

VILLAGE OF BANCROFT
ORDINANCE NO. 299-19
(Dated May 8, 2019)

ORDINANCE FOR WATER SYSTEM BILLING

THE VILLAGE OF BANCROFT ORDAINS AS FOLLOWS:

Section I. Definitions

- A. "System" Whenever the words "the system" or "system" are used in this Ordinance, they shall be understood to mean the complete water supply system of the Village of Bancroft, including but not limited to, all water mains, laterals, wells, pumping stations, storage tanks, and all related works, instrumentalities and properties used or useful in connection with the water supply system, together with all additions, extensions and improvements thereto hereafter acquired.
- B. "Revenues" and "net revenues" shall have the definitions established in Michigan Compiled Law (MCL) 141.103 (f) and (g).
- C. "Public Improvements" shall be construed to mean the existing and hereafter acquired water supply system improvements within and outside the Village which are the functional components of the system.
- D. "Acquire" shall be construed as including acquisition by purchase, construction or any other method.
- E. DPW shall mean the Village of Bancroft's Department of Public Works.

Section II. Rates and Enforcement

The rates to be charged for connections, water service, charges pertaining to the system as well as rules and regulations for connections to and use of the system shall be as set forth below:

- A. Water Rates: Water service, equipment and connections shall be charged at such rates as are established by resolution of the Village Council.
- B. The Village shall pay for all water used by it and its departments.

Section III. Application for Connection

No service connection shall be constructed for the purpose of introducing water into any premises until an application, for a permit for such connection has been made in writing to the Village Council. The applicant shall be furnished a form and the form shall be filled out in all details and filed with the DPW, in triplicate. The DPW supervisor shall file all copies of the application with the Village Council along with his/her recommendation for approval or disapproval of the application. The Village Council, by Resolution, shall established water connection fees for single residential connections and factors to utilize to set connection rates for connections that are not for single residences. The Village Council shall act upon the application, and if approved the same shall then be turned over to the Village Clerk, so that the necessary monies can be collected from the applicant. Upon receipt of the required monies, the

Village Clerk shall so mark the application and file one copy with the customer, one copy with the Clerk's office and one copy with the DPW."

Section IV. Administrative Appeal of Water Rate Determination

A. Every applicant seeking to establish water service has a right to bring an administrative appeal of the water rate as assessed to a parcel of property according to the Village's Resolution(s) setting forth water rates. The burden of proof is on the applicant by a preponderance of the evidence.

B. A written appeal must be submitted to the Village President within fifteen (15) days of the assessment of water rate. The appeal shall identify the assigned water rate(s) and set forth the grounds for which the applicant owner claims that the water rate(s) were improperly calculated as to that property. Any administrative appeal shall not be based in any degree on any claim of economic hardship. The Village President shall file and serve by regular US mail or hand delivery, the President's decision on appeal within fifteen (15) days after receiving the applicant's appeal.

C. If an applicant is dissatisfied with the President's decision, a written appeal may be made to the Village Council by filing a written appeal with the Village Clerk within thirty (30) days from the date of the decision as applied to a particular property. The Village Council may set, by Council Resolution, any appeal fee(s) that must be paid when filing an appeal. Failure to make payment of any appeal fee, or an invalidated payment of an appeal fee, will negate the filing of the appeal already received. Michigan's Open Meetings Act shall apply to the proceedings of the appeal to the Village Council. If no appeal is taken within the thirty (30) days, the order, requirement, decision, or determination of the President shall be final.

D. The Village Clerk shall fix a reasonable time for a hearing of the appeal to the Village Council so that the Council can render a decision within sixty (60) days from the date of filing of the appeal. The Village Council may grant an extension of time by a majority decision of the Village Council. The grounds for the granting of any extension of time shall be stated by the Village Council.

E. Minutes of the appeal hearing shall be kept in accordance with the Open Meetings Act and contain the grounds of any determination(s) made by the Village Council.

F. The Village Council may reverse or modify the order, decision, or determination appealed from and shall make an order, decision, or determination as in the Village Council's opinion, ought to be made. The Village Council may impose conditions upon an affirmative decision on appeal. The concurring vote of a majority of the Village Council members shall be necessary to reverse an order, decision, or determination."

Section V. Violations and Penalties

- A. Any person found to be in violating any provision of this Ordinance shall be served by the DPW or its representative with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The reasonableness of the time frame given for correction shall be:
1. for non-emergency violations, fifteen days (15) notice shall be give;
 2. for violations that cause an eminent danger to the owner or other users of the system, as determined by the Village in its sole discretion, the notice may demand immediate cessation of the violation.
 3. If the notice is for a non-emergency violation under Section V (A)(1), the notice shall be served by first class mail at the address where the water bills are served and if it is an emergency notice under Section V (A)(2), then it shall be served by first class mail and also be posted on the property.
 4. **Landlords/Property Owners are forewarned that if they allow the tenant to change the billing address for a water system bill to the tenants address, the landlord/property owner may not receive notice of a violation. Landlords/property owner take any action to change the billing address to a tenant at their own risk. The Village will only serve notice at the address where the water system bills are being mailed according to its records. It is a property owner's sole duty to make sure the billing addresses are correct and up to date.**
- B. If the person served the notice does not correct the violation within the proscribed period, then the Village may either, at their sole option:
1. disconnect the water customer from the system by either physically terminating their connection to the water system and/or disconnecting their water supply; or
 2. correct the violation and place the actual cost, including labor, of correction on the property owner's next water system bill as a "miscellaneous or special service" charge.
 3. If the water supply is disconnected to terminate their water system connection, the water customer must pay the water system bill, any late fee, the water supply disconnection fee, and the water supply re-connection fee in full, before the water service will be restored by the Village. If, due to the nature of the violation, the Village has to physically disconnect the service from the water system, then the service will not be re-connected until the owner pays the actual cost of the disconnection to the water system, as determined by the Village in its sole discretion.
- C. Any person wilfully interfering with or injuring the waterworks of the Village or any of the pipes, stop cocks or other appurtenances appertaining to the Village water system; or any person putting animals, vegetables or other substances in any reservoirs, tanks, pipes or portion of the water system, or otherwise polluting the

water therein in any way, shall be charged with a misdemeanor.

Section VI. Statement of Purpose and Findings: The Village Council of the Village of Bancroft makes the following findings and states the following purpose to be accomplished by this ordinance.

- A. The Village has constructed and currently operates a water distribution system which provides a source of water supply for domestic, commercial, institutional, and industrial uses and fire protection to the residents of the Village of Bancroft.
- B. The cost of constructing the well and pumping portion of the older portion of the Village water distribution system was previously funded through user fees and connections charges, while the specific properties have historically been funded either through special assessment levied against the benefitting properties, or charged against property developers as a condition of site plan or plat approval.
- C. The Village undertook the construction of a new water tower in 2005 as well as replacement, improvement, and/or expansion of portions of the distribution system in subsequent years.
- D. In 2019 the Village prohibited properties then served or subsequently served by the water distribution system, from establishing well service.

Section VII. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Village of Bancroft declares that it would have passed this ordinance and each section, subsection, clause, or phrase hereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared unconstitutional.

Section VIII. This Ordinance and the related rules, regulations, provisions, requirements, orders, and matters established shall take effect immediately upon publication, except any penalty provisions which shall take effect twenty (20) days after publication, pursuant to MCL 66.1; MSA 5.1271.

Section IX. Repealer - Village of Bancroft Ordinance 229-03 is hereby repealed in its entirety. All other Ordinances or parts of Ordinances in conflict with this Ordinance are repealed only to the extent necessary to give all provisions of this Ordinance full effect.

Adopted at a Regular Meeting of the Village Council held on the 8th day of May, 2019.

Moved by: R. Miller

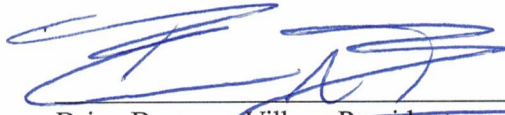
Seconded by: K. Bible

YEAS: A. Miller, K. Bible, L. Fuller, R. Miller, C. Hutchins, T. Terpening, B. Barnum

NAYS: None.

ABSENT: None.

Signed:



Brian Barnum, Village President

CLERK'S CERTIFICATION

I certify that the above is a true and complete copy of Ordinance No. 299-19 adopted by the Village Council at a Regular Meeting held on the 8th day of May 2019 and published in the

Argus-Press Newspaper on May 20th, 2019.



Ashley Goodrich, Village Clerk

Drafted by:
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