for the benefit of the owner, and any interest earned by said deposit fees shall be used for maintenance of the water system. For purposes of Article VI, water rates and charges shall include the Readiness to Serve Fee, the Commodity Fee, bulk service charges, unmetered service charges, private fire hydrant charges, the Miscellaneous User Fee, and installment payment of Tap-In Fees and Debt Service Charges.

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Section 2. New Section 2.1(a)(1), 2.1(a)(2), 2.1(e)(1), 2.1(g)(1), 2.1(j)(1), 2.1(m)(1), 6.8, 6.9 and 6.10 shall be added to Ordinance No. 46, which shall read as follows:

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Section 2.1(a)(2). "Debt Service Charge" means the amount charged to Users of the System to pay principal, interest and administrative costs of retiring debt incurred for construction or improvement of the System.

Section 2.1(e)(1). "Miscellaneous User Fee" means an amount charged to Users for miscellaneous services and related administrative costs associated with the System.

Section 2.1(g)(1). "Potable Water" refers to water intended for human consumption or prolonged bodily contact which is free from impurities in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the applicable requirements of the Federal Drinking Water Standard and to the regulations of the Allegan County Health Department and the Michigan Department of Environmental Quality."

Section 2.1(j)(1). "Readiness to Serve Fee" is a periodic charge levied on Users based upon Units for operation, maintenance and replacement costs and debt service on debt incurred to pay for the System.

Section 2.1(m)(1). "Unit or Units" shall mean a standard basis of measuring the relative quantity of water typically used in conjunction with the occupancy of a freestanding single-family residential dwelling (but such term shall not necessarily be related to actual use arising from any particular dwelling). A table of Unit factors listing the relative relationship between the various Users of the System is set forth in Appendix A to Ordinance No. 46. The assignment of Unit(s) to a particular User shall be determined from time to time by the Village, based upon available information and investigation of the use to which the User's property is put. The assignment of Unit(s) for any use not enumerated in the table of unit factors shall, in the sole discretion of the Village, be based upon the most similar use enumerated.

Section 6.8 Unpaid Water Rates and Charges: Remedies. If water rates and charges are not paid on or before the due date, the Village, pursuant to Act 178 of the Public Acts of Michigan of 1939, as amended, may

(a) discontinue the services provided by the System by disconnecting the Premises from the System, and the service so discontinued shall not be reinstated until all sums then due and owing, including penalties, interest and all expenses incurred by the Village for shutting off and turning on the service, shall be paid to the Village;

(b) institute an action in any court of competent jurisdiction for the collection of the amounts unpaid, including penalties, interest and reasonable attorney fees; or

(c) enforce the lien created in Section 6.4 above.

These remedies shall be cumulative and shall be in addition to any other remedy provided in this ordinance or now or hereafter existing at law or equity.

Under no circumstances shall action taken by the Village to collect unpaid water rates and charges, penalties and interest, invalidate or waive the lien created by Section 6.4 above.

Section 6.9. Leased Premises: Security Deposit. A lien shall not attach for water rates and charges to a Premises which is (a) separately metered and (b) subject to a legally executed lease that expressly provides that the tenant (and not the landlord) of the Premises or a dwelling unit thereon shall be liable for payment of water rates and charges, effective for services which accrue after the date an affidavit is filed by the landlord with the Village. This affidavit shall include the names and addresses of the parties, the expiration date of the lease and an agreement by the landlord to give the Village 20 days written notice of any cancellation, change in or termination of the lease. The filing of the affidavit by the landlord shall be accompanied by a true copy of the lease and a security deposit in an amount which shall be determined by the Treasurer. Upon the failure of the tenant to pay the water rates and charges when due, the security deposit shall be applied by the Village against the unpaid balance, including interest and penalties. Upon notification by the Village, the tenant shall immediately make sufficient payment to the Village to cover the amount of the security deposit so advanced. Upon the failure of the tenant to do so within ten (10) days of said notification, the penalties, rights and remedies set forth in this Ordinance shall be applicable with respect to the unpaid water rates and charges, including interest and penalties. The security deposit shall be held by the Village without interest and shall be returned to the landlord upon proof of termination of the lease.

Section 6.10. Miscellaneous User Fee. The Village may, from time to time, charge a Miscellaneous Use Fee, as necessary, for miscellaneous services, repairs and related administrative costs associated with the System, including without limitations, excessive inspection services not covered by the Inspection Fee.

Section 3. New Article IV-A shall be added to Ordinance No. 46, which shall read as follows:

ARTICLE IV-A

Use of Public Water

Section 4.1A. Mandatory Connection. As a matter of public health, the owners of all improved Premises in the Village which are used for human occupancy, employment, recreation or other purposes, which require the use of Potable Water and which abut any right-of-way, easement, highway, street, or public way in which there is now or hereafter located a public Water Main that is not more than 200 feet from the nearest point of a structure used for said purposes, are hereby required to connect said Premises to the System in accordance with this Ordinance.

Section 4.2A. Connection Deadline. As a matter of public health, a connection to the System required hereunder, shall be completed with respect to existing improved Premises within ninety (90) days after written notice by the Village that the System is available for connection. Newly constructed structures required to connect shall be connected prior to occupancy thereof. Persons who fail to complete a required connection to the System shall be liable for a civil penalty equal in amount to the Readiness to Serve Fee and Commodity Fee that would have accrued based upon reasonably expected water usage and been payable had the connection been made when and as required.

Section 4.3A Enforcement in the Event of a Failure to Connect. In the event a required connection to the System is not made at the time required by Section 4.2A, the Village shall require the connection to be made immediately after notice given by first class or certified mail or by posting on the property. The notice shall give the approximate location of the available System and shall advise the Owner of the Premises of the requirement and enforcement provisions provided by Village ordinance. In the event the required connection is not made within 30 days after the date of mailing or posting of the written notice, the Village may bring an action in a court of competent jurisdiction for a mandatory injunction or court order to compel the Owner to immediately connect the Premises to the System

Section 4.4A Voluntary Extension of and Connection to System. The owner of an improved Premises, now situated or hereafter constructed within the Village, but not locate adjacent to a public Water Main (within the meaning of Section 4.1A), may elect to extend the System with respect to the affected Premises in accordance with Section 4.1 and connect thereto, subject to the provisions of Section 4.1. The Owner of the Premises in this circumstance shall, in addition to all requirements imposed by this Ordinance, subject to the provisions of Section 4.1, pay all expenses of the extension of the System. The owner of an improved Premises, now situated or hereafter constructed within the Village and located more than 200 feet from a public Water Main located in a right of way, easement, highway, street or public way which crosses, adjoins or abuts upon the property, may elect to connect said structure to the System in compliance with this Ordinance.

Section 4.5A Private Water Wells Permitted Only for Non-Drinking Water Purposes. If the System is available to a Premises within the meaning of Section 4.1A, the Owner of the Premises shall not drill a new water well for Potable Water, e.g. drinking, purposes but, upon approval of the County Health Department, may drill a new water well for nonpotable use, e.g. non-drinking water use. After a Premises is connected to the Water System, the existing private water well shall either (i) be capped and abandoned in accordance with applicable county and state requirements or (ii) upon approval of the County Health Department, maintained for nonpotable use. For purposes of this section, permissible nonpotable uses include lawn watering, irrigation, automobile or equipment washing, use in a building's heating or cooling system and similar uses not involving human consumption or prolonged bodily contact. All fixtures connected to a private water well maintained for nonpotable use shall be located outside of structures intended for human occupancy, employment, recreation or similar purposes. In addition, Piping connected to a private water well shall be physically and completely separated from all plumbing used for public water in accordance with Village and/or State cross connection requirements."

Section 4. Publication. A true copy or summary of this Ordinance shall be published in the Penasee Globe at the earliest possible time after the adoption of the Ordinance by the Village.

Section 5. Effective Date. This Ordinance shall be in full force and effect on April 1, 2002.

Passed passage and adopted by the Village Council of the Village of Martin, County of Allegan, Michigan, on March 11, 2002, and approved by me on March 11, 2002.

Gary Brinkhuis, President
Village of Martin

Attest: Joyce Merrill, Clerk
Village of Martin