

WATER USE ORDINANCE
FOR
VILLAGE OF SUTTONS BAY, LEELANAU COUNTY, MICHIGAN

Ordinance No. ____ of 2008

THE VILLAGE OF SUTTONS BAY HEREBY ORDAINS:

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ARTICLE I

DEFINITIONS

Section 1 - Definitions: As use in this Ordinance,

- (a). “Area Maintenance” means the use of water outside of a building or structure solely upon and at the property where the area maintenance meter is located that does not deposit such water into the sanitary sewer system other than accidental absorption and that is generally and traditionally associated with uses such as watering lawns and gardens, cleaning outside structures, washing automobiles and other personal property, and filling swimming pools.
- (b). “Area Maintenance Meter” means a meter that measures the quantity of water used for area maintenance.
- (c). “Building Pipe” means that part of the owner’s plumbing system which receives water from the service pipe, beginning at the owner’s property line.
- (d). “Corporation stopcock” means a shut-off valve installed in the water main immediately preceding where a service pipe connects to the water main.
- (e). “Debt Service” means the interest and principal payments required to repay monies borrowed to construct the waterworks system.
- (f). “Meter” or “Water Meter” means an instrument that automatically measures and registers the quantity of water consumed on a parcel of land served by the waterworks system.
- (g). “Owner” means the person holding the legal or equitable title to real property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee or any other person, firm or corporation directly or indirectly in control of a building, structure or real property or his duly authorized agent.
- (h). “Person” means any individual, firm, trust, partnership, company, association, society, corporation, limited liability company, or other legal entity.
- (i). “Sanitary Sewer System” means all facilities owned by or under the jurisdiction of the Village for collecting, pumping, treating and disposing of sewage.

- (j) "Service Area" means any land in the Village which is serviced by the waterworks system.
- (k) "Service Pipe" means the pipe delivering water from the water main to the building pipe.
- (l) "Tenant" means a person who leases property from an owner.
- (m) "Village" means the Village of Suttons Bay, Michigan.
- (n) "Water and Sewer Clerk" means the Village employee designated by the Village Council to administer this Ordinance.
- (o) "Water Main" means a pipe owned or controlled by the Village located within a street right-of-way or other public easement used to carry water within the waterworks system to the service pipe for delivery to the water customer.
- (p) "Water Use Charge" means the fees billed to all customers attached to the waterworks system for support of the costs of the waterworks system. The water use charges supply funds to cover the costs of operation and maintenance, debt service, replacement and administrative services.
- (q) "Waterworks System" means all wells, pumps, facilities, water mains, service pipes, and other equipment owned by or under the jurisdiction of the Village for the collection, storage, purification, and distribution of water.

ARTICLE II

USE OF WATERWORKS REQUIRED

Section 1 - Private Water Wells Prohibited: Except as hereinafter provided, it shall be unlawful for an owner, occupant, or tenant of property to drill or maintain a private water well within the Village.

Section 2 - Mandatory Connection:

- (a). The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the Village and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a water main is hereby required at his or her expense to install suitable plumbing facilities therein, in accordance with the plumbing code then in effect and enforced within the Village and to connect such facilities directly with the waterworks system in accordance with the provisions of this Ordinance within ninety (90) days after the owner is required by the Leelanau County Public Health Department to replace the water well servicing his or her property.
- (b). The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within 200 feet of a water main shall be required, at his or her expense, to connect to the waterworks system within one year of the date of notification from the Village.
- (c). Said notification and enforcement of this Section shall be in conformity with Article 12, Part 127 of the Public Health Code, being a part of Act 368 of the Public Acts of 1978.

Section 3 - Use of Private Water Well for Non-potable Uses Permitted: The owner, occupant, or tenant of property may drill, operate, maintain, and repair a private water well for non-potable purposes only.

ARTICLE III

CONNECTION TO WATERWORKS SYSTEM

Section 1 - Unlawful Procedure: It shall be unlawful for any unauthorized person or owner to uncover, excavate, tap into, make connections with or openings into, use, alter, or disturb any water main or service pipe or appurtenance thereof in any street, lane, or alley within the service area without first obtaining a written permit from the Village as herein provided.

Section 2 - Authorization: All connections with any water main or service pipe in the service area shall be made only pursuant to written permits issued by the Village. The owner or his agent shall make application on a special form furnished by the Water and Sewer Clerk. The Village Council may by separate resolution provide for permit and inspection fees which shall be paid to the Water and Sewer Clerk at the time the application is filed.

Section 3 - Costs: All costs and expenses incurred as the result of the connection to the service pipe shall be borne by the owner of the property. The owner shall indemnify the Village from all loss or damage that may be caused by connection to the service pipe.

Section 4 - Plans and Specifications:

- (a). All applicants for permits to connect to the waterworks system shall, when required, submit plans indicating where the building pipe will extend from the building receiving water service to where it will connect to the service pipe. The approval of a connection permit shall be contingent upon the availability of capacity in both the waterworks system and the downstream sanitary sewer system. When such plans have been approved by the Department of Utilities Supervisor, the Water and Sewer Clerk shall issue a waterworks connection permit, subject to final inspection and approval when construction is completed.
- (b). Before the issuance of a waterworks connection permit, the Department of Utilities Supervisor may require the applicant to submit a schedule for the construction of the waterworks connection outlining when various components of the project will be completed. If the Department of Utilities Supervisor requires such a construction schedule, the timetables outlined in the schedule shall be maintained as a condition of the continued validity of the permit, unless extensions are granted in writing by the Department of Utilities Supervisor for good cause shown.

- (c). Final approval shall be subject to compliance with the local and state plumbing codes and all orders, rules and regulations of the Leelanau County and Michigan Departments of Public Health.

Section 5 - Connection Requirements:

- (a). All connections to a water main shall be made with service pipes either installed by employees of the Department of Utilities or by a contractor hired by the owner with the written consent of the Department of Utilities Supervisor. Any service pipe installed by a contractor authorized under this section shall be laid under the direction and supervision of the Department of Utilities Supervisor. All work for the purpose of making connections to a water main shall be done in compliance with the rules, regulations and codes governing plumbing in the Village and in accordance with the laws of Michigan relative thereto.
- (b). The cost of all service pipes one inch (1") in diameter or less shall be borne by the Village. If an owner desires a service pipe larger than one inch (1") in diameter, the owner shall pay the Village the difference in actual costs to install the larger service pipe and associated equipment.
- (c). A separate and independent service pipe shall be provided for every building receiving water service; provided, however, where water service is intended to supply more than one building under the same ownership and on the same lot, the service pipe to one building may be used to provide water service to the other building(s) and the whole considered as one connection.
- (d). All structures shall be independently metered and all independent units within a subdivided structure shall be independently metered. A structure meter may be waived by the Village when separate independent meters will be used in a single divided structure with two or more units. Multiple units or buildings on a single parcel may be connected to the waterworks system by a single connection if approved by the Village; however, each unit or structure shall still be considered a separate tap into the system.
- (e). The size, slope, alignment, and materials of construction for a service pipe, and the methods to be used in excavating the trench, placing, jointing, and testing the pipe, and backfilling the trench shall all conform to the requirements of this Ordinance and the local and the state plumbing codes.
- (f). Where rock or hard clay excavation is required, a six inch sand or gravel cushion shall be placed around the pipe.

Section 6 - Cross Connections Prohibited:

- (a). The Water Supply Cross-Connection Rules of the Michigan Department of Public Health, being R 325.11401 to R 325.11407 of the Michigan Administrative Code, in effect at the time this Ordinance is enacted are hereby adopted by reference.
- (b). It shall be the duty of the Department of Utilities to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be established by the Department of Utilities and as approved by the Michigan Department of Environmental Quality.
- (c). All testable backflow prevention devices shall be tested initially upon installation to be sure that the device is working properly. Subsequent testing of devices shall be conducted at a time interval specified by the Department of Utilities and in accordance with Michigan Department of Environmental Quality requirements. Only individuals approved by the Department of Utilities shall be qualified to perform such testing. That individual(s) shall certify the results of his/her testing.

Section 7 - Installation of Outside Meters Required: All new buildings connected to the waterworks system shall be equipped with meters capable of being read by employees of the Department of Utilities from outside the building. Existing buildings with meters not capable of being read from outside the building may continue in use, provided the owner provides the employees of the Department of Utilities access to the meter. However, where employees of the Department of Utilities have been unable to make a meter reading for two consecutive billing periods, the Village shall have the right to install a meter capable of being read by employees of the Department of Utilities from outside the building and to charge the owner of the property the actual cost incurred in installing the meter. All meters shall be provided by the Village at a cost to be established by resolution of the Village Council.

Section 8 - Connections for Purpose of Fire Prevention: The owner or occupant of any manufacturing establishment, lumberyard, warehouse, elevator, store, hotel, school, or any public building desiring to install large pipes with hydrant and hose couplings to be used only in case of fire may connect to a water main under the terms and conditions of this Article and after obtaining a permit from the Water and Sewer Clerk.

Section 9 - Inspection: When an authorized contractor installs the service pipe under Section 5(a) of this Article, the person to whom a waterworks connection permit was issued shall notify the Water and Sewer Clerk when the service pipe is ready for inspection. In addition, the person to whom a waterworks connection permit was issued shall notify the Water and Sewer Clerk when the installed water meter is ready for

inspection. The Department of Utilities Supervisor shall then inspect the service pipe and/or water meter and if such installations meet the requirements of this Ordinance, the excavation may be backfilled.

Section 10 - New Use of Existing Service Pipes: Existing service pipes may be used in connection with new buildings only when they are found, by the Department of Utilities Supervisor to meet all requirements of this Ordinance.

Section 11 - Maintenance:

- (a). The owner of property connected to the waterworks system is responsible for the maintenance of the building pipe. The cost of all repairs, maintenance and replacements of existing building pipes and their connection to the service pipes shall be borne by the property owner. Before making any repairs or replacements or conducting any maintenance on the building pipe, the owner shall contact the Department of Utilities Supervisor. All work performed, including the qualifications of the person performing the work, shall fully comply with the requirements of this Ordinance.
- (b). No person or company shall enter or complete any maintenance or repair of existing service pipes until the Village has first inspected the site and determined the maintenance or repair is justified or necessary. Unless otherwise instructed, only the Village is authorized to complete any and all repairs or maintenance to the service pipes of the waterworks system.

Section 12 - Excavation in Public Streets and Alleys:

- (a). Whenever a person desires to do any excavating in any of the streets, lanes or alleys of the service area for the purpose of connecting to the waterworks system, a permit for such excavation shall be obtained from the Water and Sewer Clerk. The Village Council may from time to time by separate resolution establish a non-refundable administrative fee for processing the excavation permit. The permit shall be non-transferrable. The person employed to make the connection to the waterworks system shall hold a plumbing license in accordance with state and local codes. The qualifications of the persons employed to do work shall be verified at the time of application. A person who is authorized to excavate pursuant to the permit shall furnish a bond to the Village in an amount acceptable to the Village Council taking into account the nature and extent of the excavation and in a form acceptable to the Village Attorney, conditioned on the faithful performance of the requirements of all the Village ordinances relative thereto.

- (b). All expenses for work done by the employees of the Department of Utilities shall be borne by the person to whom the excavation permit is issued. Applications for excavations in paved streets shall state the maximum size of the opening to be made in the pavement and the length of time desired to do such work.

Section 13 - Backfill Requirements: When connections to the waterworks system are made in any street or alley, the earth and other debris excavated for this purpose shall be removed from the street or alley and the trench backfilled with sand or gravel in layers not to exceed eight inches in thickness. Each layer shall be thoroughly and solidly packed in place. The backfill shall be finished to the same grade as the original surface. Where the existing roadway is cindered or graveled, the final eight inches of the backfill shall be made with gravel. Where the existing roadway is paved, the person charged with the duty of backfilling shall re-pave the trench to the same grade as the original pavement under the supervision of the Department of Utilities Supervisor no less than thirty (30) days and no more than sixty (60) days after the backfill is placed. The person charged with the duty of constructing or installing said underground work and backfilling shall be required to make frequent inspections of all trenches for which they are responsible and to maintain the same as herein provided. In case of failure to maintain trenches and backfill in such condition, the Village is authorized by this Ordinance to make the necessary repairs and charge the total cost against the person responsible for the same. For the purpose of the sand or gravel backfill as required herein, the excavated material shall not be used except after securing written permission from the Department of Utilities Supervisor.

Section 14 - Time Limit on Open Trench: The person, or owner causing any excavation or trench to be made in any public street or alley in the service area shall be required to backfill and replace the trench as herein provided within a period of three (3) days, after the work of excavating has been started, unless written permission is granted by the Department of Utilities Supervisor to allow the trench to be open for a longer period of time. In case of the failure to promptly refill any trenches within a period of three (3) days, the Village shall have the right to cause the same to be refilled, and the expense shall be charged against the person, or owner responsible for backfilling.

Section 15 - Barricade Requirements: Every person digging or causing to be dug any trench in any public street or alley, for the purpose of connecting to the waterworks system shall place or cause to be placed and maintained at and along such trench, proper signals, colored lights and barricades to give warning and prevent accidents, but in no case shall a trench be dug so as to entirely block any street for travel, without the consent of the Department of Utilities Supervisor. All barricading shall be done in accordance with the Leelanau County Road Commission requirements. In case of the failure to properly barricade or light such excavations or trenches, the Village is authorized to cause the same to be lighted or barricaded and the expense thereof shall be charged against the person responsible for the opening. It shall not be necessary for

the Village to notify the person responsible for such trenches in public streets or alleys, before undertaking any such work which is necessary for the safety and convenience of the public. The failure on the part of persons installing such trenches to promptly pay all bills incurred by the Village doing such work shall be grounds for refusing to issue further permits for excavations in the streets.

Section 16 - Work on Private Property: Excavation and backfill for service pipes on private property may be made by the owner. Connections to and installation of service pipes on private property may be made by the owner; however, no backfill shall be placed until the service pipe has been inspected and approved by the Department of Utilities Supervisor. All excavation, backfilling, connections and installations shall be made in accordance with the requirements of this Article.

Section 17 - Permit Information: The Water and Sewer Clerk and the Department of Utilities Supervisor shall keep records of all permits granted under authority of this Ordinance which shall include the names of the applicant and contractor, the location of the work, the place in the street where the excavation is to be made, and the purpose for which the permit is issued.

ARTICLE IV

WATER USE REGULATIONS

Section 1 - Water Use Restrictions: The owner, occupant, or tenant of any building or premises entitled to the use of water from the waterworks system shall not supply water to any other person except upon written permission of the Water and Sewer Clerk, nor shall he or she permit unnecessary waste of water.

Section 2 - Conservation During Emergency or Drought: Whenever in the discretion of the Department of Utilities Supervisor an emergency or drought condition exists such that the public health, safety and general welfare of the people is endangered, the Department of Utilities Supervisor shall prescribe rules and regulations to conserve the water supply during such emergency or drought condition.

Section 3 - Area Maintenance:

- (a). The owner or occupant of property receiving water from the waterworks system may at any time obtain an outdoor area maintenance meter by first submitting plans to the Department of Utilities Supervisor establishing that the interior plumbing of the structure receiving the water is so configured that the water supply pipes to the exterior hose bibs of the structure are separate from all other water supply pipes, by obtaining a permit for the area maintenance meter from the Water and Sewer Clerk pursuant to Article III, Section 2 of this Ordinance, and by purchasing the outdoor area maintenance meter from the Village at a cost established by resolution of the Village Council. An outdoor area maintenance meter may then be installed by a plumber or contractor hired by the property owner, subject to final inspection approval by the Department of Utilities Supervisor. Only pipes approved by the Department of Utilities Supervisor shall be connected to the outdoor area maintenance meter. There shall be no connections, or use of the water directly from an outdoor area maintenance meter, for other than approved outdoor area maintenance.
- (b). The outdoor area maintenance meter shall be read monthly and billed pursuant to Article VI, Section 7 of this Ordinance.

ARTICLE V

EXTENSION OF WATER MAINS

Section 1 - Application: The owner of any property in the Village may connect to the waterworks system pursuant to the provisions of this Article contingent upon the availability of capacity in the waterworks system and, if the property is connected to the sanitary sewer system, the capacity of the downstream sanitary sewer system. An owner who desires to connect to the waterworks system shall file an application for water service extension with the Water and Sewer Clerk and pay a non-refundable fee to be established by resolution of the Village Council. This fee shall be used by the Village to obtain the initial cost estimates to construct the proposed water service extension. This fee shall be applied to the cost of the extension if actually constructed or retained by the Village if the applicant decides to abandon the plan for the extension.

Section 2 - Water Service Extensions; Options; Standards: When extending water service to an individual property owner or group of property owners, the Department of Utilities Supervisor may extend such water service through use of a service pipe connection to an existing water main or through an extension of a water main. In exercising the discretion granted in this section, the Department of Utilities Supervisor shall consider the following factors:

- (i). Whether other property in the surrounding area is capable of development in terms of topography, wetlands, and zoning ordinance requirements such that it is reasonable to anticipate that other connections to the waterworks system may be needed in the future.
- (ii). Whether there is other property capable of development in terms of topography, wetlands, and zoning ordinance requirements beyond the property intended to be serviced by the requested water service extension such that it is reasonable to anticipate that an extended water main would be further extended to provide water service to that other property or further extended to tie into the waterworks system at another location.
- (iii). Whether the distance of the water service extension or the elevated terrain over which the extended water service must travel reasonably requires a water main.
- (iv). Whether there is a need for fire protection through the installation of a fire hydrant in the area to be served by the water service extension.

Section 3 - Village Water Service Outside Village limits: The owner of property located outside the Village limits may connect to the waterworks system only if authorized by

the Village Council and if permission is granted by the township in which the property is located. No property outside the Village limits has the right to connect to the Village waterworks system even if other nearby property is being serviced by the waterworks system.

Section 4 - Route of Water Service Extensions: The route of any water service extension shall be within the rights-of-way of public streets and alleys or within public utility easements granted to and approved by the Village across private property. All excavation and other work performed within the rights-of-way of these public streets and alleys shall comply with the requirements of Article III of this Ordinance. When new lines are established across private property the property owner shall grant to the Village a twenty (20) foot easement, ten (10) feet on each side of the center of a described line, for the installation, maintenance, service, inspection and/or repair of the waterworks system. The property owner shall provide the Village with a copy of the easement after recording the easement with the Leelanau County Register of Deeds Office prior to the beginning of the project.

Section 5 - Cost of Water Service Extensions:

- (a). As soon as possible after receiving the water service extension application fee required under Section 1 above, the Department of Utilities Supervisor shall notify the property owner in writing how the water service extension will be provided and shall provide the property owner with a written estimate of the approximate cost of the water service extension. The property owner shall then have ninety (90) days to inform the Department of Utilities Supervisor whether he or she desires to proceed with the water service extension and to pay the costs of the water service extension required under subsections (b) or (c) below. If the property owner fails to inform the Department of Utilities Supervisor regarding his or her intent within this ninety (90) day period, this inaction shall be deemed a decision to abandon the plans for a water service extension.
- (b). If a water service extension is provided through use of a service pipe connection to an existing water main, the Village shall be responsible for the costs of providing a service pipe no more than sixty-six (66') feet in length. The property owner requesting the extension shall be responsible for paying all costs of the water service extension beyond sixty-six (66') feet. The property owner shall not be entitled to reimbursement of any of these costs. A water service extension through use of a service pipe connection to an existing water main shall comply with all requirements of Article III of this Ordinance.
- (c). If a water service extension is provided through the extension of a water main, the property owner requesting the extension shall pay to the Village the amount of the estimated costs of the water main extension. Upon receipt of this

payment, the Village shall begin and complete the water main extension as requested by the property owner. If the actual cost to extend the water main exceeds the estimated costs paid, the property owner shall pay the Village the additional costs within thirty (30) days of receiving a written statement specifying those additional costs. If the actual cost to extend the water main is less than the estimated costs paid, the Village shall refund the difference to the property owner within thirty (30) days of the completion of the project. The property owner requesting the extension shall be entitled to reimbursement pursuant to Sections 7 and 8 below of a portion of the actual costs paid in extending the water main.

Section 6 - Special Assessments: In certain instances the Village, by a majority vote of the entire Village Council, may elect to extend water mains and finance the project by use of a special assessment district. The charge to be assessed each property owner benefitted and served shall be calculated based on a formula as determined by the Village Council. The charge to each benefitted property owner shall be assessed at the time of project completion and shall be paid as specified by the Village. The charge shall bear interest at the rate of six percent (6%) per annum, compounded annually, accruing from the date of project completion to the date of payment.

Section 7 - Additional Users:

- (a). The owners of property located between a water main prior to any extension and the property to be initially serviced by the water main extension (including the property across the street, alley, or public utility easement within which the water main extension is located) may tap into or make use of the extended water main by paying to the Water and Sewer Clerk a sewer extension fee equal to the proportionate share of the total cost of extending the water main plus any interest provided in subsection (b) below. For purposes of this section, the proportionate share of the cost of extending the water main shall be calculated pursuant to the following formula:

[Actual Cost Paid Under § 5(c)) (Total Street Frontage of Other Property Capable of Development and Connection to the Extended Water Main*)] x (Total Street Frontage of Parcel Connecting to the Extended Water Main)

*A property is deemed capable of development and connection to the extended water main if that property is capable of development in terms of topography, wetlands, and zoning ordinance requirements such that it is reasonable to anticipate that connections to the extended water main may be made in the future.

- (b). The proportionate share of the cost of extending the water main shall be increased by six (6%) percent per annum (compounded annually) commencing one (1) year after the actual cost paid under Section 5(c) above by the property owner who initially requested the water main extension; provided, however, that this increase shall not extend for a period of more than five (5) years.

Section 8 - Reimbursement to Original Property Owner: Upon receipt of any payment under Section 7(a) above, the Water and Sewer Clerk shall pay that amount forthwith to the property owner who paid the initial actual costs of the water main extension pursuant to Section 5(c) above. If the property owner who paid the initial costs of the water main extension is deceased, the payments received shall be paid to his or her personal representative or to other persons who by law would be entitled to inherit his or her estate as may be determined by a court of competent jurisdiction. If the property owner who paid the initial costs of the water main extension cannot be found, or if no claim is made for reimbursement for a period of one (1) year from the date that payments under Section 7(a) have been received by the Water and Sewer Clerk, the reimbursement under this section shall be deemed to have been waived and all monies so received shall be turned over and become a part of the Village water fund.

ARTICLE VI

CHARGES FOR WATER SERVICES

Section 1 - Public Utility:

- (a). The operation and maintenance of the waterworks system shall be on a public utility basis in accordance with applicable federal regulations and the provisions of Act 94, Public Acts of Michigan, 1933, as amended.
- (b). The waterworks system shall be operated on the basis of an operating year commencing on the first day of January and ending on the last day of December next following.

Section 2 - User Charges - Purposes, Basis and Rates:

- (a). The owners, occupants, or tenants, of all property connected to the waterworks system, either directly or indirectly, shall pay user charges beginning on the date of the connection.
- (b). User charges will be established by resolution of the Village Council for the purpose of:
 - (1). Recovering the costs of operation, maintenance and replacement of the waterworks system;
 - (2). Debt repayment (debt service).
- (c). User charges for water service furnished by the waterworks system shall be based on the quantity of water used as measured by meters installed on the property and shall be billed pursuant to Section 7 below per 1,000 gallons of water consumed. The minimum water bill per month shall be no less than the amount of the monthly ready to serve charge as established by resolution of the Village Council.

Section 3 - Tap-in Fees and Charges: In addition to user charges, the Village Council shall by separate resolution establish charges for the privilege of connecting to the waterworks system. Such fees shall include the costs of all water meters and the costs of tapping the water main, installing the corporation stopcock, furnishing and laying the service pipe, and installing corporation stopcock and shutoff boxes. The water meters and all such materials shall be and remain the property of the Village. Any services or connections performed between November 1 and May 1 each year shall be subject to additional costs as may be determined by resolution of the Village Council.

Section 4 - Other Fees and Charges: The Village Council shall by separate resolution establish the fees to be charged for water meters and other services performed under this Ordinance.

Section 5 - No free service: No free water service shall be furnished by the waterworks system to any person, firm or corporation, public or private, or to any public agency or instrumentality, except for the Village and the Suttons Bay-Bingham Library.

Section 6 - Review of Rates: The adequacy of the user charges shall be reviewed bi-annually by certified public accountants for the Village in their bi-annual audit report. The user charges shall be revised periodically to reflect a change in debt service or a change in operation, maintenance and replacement costs in accordance with applicable federal regulations.

Section 7 - Bills: Bills for user charges shall be rendered pursuant to the schedule of fees. Payments received after such period shall bear a late fee as established by resolution of the Village Council.

Section 8 - Separate Waterworks Funds: All funds of the waterworks system shall be kept separate from other funds of the Village, and an accurate, separate record shall be kept of all receipts to and disbursements from the waterworks fund.

ARTICLE VII

ALLOCATION OF REVENUES - FISCAL YEAR

Section 1 - Receiving Fund Accounts: The revenues of the waterworks system shall be deposited into a separate Village account to be designated Receiving Fund Account. These revenues so deposited shall be transferred from the Receiving Fund periodically into other Village accounts in the manner and order hereinafter specified.

- (a). Operation and Maintenance Fund - Out of the revenues in the Receiving Fund, there shall first be set aside quarterly into a depository account, designated Operation and Maintenance fund, a sum sufficient to provide for the payment of the next quarter's current expenses for administration, operation and maintenance of the waterworks system.
- (b). Contract Payment Fund - There shall second be established and maintained a depository account, designated Contract Payment Fund, which shall be used solely for the purpose of paying the debt service.
- (c). Replacement Fund - There shall next be established and maintained a depository account, designated Replacement fund, which shall be used solely for the purpose of making major repairs and replacements to the waterworks system.
- (d). Improvement Fund - There shall also be established and maintained an Improvement Fund for the purpose of making improvements, extensions and enlargements to the waterworks system. Deposits into said fund shall be made only after providing for the foregoing funds.
- (e). Surplus Monies - Monies remaining in the Receiving Fund at the end of any operating year, after full satisfaction of the requirements of the foregoing funds, may, at the option of the Village, be transferred to the Improvement fund or used in connection with any other project related to the waterworks system.
- (f). Bank Accounts - All monies belonging to any of the foregoing funds or accounts may be kept in one bank account, in which event the monies shall be allocated on the books and records of the Village within this single bank account, in the manner above set forth.

Section 2 - Investments: Monies in any fund or account established by the provisions of this ordinance may be invested in obligations of the United States of America in the manner and subject to the limitations provided in Act 94, Public Acts of Michigan, 1933, as amended. In the event such investments are made, the security representing the

same shall be kept on deposit with the bank or trust company having on deposit the fund or funds from which such purchase was made. Income received from such investments shall be credited to the fund from which said investments were made.

ARTICLE VIII

PROTECTION FROM DAMAGES

Section 1 - Prohibited Acts; Penalty: No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the waterworks system.

Section 2 - Damage to Water Meter; Liability: Any person violating any of the provisions of this ordinance or causing damage to a water meter by failing to properly protect that meter shall become liable to the Village for any expense, loss, or damage incurred by the Village by reason of such violation or water meter damage.

ARTICLE IX

PROTECTION OF POTABLE WATER SUPPLY

Section 1 - Prohibited Acts; Penalty: No person shall introduce any chemical, biological, or other substance into the waterworks system with the intent to cause physical harm to any person or animal or with the intent to cause the water supply to be unfit for human or animal consumption under applicable state and/or federal safe drinking water standards.

Section 2 - Monitoring of Water Quality; Corrective Action: The Department of Utilities shall regularly monitor and test the water within the waterworks system for the purpose of detecting water contamination and to ensure that the water continues to meet all applicable state and federal safe drinking water standards. If water contamination is detected, the Department of Utilities Supervisor shall take whatever action is necessary and proper to protect the health, safety and general welfare of the public, including but not limited to, issuing public warnings and directives concerning the safety of the drinking water, flushing the waterworks system to rid the system of the contamination, and/or introducing chlorine or other substances into the waterworks system in full compliance with all applicable state and federal regulation to eliminate the contamination.

ARTICLE X

REVOCACTION OF PERMITS

Section 1 - Revocation of Permits: Any permit issued under this ordinance may be revoked by the Village at any time for a violation of this ordinance, for a violation of a condition of the permit, or if the permit was issued on materially false or misleading information. Such revocation shall be in addition to any other penalty provided in this ordinance.

Section 2 - Notification of Violation: Before any permit is revoked, the Village shall send to the permit holder a written Notice of Revocation. The Notice shall describe the basis for the revocation and give thirty (30) days in which the permit holder shall correct the violation. The Notice may be served personally or may be sent by first-class mail to the last known address of the permit holder. The time period shall commence on the date of the personal service, or in the case of mailing, service shall be deemed to have taken place on the date of mailing.

Section 3 - Show Cause Hearing: If the permit holder does not correct the violation within the thirty (30) days provided in the Notice of Revocation, then the Village may, but is not required to, issue a Notice for a Show Cause Hearing before the Village Council. The purpose of this hearing is to give the permit holder an opportunity to show cause why the permit should not be revoked. The Show Cause Notice shall specify the date, time, and location of the hearing. The Notice may be served personally or may be sent by first-class mail to the last known address of the permit holder. Any permit holder served with a Show Cause Notice as provided in this section shall not be required to attend the hearing.

ARTICLE XI
ENFORCEMENT

Section 1 - Enforcement:

- (a). The charges and rates for water services authorized under the provisions of Section 21 of Act 94 of the Public Acts of 1933, as amended, shall constitute a lien on all premises served thereby whenever any such charges or rates shall be delinquent for six (6) months or more, unless notice is given that a tenant is responsible for the payment of all such charges and rates. On April 1st of each year, the Water and Sewer Clerk shall certify to the tax assessing officers for the Village, the fact of such delinquency, whereupon such delinquent charges and rates shall be entered upon the next tax roll as charges against such premises and shall be collected and the lien thereof enforced in the same manner as general taxes against such premises; provided, however, where notice is given that a tenant is responsible for such charges and service as provided by Section 21 of Act 94 of the Public Acts of 1933, as amended, no further service shall be rendered to such premises until a cash deposit in an amount established by the Village Council shall have been made as security for payment of such charges and service.

- (b). The Village shall also have the authority to shut off water service to any user for whom charges for water service are more than two (2) months delinquent or when any connection is found to be in violation of any provision of this Ordinance. Before shutting off water service, the Water and Sewer Clerk shall send written notice by first class mail of the Village's intent to terminate water service to the owner of the premises served or to the tenant in possession where a notice is given that the tenant is responsible for such charges and service. If water service is shut off pursuant to this section, such service shall not be reestablished until all delinquent charges and penalties and a turn-on charge, to be specified by resolution of the Village Council, have been paid or the unlawful connection is eliminated. Further, such charges and penalties may be recovered by the Village by court action.

Section 2 - Disruption of Water Service; Village not Liable: The Village shall not be liable for any failure or deficiency in the water supply to consumers whether occasioned by shutting off the water to make necessary repairs or connections or for any other cause.

Section 3 - Access to Property: Authorized employees of the Department of Public Works shall have the right to enter at all reasonable hours upon any property connected to the waterworks system for the purpose of reading water meters and inspecting the

pipng and fixtures connected with the waterworks system. If defective pipes or fixtures are noted or illegal cross connections observed, the owner or occupant of the property shall repair, remove or replace the defective pipes or fixtures or disconnect the illegal cross connection. Any person refusing or neglecting to take such action, shall be deemed in violation of this Ordinance.

ARTICLE XII

PENALTIES

Section 1 - Violations; Penalties:

- (a). Except as provided in subsection (b), any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to the following fines:
- (i). For a first offense, the offender shall pay a fine of One Hundred and 00/100 (\$100.00) Dollars.
 - (ii). For a second offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of Two Hundred Fifty and 00/100 (\$250.00) Dollars.
 - (iii). For a third or subsequent offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of Five Hundred and 00/100 (\$500.00) Dollars.
- (b). Any person who knowingly violates Article VIII, Section 1 or Article IX, Section 1 of this Ordinance shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred and 00/100 Dollars (\$500) and/or by imprisonment in the county jail for not more than ninety (90) days.
- (c). Each day this Ordinance is violated shall be considered a separate violation.

Section 2 - Enforcement Officials: The Village Manager, police officers of the Village of Suttons Bay or the Leelanau County Sheriff's Department, or other officials designated by the Village Council are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 3 - Nuisance Per Se: A violation of this Ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

Section 4 - Separate Court Action: In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding or a criminal prosecution, the Village may

initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 5 - Liability: In addition to the penalties provided in Section 1 above, any person violating any of the provisions of this Ordinance shall be liable to the Village for any expense, loss, or damage incurred by the Village by reason of such violation.

ARTICLE XIII

REPEAL, VALIDITY, AND SAVINGS CLAUSE

Section 1 - Repeal of Water Ordinance No. 34: Water Ordinance No. 34 adopted January 20, 1986 and all its amendments are hereby repealed in their entirety.

Section 2 - Validity: If any section, provision or clause of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not effect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

Section 3 - Savings Clause: The repeal of ordinance sections, as provided, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred thereunder or actions involving any of the provisions of said ordinance or parts thereof. Said ordinance or ordinance sections repealed is hereby continued in force and effect after the passage, approval and publication of this Ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefor.

ARTICLE XIV

ENACTMENT

Section 1 - Enactment: This Ordinance shall become effective twenty (20) days after its enactment.

This Ordinance shall be published once, in full, in the *Leelanau Enterprise*, a newspaper of general circulation within the boundaries of the Village and qualified under State law to publish legal notices, promptly after its adoption, and the same shall be recorded in the Ordinance Book of the Village and such recording authenticated by the signatures of the Village President and Clerk.

VILLAGE OF SUTTONS BAY

By: Larry Mawby, President

By: Dorothy Petroskey, Clerk

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. _____ duly adopted by the Village Council of the Village of Suttons Bay, County of Leelanau, Michigan at a _____ meeting held on _____, 2008 at which all members were present except _____ and that public notice of said meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1976.

I further certify that Village Council Member _____ moved adoption of said ordinance and that Village Council Member _____ supported said motion.

I further certify that the following Village Council Members voted for adoption of said ordinance _____ and the following Village Council Members voted against adoption of said ordinance _____

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

Dorothy Petroskey, Clerk