

**AN ORDINANCE OF THE CITY OF TWO HARBORS, MINNESOTA,
AMENDING THE CITY CODE, CHAPTER 3, MUNICIPAL AND PUBLIC
UTILITIES – RULES AND REGULATIONS, RATES, CHARGES AND COLLECTIONS**

THE CITY COUNCIL OF THE CITY OF TWO HARBORS DOES HEREBY ORDAIN:

Section 1. Amendment to Code. Sections 3.01, 3.02, 3.03, 3.04, 3.05, 3.06 and 3.07 of Chapter 3, Municipal and Public Utilities – Rules and Regulations, Rates, Charges and Collections, are hereby amended in their entirety to read as shown on **Exhibit A** attached hereto.

Section 2. Sections Added to Code. Sections 3.08 and 3.09 are hereby added to Chapter 3, Municipal and Public Utilities – Rules and Regulations, Rates, Charges and Collections, to read as shown on Exhibit A attached hereto.

Section 3. Added to Code. The terms and provisions of the foregoing Ordinance shall be added in the appropriate place in the Two Harbors City Code after adoption and becoming effective.

Section 4. The foregoing Ordinance shall be effective: (a) thirty (30) days after (1) its passage and (2) approval by the Mayor, and (b) upon a single publication in the legal newspaper for the City of Two Harbors.

ADOPTED, this ____ day of _____, A.D., 2013.

President, City Council

ATTEST: _____
Administrator

APPROVED, by the Mayor of the City of Two Harbors this ____ day of _____, 2013.

Mayor

Published: _____

Effective Date: _____

EXHIBIT A

SECTION 3.01. DEFINITIONS. As used in this Chapter, the following words and terms shall have the meanings stated:

Subd. 1. "Utility" means all utility services, whether the same be public City-owned facilities or furnished by public utility companies.

Subd. 2. "Municipal Utility" means any City-owned utility system, including, but not by way of limitation, water, sanitary sewer, gas, electric and storm sewer.

Subd. 3. "Company", "Grantee", and "Franchisee" mean any public utility system to which a franchise has been granted by the City.

Subd. 4. "Customer" means the owner of any property served by a municipal utility or other utility.

Subd. 5. "Service" means providing a particular utility to a customer.

SEC. 3.02. FIXING RATES AND CHARGES FOR MUNICIPAL UTILITIES. All rates and charges for municipal utilities, including, but not by way of limitation, rates for service, permit fees, deposit, connection and meter testing fees, disconnection fees, reconnection fees including penalties for non-payment if any, shall be fixed, determined and amended from time to time by the Council and adopted by resolution. Such resolution, containing the effective date thereof, shall be kept on file and open to inspection in the office of the City Administrator and shall be uniformly enforced. For the purpose of fixing such rates and charges, the Council may categorize and classify under the various types of service, provided, that such categorization and classification shall be included in the resolution authorized by this Section.

SEC. 3.03. CONTRACTUAL CONTENTS. Provisions of this Chapter relating to municipal utilities shall constitute portions of the contract between the City and all consumers of municipal utility services, and every such consumer shall be deemed to assent to the same by virtue of their use of municipal utilities.

SEC. 3.04. RULES AND REGULATIONS RELATING TO MUNICIPAL UTILITIES.

Subd.1. Billing, Payment and Delinquency. All municipal utilities shall be billed monthly and a utilities statement shall be mailed to the owner of each property served by a utility at the end of the first week of the month. All utilities charges shall be delinquent if they are unpaid at 4:30 P.M. on the last working day of the month in which they were mailed out. A penalty of five per cent (5%) on the unpaid balance, with exception for those accounts that have made and kept satisfactory budget plan arrangements, shall be added to, and become part of, all delinquent utility bills. If service is suspended due to delinquency it shall not be restored at that location until a reconnection charge has been paid for each utility reconnected in addition to amounts owed for service and penalties.

Subd. 2. Application, Connection and Sale of Service. Application for municipal utility services shall be made upon forms supplied by the City, and strictly in accordance therewith. No connection shall be made until written consent has been received from the City to make the same. All municipal utilities shall be sold and delivered to customer under the then applicable rate applied to the amount of such utilities taken as metered or ascertained in connection with such rates.

Subd. 3. Discontinuance of Service. All municipal utilities may be shut off or discontinued , subject to the provisions of Section 3.08 hereof, whenever it is found that:

A. The owner or occupant of the premises served, or any person working on any connection with the municipal utility systems, has violated any requirement of the City Code relative thereto, or any connection therewith, or,

B. Any charge for a municipal utility service, or any other financial obligation imposed on the present owner or occupant of the premises served, is unpaid after due notice thereof, or,

C. There is fraud or misrepresentation by the owner or occupant in connection with any application for service or delivery or charges therefor.

Subd. 4. Ownership of Municipal Utilities. Ownership of all municipal utilities, plants, lines, mains, extensions and appurtenances thereto, shall be and remain in the City and no person shall own any part or portion thereof. Provided, however, that private facilities and appurtenances constructed on private property are not intended to be included in municipal ownership.

Subd. 5. Right of Entry. By applying for, or receiving, a municipal utility service, a customer irrevocably consents and agrees that any City employee acting within the course and scope of his/her employment may enter into and upon the private property of the customer, including dwellings and other buildings, at all reasonable times under the circumstances, in or upon which private property a municipal utility, or connection therewith, is installed, for the purpose of inspecting, repairing, reading meters, connecting or disconnecting the municipal utility service.

Subd. 6. Meter Test. Whenever a consumer shall request the City to test any utility meter in use by him/her, such a request shall be accompanied by a cash deposit for each meter to be tested. If any such meter is found to be inaccurate the same shall be replaced with an accurate meter and the deposit thereon refunded. If the meter shall be found to be accurate in its recordings or calculations it shall be reinstalled and the deposit shall be retained by the City to defray the cost of such test.

Subd. 7. Unlawful Acts.

A. It is unlawful for any person to willfully or carelessly break, injure, mar, deface, disturb, or in any way interfere with any buildings, attachments, machinery, apparatus, equipment, fixture, or appurtenance of any municipal utility or municipal utility system, or commit any act tending to obstruct or impair the use of any municipal utility.

B. It is unlawful for any person to make any connection with, opening into, use, or alter in any way any municipal utility system without first having applied for and received written permission to do so from the City.

C. It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the City for non-payment of a bill, or for any other reason, without first having obtained a permit to do so from the City.

D. It is unlawful for any person to "jumper" or by any means or device fully or partially circumvent a municipal utility meter, or to knowingly use or consume unmetered utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge.

Subd. 8. Municipal Utility Services and Charges a Lien.

A. Payment for all municipal utility (as that term is defined in City Code, Section 3.01) service and charges shall be the primary responsibility of the fee owner of the premises served and shall be billed to such owner. If the utility service and charges are for a single metered multi-unit rental residential building, the owner of said building shall be the customer of record and this responsibility shall not be waived by contract or otherwise. The City may collect the same in a civil action or, in the alternative and at the option of the City, as otherwise provided in this Subdivision.

B. All amounts due the City for utilities provided to a customer are hereby made a lien upon the premises served. All such accounts which are more than forty-five days delinquent may, when authorized by resolution of the Council, be certified by the City Administrator of the City of Two Harbors, Minnesota, to the County Auditor, and the City Administrator in so certifying shall specify the amount thereof, the description of the premises served, and the name of the owner thereof. The amount so certified shall be extended by the Auditor on the tax rolls against such premises in the same manner as other taxes, and collected by the County Treasurer, and paid to the City along with other taxes. The City shall follow procedures in Section 3.08, Subd. 2, in connection with certifying unpaid utility charges on the tax rolls.

Subd. 9. Municipal Utility Service Outside the City. The City is hereby authorized to furnish municipal utility service to consumers outside the City, provided, that such consumers specifically agree to all of the terms of the City Code, including, but not limited to, rules, regulations and rates adopted thereunder and the right to certify delinquent charges on the tax rolls.

SEC. 3.05. CONNECTION OR TAPPING PROHIBITED - DELINQUENT ASSESSMENTS OR CHARGES. No permit shall be granted to tap or connect with municipal utility lines when any assessment or connection charge for such utility against the property to be connected is in default or delinquent. If such assessment or connection charges are payable in installments, no permit shall be granted unless all installments then due and payable have been paid.

SEC. 3.06. CERTIFICATION REQUIRED PRIOR TO TAPPING OR CONNECTION. Prior to issuance of a permit to tap or connect a lot or parcel of land with a municipal utility, the City Administrator shall issue a certificate of compliance with one of the Subdivisions of this Section.

Subd. 1. The certificate shall state that such lot or parcel has been specially assessed for its share of the cost of construction of the applicable municipal utility lines, and that no installments thereof are delinquent or permit fees unpaid.

Subd. 2. The certificate shall state that such lot or parcel has not been specially assessed for its share of the cost of construction of the applicable municipal utility lines, but that proceedings have been, or will be, commenced, and that no permit fees are unpaid.

Subd. 3. The certificate shall state that such lot or parcel has not been specially assessed for its share of the cost of construction of the applicable municipal utility lines, but that a sum equal to such share has been paid to the City, and that no permit fees are unpaid. Any certificate issued under this Subdivision shall provide that in the event of a subsequent assessment thereon for such utility, the amount of the assessment hereunder shall be credited against the subsequent assessment.

SEC. 3.07. ABANDONED SERVICES - PENALTIES. All service installations connected to a municipal utility system that have been abandoned or, for any reason, have become useless for further service shall be forthwith disconnected at the main. The owner of the premises served shall pay all costs of excavation, capping, main and street restoration. The City shall perform the actual disconnection and all pipe and appurtenances removed from the street right-of-way shall become the property of the City. It is unlawful for any person to cause or allow any service pipe to be hammered or squeezed together at the ends to stop the flow of gas or water, or to save expense in improperly removing such pipe from the main. Also, such improper disposition thereof shall be corrected by the City and the cost incurred shall be borne by the person causing or allowing such work to be performed. If any property owner shall fail to pay the costs incident to services performed under this Section, the City may collect payment therefor as any other utility charge.

SECTION 3.08. DELINQUENT ACCOUNTS.

Subd. 1. Shut-off for Nonpayment. No municipal utility shall be shut-off unless a shut-off until notice and an opportunity for a hearing before the City Council or an employee designated by the City Council have provided to the occupant and owner of the premises received.

A. If any bill is not paid by the due date listed on the bill, a second bill will be mailed by first class mail and shall state that if payment is not made within ten (10) days of the mailing of the second bill, the municipal utility service covered by such bill will be shut-off for nonpayment.

B. The second bill and shut-off notice contain the title, address and telephone number of the official in charge of billing; the title, address and phone number shall be clearly visible and easily readable.

C. The notice shall also state that the any occupant or owner has the right to a hearing before the municipal utility service is shut-off. The owner or occupant may be represented in person and by counsel or any other person of his or her choosing. The owner or occupant may present orally or in writing his or her complaint to the city official in charge of utility billing. This official shall be authorized to order continuation of the customer's service and shall have the authority to adjust the customer's bill or enter into a mutually agreeable payment plan.

D. If an occupant or owner requests a hearing, the municipal utility service shall not be shut-off until the hearing process is complete.

E. If a customer fails to pay and fails to request a hearing under this part, the municipal utility service will be shut-off at the time specified in the notice but not until the charges have been due and unpaid for at least thirty (30) days.

Subd. 2. Certification for Collection with Taxes. Unpaid charges for municipal utility service shall not be certified to the county auditor until notice and an opportunity for a hearing have been provided to the owner of the premises serviced by the municipal utility service. The notice shall be sent by first class mail and shall state that if payment is not made before the date for certification, the entire amount unpaid plus penalties will be certified to the county auditor for collection as other taxes are collected. The notice shall also state that the owner may, before such certification date, attend or schedule a hearing on the matter to object to certification of unpaid utility charges.

In addition to any penalties provided for in this Chapter, if any person, firm or corporation fails to comply with any provision of this Chapter, the Council or any City official designated by it, may institute appropriate proceedings at law or at equity to procure payment.

The owner of the property shall have the option of paying the balance due on the account until the date the notice of the certification hearing is mailed. After the date the notice of certification hearing is mailed, payments will still be accepted but will include unpaid penalties.

A hearing shall be held on the matter by the City Council. Property owners with unpaid utility charges shall have the opportunity to object to the certification of unpaid charges to be collected as taxes are collected. If, after the hearing, the City Council finds that the amounts claimed as delinquent are actually due and unpaid and that there is no legal reason why the

unpaid charges should not be certified for collection with taxes in accordance with this Subdivision, the City may certify the unpaid charges to the county auditor for collection as other taxes are collected.

Subd. 3. For each certification sustained, the property owner shall have the following options after the hearing:

A. To pay the delinquent amount listed on the preliminary roll, but without additional interest after the hearing, within ten day of the hearing date.

B. To pay the certified delinquent amount after the hearing date, but before the county certification deadline, with interest at the rate set in the adopted rate schedule, accrued beginning on eleventh day following the hearing date through the date of payment.

C. To pay the certified charges as billed to them by Lake County on his/her/its property tax statement with a collection term of one year.

Subd. 4. Fifteen (15) days after the hearing, the certified roll, minus any payments, shall be delivered to the Lake County Auditor.

SECTION 3.09. OTHER REMEDIES. In addition to any procedures or penalties provided for this Section, if any person, firm or corporation fails to comply with any provision of this Section, the council or any city official designated by it may institute appropriate proceedings at law or at equity to procure payment and or enforce the provisions of this Section.

SECTION 3.10. JOINT LIABILITY FOR PAYMENTS. The owner of premises which are connected to any municipal utility, the occupant thereof and the user of the service shall be jointly and severally liable to pay for the service to such premises and the service is furnished to the premises by the City only upon the condition that the owner of the premises, occupant and user of the services are jointly and severally liable to the City therefor. A claim for unpaid charges which have been billed to the occupant of the premises or the user of the service may be recovered against the owner, occupant or user in a civil action in any court of competent jurisdiction or in the discretion of the City Administrator may be certified to the county auditor to be collected with taxes against such premises so served. The certification of such charges shall be performed in accordance with the provisions of Section 3.04, Subd. 8 and Section 3.08. Money paid to the County Auditor on such account shall belong to the City and shall be remitted to the City treasurer by the County Auditor in the manner provided by law for the payment of other money belonging to the City. In addition to, and not in lieu of, the foregoing method of enforcing payment of such charges, the City Administrator may, according to such rules and regulations as he/she may have established and the City Council shall have by resolution approved, cause all municipal utilities for and to any premises to be shut off until all arrears, with interest and penalties on such delinquent charges, shall be paid, together with the cost of shutting off and turning on such water.

(Sections 3.10 through 3.19, inclusive, reserved for future expansion.)