

Includes ammendment 1 revisions 18, 2007

EXHIBIT A
WATER ORDINANCE
TOWNSHIP OF HOMER
COUNTY OF MIDLAND, STATE OF MICHIGAN

ORDINANCE NO. 3501

Adopted: February 16, 2005

Effective: _____

HOMER TOWNSHIP ORDAINS:

Section 1. Adoption of New Water Ordinance: The Township adopts the following Water Ordinance provisions to replace the existing provisions of Ordinance 3500:

ORDINANCE NO. 3501

WATER

This ordinance replaces all previous water ordinances.

ARTICLE 1. GENERAL

Sec. 1. Extending water service beyond Township Water Service Area.

It shall be unlawful for any person who purchases water from the City, or is serviced by the Township Water System, to extend water service to facilities located outside of the Township Water Service Area. The Township Board or its designee shall enforce this section and shall be authorized to make application in the proper court for writ or injunction restraining any person from violating this section.

Sec. 2. Definitions.

When used in this chapter, the following terms shall be construed as defined in this section, unless a different definition shall be adopted for any article of this chapter.

Accessory Building. A supplemental building or structure on the same lot of land as the main building or buildings, or part of the main building occupied by or

devoted exclusively to accessory uses, but such use shall not include any building used for dwelling, residential or lodging purposes, or sleeping quarters for human beings.

Agreement. The Water Service Agreement between the City of Midland and Homer Township, as amended.

City. The City of Midland, Bay and Midland Counties, Michigan, a municipal corporation.

City Treasurer. The duly appointed officer of the City, or his authorized representative.

City Water System. The public water supply, treatment and distribution system owned and operated by the City.

Cross connection. A connection or arrangement of piping or appurtenances through which backflow could occur.

Farm Building. Any building or structure other than a dwelling, maintained, used or built on a farm which is essentially and customarily used on farms of that type in the Township for the pursuit of their agricultural activities.

Homer Township Water Districts Special assessment districts created by resolution of the Township Board for the purpose of funding the construction of certain water system improvements.

Township. Homer Township, Midland County, Michigan.

Lot. May be taken to mean "lot or parcel".

Township Water Service Area. The area identified in the Agreement.

Township Water System. The public water distribution system owned by the Township and lying entirely within Homer Township Water Service Area.

Water connection or service. A tap into a water main.

Water extension. That part of the customer's water supply system extending from the end of the water connection into the premises served and ending at the City's water meter.

Water main. That portion of the water distribution system lying in the public right-of-way or easement and of a size adequate to serve more than one customer.

Sec. 3. Where mains are installed; grant of easement.

All water mains shall be installed in public rights-of-way. However, where

it is deemed necessary by the Township Board that certain water mains be installed in private property, the property owner shall grant an easement for the purposes of installation, meter reading, inspection and maintenance of water mains.

Sec. 4. Structure to have individual connection.

Every lot, dwelling, building, or structure (except for accessory buildings and farm buildings) furnished Township water shall have its individual water connection. Duplex residences shall have separate connections for each dwelling unit. Townhouses or apartments shall have separate connections installed for each dwelling unit.

Sec. 5. Elimination of cross connections required; adoption of water supply cross connection rules.

Cross connection of the Township Water System with any other water supply system shall not be permitted.

The Township hereby adopts by reference the water supply cross connection rules of the Michigan Department of Public Health being R325.11401 to R325.11407 of the Michigan Administrative Code.

It shall be the duty of the City to cause inspections to be made of all properties served by the Township Water System where cross connections are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the City and as approved by the Michigan Department of Health.

The City shall have the right to enter at any reasonable time any property serviced by connection to the Township Water System for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessee or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed prima facie evidence of the presence of cross connections.

The City is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any cross connection or other violation of this section exists, and to take other precautionary measures deemed necessary to eliminate any danger of contamination of the Township Water System. Water service to such property shall not be restored until the water connection or cross connection has been eliminated.

Potable supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this section and by the State and Township Plumbing Codes.

This section does not supersede the State Plumbing Code, but shall be considered supplementary.

Sec. 6. Connection installation.

The Water connection shall be installed by the City upon the prepayment of all Applicable City and Township fees only after the Township Plumbing inspector has completed his final inspection.

Sec. 7. Permission to construct extension.

Permission to construct a water extension shall be implied with the purchase of each water connection.

Sec. 8. No branches or connections allowed off extension.

There shall be no branches or connections off the extension pipe connecting the water supply main with the water meter.

Sec. 9. Structures and customers to have water meter and inside shutoff valve.

Every lot, dwelling, building or structure (except for accessory buildings and farm buildings) furnished Township water shall have its own water meter and inside shutoff valve.

Sec. 10. Place for meter installation; when City provides same; charges.

(a) Customers shall provide a suitable place for meter installation.

(b) In event of the failure or refusal of a customer to provide a suitable place, or if in the judgment of the City damage may result to the meter through frost or other agency, the City may provide a suitable place for installation and charge the customer in accordance with the City Code of Ordinances. The amount of such charge may be assessed against the customer in the next ensuing quarter, and be collected in the same manner as other water charges.

Sec. 11. Interfering, tampering with meters; ownership.

No person other than an authorized employee of the City shall break or injure the seal on, or change the location of, or alter or interfere in any way with any water meter. All meters are property of the City.

Sec. 12. Expense of negligent injury to be borne by occupant of premises.

Whenever a water meter is injured because of any act or negligence on the part of the owner or occupant of the premises where such meter is installed, the expense of the City caused thereby shall be charged to and collected from such owner or occupant in the same manner as other water charges.

Sec. 13. Who may turn on and off service.

No person, other than an authorized employee of the City shall turn on or off any water service, except that a licensed plumber may turn on a water service for testing an extension system, after which the plumber shall immediately turn the water service off.

Sec. 14. City's declaration of water emergency.

At such time as the City shall determine that water consumption within the City and Township has or is about to exceed the supply available to the City and Township for its uses on a continuing basis (such use to include the Township Water System), the City may declare that a water emergency exists.

Sec. 15. Water uses prohibited during water emergency.

When the City has declared that a water emergency exists, the use and withdrawal of water by any person from the Township Water System for any of the following purposes is hereby prohibited:

(a) Watering of yards. The sprinkling, watering or irrigation of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, vegetables, flowers and any other vegetation.

(b) Cleaning outdoor surfaces. The washing of sidewalks, driveways, filling station aprons, porches, patios and other outdoor hard surface areas.

(c) Swimming pools. Swimming and wading pools not employing a filter and recirculating system.

(d) Escape through defective plumbing. The escape of water through defective plumbing, which shall mean the knowing permission for defective plumbing to remain out of repair.

Sec. 16. Declaration of existence of emergency.

When the City shall have declared that a water emergency exists, notice thereof shall be given by releasing such declaration to the official newspaper of the Township and to all radio stations maintaining studios within the City and/or Township. Such notice shall advise of the time of commencement of such emergency and that such emergency shall continue until notice of termination is given by the City through the same media.

Sec. 17. Termination of emergency.

When the City shall determine that the conditions which caused the

declaration of a water emergency no longer exist, it shall so declare and give notice of such determination as provided in section 16.

Sec. 18. Penalty for violation of water emergency regulations.

Any person who shall knowingly, during any water emergency, use or withdraw water from the Township Water System for any of the purposes prohibited in section 15, shall be guilty of a misdemeanor, and shall be subject to a fine of not to exceed twenty-five dollars (\$25.00) for each violation and, in addition, if said person refuses to discontinue such violation, be subject to the discontinuance of water service during the continuance of such emergency.

Sec. 19. Rule making by Township Board.

The Township Board may, by resolution, adopt such rules and regulations as it may deem necessary to administer the terms of this article provided that said rules are not in conflict with the Agreement.

ARTICLE II. SERVICE AND EXTENSIONS

Sec. 20. Installation of service, extension to property line.

The Township shall, where a water main is adjacent to the property of a customer within the Township Water Service Area, install water service and extension from the main to the customer's property line.

Sec. 21. City meters to be used.

Meters to be used in the installation of the service and extension pursuant to section 9 shall be only those which are obtained from the City.

Sec. 22. Cost of service, extension and installation.

The cost of the installation of water service and extension within the Township Water Service Area shall be determined as follows:

(a) The installation from the main to the curb box, which shall be located on the street side of the property line, shall include the tapping of the main, the furnishing and installing of all necessary valve, pipe and fittings from the main to the curb box plus the cost of the meter and the meter fittings. The cost thereof, payable in advance, shall be in accordance with the City Code of Ordinances.

(b) If the service installation is installed by customer request between December 1 and March 31, an additional charge shall be added to the service connection fee in accordance with the City Code of Ordinances.

Sec. 23. Property not having previously paid for a Water Main.

Those persons owning land adjacent to a township water main lying within a Homer Township Water District whose lands have not been subject to a special assessment to pay for the construction of said main and who make connection to said main, or those persons owning lands that may have been subject to a special assessment to pay for one connection to said main and who are now requesting an additional connection to said main, shall pay a benefit charge in the amount of:

- a) Seven Thousand Five Hundred Dollars (\$7,500.00) if such land is located in Water District No. 1;
- b) Six Thousand Nine Hundred Dollars (\$6,900.00) if such land is located in Water District No. 3;
- c) Seven Thousand Six Hundred Dollars (\$7,600.00) if such land is located in Water District No. 4;
- d) Nine Thousand Three Hundred and Twenty Five Dollars (\$9,325.00) if such land is located in Water District 6; and
- e) Eight Thousand Seven Hundred and Fifty Dollars (\$8,750.00) if such land is located in Water District 7;
- f) Ten Thousand Five Hundred Dollars (\$10,500) if such land is located in Water District 8;
- g) Ten Thousand Five Hundred Dollars (\$10,500) if such land is located in Water District 10.

for the privilege of each connection to said main in addition to all other charges provided herein. However, if a developer constructs a water main within a platted subdivision and connects the main to a Homer Township water main, the owner of each lot in the platted subdivision connecting to the Homer Township water system shall pay a benefit charge in the amount of \$3,500 for the privilege of such connection to the main in addition to all other charges provided herein.

In the event that any person who has paid a benefit charge for the privilege of connecting to the township water main lying within an existing Water District which subsequently becomes a participant in a new water district established by the township, and is required to pay a special assessment for water service arising from such person's inclusion in the new special assessment district created in conjunction with the new water district, then such person shall receive a credit against such person's special assessment equal to the prior benefit fee paid for connection to the township water district.

A Water Connection Permit will not be issued until the benefit charge, and charges due to the City pursuant to the City Code of Ordinances, have been paid.

Sec 24. Benefit fee paid by those persons owning land outside Water District No. 1

Those persons owning land adjacent to a township water main lying outside the original boundaries of Water District No. 1 who make connections to said main, shall pay a benefit charge in the amount of One Hundred Dollars (\$100.00) for the privilege of each connection to said main in addition to all other charges provided

herein. Such benefit charge is imposed to reimburse the township for a portion of the cost of constructing Water District No. 1 to allow for further expansions.

Sec. 25. Customer written agreement with City.

Each customer of the Township Water System shall be required as a condition of obtaining and continuing to receive water service, to sign a written agreement indicating said customer agrees to comply with and is governed by the ordinances, rules, regulations and policies as may be adopted by the City relating to such water service. The City shall have the right to refuse to supply water service to any customer who refuses to sign such agreement.

ARTICLE III. RATES, CHARGES, BILLING

Sec. 26. City will establish water rates.

The City may classify the users of water according to the quantities and types of water supplied, and charge such rates to users in each class as it may deem reasonable. The City shall bill individually each Township customer in accordance with the City Code of Ordinances, and the rules, regulations and procedures of the City Water System.

Sec. 27. Purpose of water rates.

In order to pay the cost of acquisition, construction, operation and maintenance of the extensions, additions, and enlargement of the City Water System, the City has determined (and the Township has agreed in the Agreement) that the charges for services rendered and water supplied by the City Water System shall be assessed against and payment thereof shall be collected from each beneficiary being served or supplied, on the basis of a schedule of rates applicable to the classes of service rendered or the amount of water supplied. Such rates shall be fixed and revised from time to time as may be necessary and the City and its City Council shall maintain such rates for services and water supplied by such water system as shall be sufficient to provide for all operating expenses of such system, required repairs and maintenance thereof, and the due payment of all the indebtedness.

Sec. 28. Collection of Delinquent Charges.

Charges for water service and capital connection charges established by this ordinance furnished to any property shall be a lien thereof, as provided by section 21, Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended, and any charges delinquent for three months or more shall be certified annually prior to September 1 to the township treasurer who shall enter the same upon the next tax roll against the property for which such charges were incurred and such charges shall be collected and such lien shall be enforced in the same manner and subject to the same collection and penalty charges as provided for in the collection of general ad valorem taxes. In addition to any other lawful enforcement methods, the payment may be enforced by discontinuing the water service to such property. Further,

all charges and penalties may be recovered by the township by court action.

Sec. 29. Meters to be used to measure quantity; remote type meters required.

Where water rates are based on quantities supplied, the quantities shall be determined and measured by City water meters. The Township also requires installation of remote type reading meters.

Sec. 30. City may estimate consumption when meter fails or when unable to read meter.

In the event that a water meter shall fail to register properly, or the City is unable to gain entry to read the meter, the City is empowered to estimate the quantity of water used on the basis of information available and bill accordingly.

Sec. 31. Right of entry for inspection, meter reading.

The Agreement entered into by the Township with the City gives the City's authorized agent authority to enter upon the customer's premises for the purpose of reading or inspecting a water meter or any piping connected with the customer's water system.

Sec. 32. Deposit for water service; refund.

(a) Deposit required. Before any premises may be served with water service, a deposit shall be required from all applicants for service when the applicant is not the owner of the premises where the service is provided. Such deposit shall be in accordance with the City Code of Ordinances, but shall not be more than the amount of an estimated bill for six months' water usage for the applicable service, as estimated by the City.

(b) Interest on security deposits. The City will apply interest to the deposit accounts of all users in accordance with the City Code of Ordinances. Accrued interest due shall be paid at the time the deposit is refunded.

(c) Notification necessary to waive lien. When a tenant is responsible for payment of water bills and a lease has been executed containing a provision that the lessor not be liable for water charges, then it shall be the responsibility of the lessor to so notify the City and Township Clerk with an appropriate affidavit signed by both parties requesting a waiver of lien.

The affidavit must state:

"Tenant is totally responsible for all charges for water service furnished to the said premises by the City of Midland and Homer Township. Tenant understands that no service shall be commenced to the above address until there has been

deposited with the City a sum sufficient to cover twice the average quarterly bill with a one hundred ten dollar (\$110.00) minimum, and a copy of the lease including the affidavit furnished to the City. Tenant further understands that payment of charges for water service may be enforced by discontinuing the services to the premises.”

The affidavit shall state the expiration date of the lease. Upon receipt of such notification, the Township will waive its lien pursuant to Public Act 178 of the Public Acts of the State of Michigan, or 1939, as amended, and the water bills to the lessee within the term of the lease shall not be a lien against the property. Upon expiration of the lease, a new affidavit must be submitted to retain the lien waiver. Without such notification, water bills will be a lien against the property served regardless of any lease provisions between the parties. The water bills shall be in the name of the premises except as provided by this section concerning tenants.

(d) Security deposits in lieu of lien. When the City has received and approved a request from the property owner for a waiver of lien, then a cash deposit will be required of the lessee as security for payment of all water charges. Said cash deposit shall equal to two (2) times the estimated quarterly bill for water charges, but in no case, less than one hundred ten dollars (\$110.00). Refunds will be made when all bills are paid, and the service to such customer is discontinued.

Sec. 33. Water rate generally.

All water bills shall be calculated in accordance with the City Code of Ordinances.

Sec. 34. Rate for water used in construction when meter cannot be used.

(a) For construction work where, due to weather or other conditions, it is impracticable to furnish a temporary meter connection, a minimum charge shall be made in accordance with the City Code of Ordinances. Water used should be metered or may be estimated by the water department, and the charges shall be in accordance with the City Code of Ordinances.

(b) Where it is determined by the City that it is desirable to allow temporary water use from a fire hydrant, permission may be given in writing by the City. In accordance with the City Code of Ordinances, a minimum charge per service connection shall be paid in advance; and an additional charge shall be made if the amount of water to be used is estimated to be greater than one thousand (1,000) gallons.

Sec. 35. Use of water from fire hydrant without permission.

It shall be unlawful for any person to use water from a fire hydrant without obtaining permission from the City.

Sec. 36. Quarterly assessment, collection.

Charges for water consumed inside the Township Water Service Area shall be assessed and collected in four (4) quarterly periods, or more often if circumstances require.

Sec. 37. Reading, billing date, remote reading registers.

(a) Water meters shall be read as nearly as possible within twenty (20) days of the end of each quarter, and the water charge shall be billed to the customers within forty (40) days of the end of each quarter.

(b) The customer shall have a water meter with a remote reading register installed so that the meter may be read from outside the building. The cost for remote reading meters shall be in accordance with the City Code of Ordinances for each meter. It may be paid in advance or added to the water bill.

(c) In the event of a discrepancy between the readings on the water meter and the remote register, the consumption as shown on the water meter shall be used in calculating the billing or as otherwise provided for in this chapter.

Sec. 38. Payment of bills, charges, etc.

Payment of all water bills, charges, fees and deposits for water service shall be made to the City Treasurer.

Sec. 39. When water bills are due and payable.

All water bills shall be due and payable at the Office of the City Treasurer in the City Hall on or before the date shown on the bill which shall be not less than fifty (50) nor more than sixty (60) days after the end of the quarter for which such bills are issued.

Sec. 40. When water service may be discontinued.

The City may discontinue water service for failure to comply with all ordinances, rules or regulations of the City relating to water use. The Township may request the City to discontinue water service for nonpayment of water rates and charges if the customer is more than ninety (90) days delinquent.

Sec. 41. Enforcement of collection of water charges by assumpsit.

The payment of the charges for services and for water supplied may be enforced by an action of assumpsit instituted in the name of the Township against such user.

Sec. 42. Unpaid filtered water charges to be a lien; collection.

Unpaid water charges shall constitute a lien on the property served by the water connections; and if not paid within ninety (90) days of the billing date, such debt shall be collected in the same manner as general taxes or as otherwise provided by this chapter.

Sec. 43. Reinstating water service; charge.

Water service which has been discontinued for the nonpayment of water bills or charges due the City or Township shall not be reinstated except upon the prepayment of a service charge in accordance with the City Code of Ordinances. There shall be an additional charge for reinstating service during other than normal working hours, based on the costs incurred. The service charge shall be added to the water bill.

Sec. 44. City to assume no responsibility for leaks in service beyond the meter.

The City and Township will assume no responsibility for excessive water bills caused by a leak in the water service beyond the water meter.

Sec. 45. Deferment of Special Assessments.

The payment of the Special Assessment imposed on the owner of a homestead, as a result of the creation of the Homer Township Water District A, shall be deferred until one (1) year after the owner's death pursuant to the provisions of Public Act 225 of 1976, as amended (MCLA 211.761 through MCLA 211.768a), and Public Act 188 of 1954, as amended (MCLA 41.729a).

An owner of a homestead who is either:

(a) sixty-five (65) years of age or older, or

(b) who is totally and permanently disabled, or

(c) is unable by reason of financial hardship to contribute to the cost of the special assessment,

and is a citizen of the United States, a resident of Michigan for five (5) or more years and is the sole owner of the homestead for five (5) or more years is eligible for the deferment.

The owner and the owner's spouse shall not have received household income during the previous calendar year in excess of the Homer Township Board approved poverty level guidelines, adjusted annually by the consumer price index.

An owner may apply to the Township Supervisor for the deferment of the Special Assessment. The application shall be made upon an affidavit form available at the Township Hall.

The deferment is terminated if legal or equitable title to the homestead or any part of the homestead is conveyed or transferred.

Any deferred Special Assessment shall constitute a recorded lien against the property.

Sec. 46. User Charge. In order to pay for cost of operation and maintenance of Township Water Districts, as well as retirement of the debt incurred by the Township related to Water Districts, the Township has determined that an annual user fee of Ninety Dollars (\$90.00) shall be assessed against and payment thereof shall be collected from each beneficiary of a Township Water District being served or supplied. Such rate shall be fixed through December 31, 2008, and, thereafter, may be revised from time to time, as may be necessary.

Sec. 47. Lot Splits in a Water Assessment District.

When a lot in an assessment district is split into two or more lots, one of the lots formed will retain the original assessment. Each of the remaining lots formed will be out of district lots. Such lots may apply for and be allowed a connection to the Water main. Such lots will pay the benefit charge as described in Sec 23 at the time of application. All applicable fees to the Township of Homer and the City of Midland must be paid prior to connection. A Plumbing permit must be filed and subsequent inspections completed before the City may make the final connection.

Sec. 48. Lot Combinations in a Water Assessment District.

When two or more lots in an assessment district, each having an assessment, are combined into fewer lots such that one or more property description codes are eliminated any assessment that is orphaned will be apportioned to the remaining lots in an amount equal to the full assessment divided by the number of remaining lots. Any future re-assessments will be apportioned to the remaining lots by the same formula.

Sec. 49. Effective Date.

This ordinance shall take effect thirty (30) days following its publication after adoption.

Section 2. Repealer clause. The Homer Township Ordinance No. 3500, as amended, is repealed upon the effective date of this Ordinance. Any other ordinances or parts of ordinances in conflict herewith are also repealed only to the extent necessary to give this Ordinance full force and effect.

Section 3. Validity and Severability. Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 4. Effective Date. This Ordinance shall be effective thirty (30) days after publication.

Sec. 49. Effective Date.

This ordinance shall take effect thirty (30) days following its publication after adoption.

ADOPTED:

YEAS: 7

NAYS: 0

STATE OF MICHIGAN)
) ss
COUNTY OF MIDLAND)

I, the undersigned, the duly qualified Township Clerk of the Township of Homer, Midland County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Township Board of said Township at a special meeting held on the 16 day of February, 2005

Township Clerk T.M. Ree

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