

FIRST AMENDMENT TO ORDINANCE NO. 85-1-WR

WHEREAS, the Township of East Bay on April 22, 1985, adopted an ordinance to provide for the operation and maintenance of the East Bay Township Water System on a public utility basis under the provisions of Act 94, Public Acts of Michigan, 1933, as amended (Ordinance No. 85-1-WR) which covered the Township Water System that is supplied water by the City of Traverse City pursuant to franchise, and

WHEREAS, the Township of East Bay has subsequently expanded its water system to include a Well System which derives its water supply from Township owned water wells, and

WHEREAS, the Township desires to amend Ordinance No. 85-1-WR in order to include said additional well water system,

NOW, THEREFORE, Ordinance No. 85-1-WR shall be and is hereby amended to provide as follows:

ORDINANCE NO. 85-1-WR

AN ORDINANCE TO PROVIDE FOR THE OPERATION AND MAINTENANCE OF THE EAST BAY TOWNSHIP WATER SYSTEM ON A PUBLIC UTILITY BASIS UNDER THE PROVISIONS OF ACT 94, PUBLIC ACTS OF MICHIGAN, 1933, AS AMENDED.

THE TOWNSHIP OF EAST BAY HEREBY ORDAINS:

Section 1. It is hereby determined to be desirable and necessary for the public health, safety and welfare of the Township of East Bay that the entire East Bay Township Water System be operated on a public utility rate basis in accordance with the provisions of Act 94, Public Acts of Michigan, 1933, as amended.

Section 2. Whenever the words "the Entire System" are referred to in this ordinance, they shall be understood to mean the complete East Bay Township Water System, including storage facilities, mains, pumps, and all other facilities used or useful

in the storage, supply and distribution of potable water, including all appurtenances thereto and including all extensions and improvements thereto which may hereafter be acquired without regard to the particular source of water supply.

Whenever the words "the Franchise System" are referred to in this ordinance, they shall be understood to mean that part of the Entire Water System located in District 85-1-W, which is subject to the provisions of a certain Water Supply Agreement dated November 4, 1985, as amended, between the City of Traverse City and the Township, under which the City supplies water to the Township pursuant to East Bay Township Ordinance Granting Franchise For Water Distribution System No. 82-2-W, as amended.

Whenever the words "the Well System" are referred to in this ordinance they shall be understood to mean that part of the Entire System which derives its water supply from Township owned water wells.

Whenever the words "revenues" and "net revenues" are used in this ordinance, they shall be understood to have the meanings as defined in Section 3, Act 94, Public Acts of Michigan, 1933, as amended.

Section 3. The operation, maintenance and repair of the Franchise System shall be under the supervision and control of the City of Traverse City, subject to the terms of the Water Supply Agreement entered into by the City of Traverse City and the Township of East Bay dated November 4, 1985, as amended. The Township shall set the rates and charges for the use of the Franchise System unless otherwise provided pursuant to said contract.

The operation, maintenance and repair of the Well System shall be under the supervision and control of the Department of Public Works for Grand Traverse County. The Township shall also establish construction standards and specifications for the Well System, a policy for connecting to said System, and the rates and charges for its use.

Section 4. All premises receiving water service in the Entire System shall be metered in accordance with specifications established by the Township Board.

Section 5A. Rates to be charged for service furnished by the Franchise System shall be as follows:

Water Use Charges
(Including Operation & Maintenance)

The water use charges shall be one and one-half (1½) times the City of Traverse City water use rate for the first one thousand (1000) cubic feet (7480 gallons) per month and two (2) times the water use rate for the City of Traverse City for all consumption over one thousand (1000) cubic feet per month.

Water Use Charges for System Debt Service

The water use charges for system debt service shall not exceed ten percent (10%) of the monthly water use charge and shall commence at such time as is designated by the Township Board.

Special Rates or Charges

For miscellaneous or special services for which a special rate or charge shall be established, such rates or charges shall be fixed by the Township Board.

Billing

Bills will be rendered and collected by the City of Traverse City in the same manner as provided for customers residing within the City of Traverse City.

Section 5B. Rates to be charged for service furnished by the Well System shall be as follows:

Water Use Charges
(Including Operation & Maintenance)

The water use charges shall be determined by the Township Board.

Special Rates or Charges

For miscellaneous or special services for which a special rate or charge shall be established, such rates or charges shall be fixed by the Township Board.

Billing

Bills will be rendered and collected by the Department of Public Works for Grand Traverse County.

Section 6. The charges for services in the Entire System which are under the provisions of Section 21, Act 94, Public Acts of Michigan, 1933, as amended, and made a lien on all premises served thereby, unless notice is given that a tenant is responsible, are hereby recognized to constitute such lien, and whenever any such charge against any piece of property shall be delinquent for six (6) months, the Township official or officials in charge of the collection thereof shall certify annually, on September 1st of each year, to the tax-assessing officer of the Township the facts of such delinquency, whereupon such charge shall be by him entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced, in the same manner as general Township taxes against such premises are collected and the lien thereof enforced; provided, however, where notice is given that a tenant is responsible for such charges and service as provided by said Section 21, no further service shall be rendered such premises until a cash deposit in the amount of the estimated quarterly charges for such premises shall have been made as security for payment of such charges and services.

In addition to the foregoing, the Township shall have the right to shut off water service to any premises for which water meters have not been installed or which have meters that have been tampered with, or for which charges for water service are more than three (3) months delinquent, and such service shall not be re-established until accurate water meters have been installed and all delinquent charges and penalties and a turn-on charge have been paid. Further, such charges and penalties may be recovered by the Township by court action.

Section 7. No free service shall be furnished within the Entire System to any person, firm or corporation, public or private, or to any public agency or instrumentality.

Section 8. The rates hereby fixed are estimated to be sufficient to provide for the payment of the expenses of administration and operation, such expenses for maintenance of the Entire System as are necessary to preserve the same in good repair and working order, to provide for payment of the contractual obligations of the Township to the City of Traverse City pursuant to the aforesaid contract between said City and the Township as the same become due, and to provide for such other expenditures and funds for the Entire System as this ordinance may require. Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts.

Section 9. The Entire System shall be operated on the basis of a fiscal year corresponding with that of the Township.

Section 10. The revenues of the Franchise System (except those collected by the City for water use charges and other service rendered in accordance with the contract between the City and Township) shall be set aside as collected and deposited in a separate depository account in OLD KENT BANK AND TRUST COMPANY, of Traverse City, Michigan, a bank duly qualified to do business in Michigan, in an account to be designated FRANCHISE SYSTEM RECEIVING FUND, which shall be used for the payment of the Township's obligations, if any, to the County of Grand Traverse for debt service. Should the revenues of the Franchise System prove insufficient for this purpose, such revenues may be supplemented by any other funds of the Township legally available for such purpose. Moneys remaining in the Receiving Fund at the end of any operating year after full satisfaction of the requirements to the County of Grand Traverse for debt service may, at the option of the Township Board, be used in connection with

any other project of the Township reasonably related to purposes of the Entire System.

Section 11. The revenues of the Well System shall be set aside as collected and deposited in a separate depository account in OLD KENT BANK AND TRUST COMPANY, of Traverse City, Michigan, a bank duly qualified to do business in Michigan, in an account to be designated WELL SYSTEM RECEIVING FUND (hereinafter, for brevity, referred to as the Receiving Fund), and said revenues so deposited shall be transferred from the Receiving Fund periodically in the manner and at the times hereinafter specified.

Operation and Maintenance Fund

Out of the revenues in the Receiving Fund there shall be first 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 of administration and operation of the Well System and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.

Contract Payment Fund

There shall next be established and maintained a depository account to be designated CONTRACT PAYMENT FUND, which shall be used solely for the payment of the Township's obligations, if any, to the County of Grand Traverse for debt service. There shall be deposited in said fund quarterly after requirements of the Operation and Maintenance Fund have been met such sums as shall be necessary to pay said contractual obligations when due. Should the revenues of the System prove insufficient for this purpose, such revenues may be supplemented by any other funds of the Township legally available for such purpose.

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 Well System if needed. There shall be set aside into said fund after provision has been made for the Operation and Maintenance Fund such revenues as the Township Board shall deem necessary for this purpose.

Improvement Fund

There shall next be established and maintained an IMPROVEMENT FUND for the purpose of making improvements, extensions and enlargements to the Well System. There shall be deposited into said fund after providing for the foregoing fund such revenues as the Township Board shall determine.

Surplus Moneys

Moneys 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 Township Board, be transferred to the Improvement Fund or used in connection with any other project of the Township reasonably related to purposes of the Entire System.

Bank Accounts

All moneys belonging to any of the foregoing funds or accounts may be kept in one bank account, in which event the moneys shall be allocated on the books and records of the Township within this single bank account in the manner above set forth.

Section 12. Moneys 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 securities 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.

Section 13. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

Section 14. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Section 15. This ordinance shall be published once, in full, in a newspaper of general circulation within the boundaries of the Township 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 Township and such recording authenticated by the signatures of the Supervisor and Township Clerk.

Section 16. This ordinance shall become effective immediately upon its adoption.

JOHN S. PORTER, Supervisor
FRANCES FEHRENBACH, Clerk
Adopted: July 27, 1987
Prepared in the Law Offices of:
Running, Wise, Wilson,
Ford & Phillips
By: Richard W. Ford
Township Attorneys
Business Address:
326 State Street
P.O. Box 686
Traverse City, MI 49685-0686

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TO THE RECORD EAGLE:

Please publish on:

Friday, August 21, 1987

Please send affidavit to:

Richard W. Ford

Please send bill to:

East Bay Township

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RECEIVED BY THE RECORD EAGLE:

Date: 8/13/87

Time: 3:55

By: Y.J.