

# VILLAGE OF BENSON

ORDINANCE NO. 10-03

## AN ORDINANCE TO PROVIDE FOR THE OPERATION AND MAINTENANCE OF THE VILLAGE OF BENSON WATER AND REFUGE COLLECTION SERVICES.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF BENSON, ILLINOIS:

### **Section I.**

#### **1. ESTABLISHMENT OF SYSTEM**

The existing waterworks system in its entirety, together with all additions, improvements, and extensions thereto that may hereafter be made, and refuse collection service system in its entirety, together with all additions, improvements, and extensions thereto that may hereafter be made, of the village, are declared to be a combined system, and such combined waterworks system and refuse collection shall be maintained and operated as a single utility, and that a charge or rate be established for the use of such combined system, which shall be reasonable and commensurate with the service performed by such combined system and shall be sufficient to maintain, operate, provide an adequate depreciation fund, and pay the principal and interest on any bonds which may be issued which by their terms are made payable from the revenues of such combined system.

#### **2. FAILURE TO COMPLY WITH REGULATIONS**

No person, firm, or corporation shall in any manner violate, disobey, omit, neglect, or refuse to comply with any provision of this chapter; nor shall any person, firm, or corporation omit, neglect, or refuse to comply with the orders or regulations concerning the use of water or refuse collection; nor shall any person, firm, or corporation resist any officer of the village in discharging the duties imposed upon such officer by any of the provisions of this chapter.

#### **3. PRIMA FACIE EVIDENCE OF OCCUPANCY: WATER**

- A. The ownership and/or occupancy of any premises for residential or commercial purposes, with a water connection from the village supply line shall be sole determining factor of prima facie evidence that water is being used.
- B. The delivery of municipal water service by the Village is a mandatory service and owners or occupants of any dwelling shall not have the right to refuse such service.

#### **4. PRIMA FACIE EVIDENCE OF OCCUPANCY: REFUGE COLLECTION SERVICE**

- A. The ownership and/or occupancy of any premises for residential purpose shall be sole determining factor of prima facie evidence that refuge is being produced and accumulated on such premises.
- B. The ownership and/or occupancy of any premises for commercial purposes shall not be sole determining factor of prima facie evidence that refuge is being produced and accumulated on such premises. The village board shall evaluate each commercial premises and usage decisions will be rendered on the situational merits.
- C. The Village of Benson shall provide by its agents, contractors or employees a refuse collection and disposal service to persons owning or residing in one and two family dwellings within the Village of Benson. The Town may also offer to provide such service to any commercial, manufacturing, industrial or business enterprise.
- D. The Village of Benson shall provide bulky waste removal, at least once per calendar year, on a date determined by the Village Board. No additional fees for this service will be collected. This service is only provided for family dwellings within the Village of Benson, residing in residential buildings.
- E. The delivery of municipal refuse service by the Village is a mandatory service and owners or occupants of any residential dwelling shall not have the right to refuse such service.

#### **5. REQUIRED WATER SUPPLY**

From and after June 7, 2010 no structure for human occupancy shall be erected, altered, or moved upon any premises and used in whole or in part for residential, assembly, business, industrial, institutional, mercantile or storage purposes unless the water supply and refuse collection service are provided.

#### **6. WATER METER REQUIRED**

No person, firm, or corporation shall use any city water that is not measured by a meter, unless such use is pursuant to and in accordance with a written special permit issued by the Village Board previous to the time of using city water.

#### **7. TYPES OF METERS; COST; PLACEMENT**

- A. All water meters shall be of the kind designated by the Village Board.
- B. The cost of which shall be borne by the user. The city will furnish consumers with meters at cost. They shall be placed in accessible places.

- C. No person, firm, or corporation shall install or cause to be installed any water meter in connection with new construction, or meter replacement, for any cause, which does not have an outdoor meter reading.

## **8. ENTRY UPON PREMISES; FAILURE OF OWNER TO COMPLY**

- A. The Village Board, or there authorized agent(s), shall have free access at all reasonable hours to all parts of any premises to which village water is supplied for the purpose of making necessary examination, and, in case any water meter is found out of repair, may require the same at once to be repaired or a new one provided, and in the event no water meter is found, may require the immediate installation of same.
- B. Upon failure of the owner to allow for repair of said meter, or a new one to be installed, or upon refusal to permit the above examination, the water shall be shut off to such premises and shall not be turned on again until such meter is repaired or a new one installed, or in case of refusal to allow an examination, until satisfactory arrangements have been made concerning future examinations; and not, in any case, except upon the payment of one hundred dollars (\$100.00) for the turning off and on of such water.

## **9. RENTS; RECORD; COLLECTION**

- A. The Village Board, or there authorized agent(s), working in the capacity of an employee/employer relationship, at the convenience of the village board, shall keep a complete record of all takers and users of city water and refuge collection services, causing a separate account to be made of each specific piece of property where city water and refuge collection are used, showing the rate that each is paying for the water, the date when the water was turned on, the amount used during each billing period, and such other data in connection therewith and such other records as shall be necessary to preserve a complete record of all receipts from the sale of city water and refuge collection.
- B. It shall be the village board, or there authorized agent(s) duty to collect all water and refuge collection, rents due to the village, and said water rents and refuge collection charges shall be payable only via US mail or at The Flanagan State Bank of Benson, which in this case will act as the only authorized collection facility, other than the direct payments to the village via US Mail, and each party shall keep a complete record of all such payments.
- C. It is hereby made the duty of the village board, or there authorized agent(s) to render bills for water and refuge collection services, this is to include all other charges in connection the provision of these service, what ever they may be as prescribed by ordinance.

## **10. RATES AND CHARGES: RATES FOR VILLAGE WATER SERVICE; RATES FOR VILLAGE REFUSE COLLECTION**

The water rates and charges for water service provided to residents of the Village of Benson shall be as follows:

### **WATER**

#### **A. Delivery charge:**

- a) **Within the Village limits:**  
\$20.00 per month
- b) **Outside the Village limits:**  
\$40.00 per month

#### **B. Quarterly Capital Assessment:**

A quarterly capital fee of \$10.00 will be charged to the owner(s) and/or occupant of any premises for residential or commercial purposes. The intent of this fund is to provide for future capital expenses. Establishing a foundation for financial stability of the village's water infrastructure.

#### **C. Water Rates:**

- a) **Within the Village limits:**  
\$.022 per cubic foot; from July 1, 2010
- b) **Outside the Village limits:**  
\$.044 per cubic foot; from July 1, 2010

The rates and charges for water service provided to non-residents of the Village of Benson and the minimum charge for water service provided to non-residents of the Village of Benson shall be equal to two times the rate and charge for water services provided to residents of the Village of Benson, as shown by the water meter reading. The two times rule shall not apply to the system operational fees. Furthermore, no new out of town connections shall be established with out 2/3-majority vote of the Full Village Board.

- a) From and after July 1, 2010 minimum charge for water supplied and provided by the Village of Benson shall be imposed equal to the otherwise applicable rate per 500 cubic feet of water or Ten Dollars (\$10.00) which ever is greater, in a three-month period.
- b) From and after July 1, 2011, the water rate charge, for water service provided to users of the Village of Benson water, as shown by the water meter readings, said rates for water service described in the subsection titles Water Rates above shall automatically increase annually each July 1 thereafter, by .001 cents per cubic foot for in-town residents, and .002 for out of town customers, respectively.
- c) **SUPPLEMENTAL CHARGES:**

Authorization to allow for the metered sale of bulk potable water shall only occur by vote of The Village Board of Trustees. If authorized the metered sale of potable water must be from the hydrant located in front of the water tower. Said bulk sales are only to be made to active village water customers, no new account may be established to make such water purchases. The charges for such sales shall be based on the customer's current water rate being charged by the Village plus a per diem administrative fee of twenty-five dollars (\$25.00), per load.

#### **D. System Operational Fees:**

##### **a) Initial service hook-up for new construction:**

1. Utility Connection Fee - Residential Use. The utility connection fee for a residential use shall be as provided below. The term 'residential use' shall include any lot or structure that contains residential dwelling units. The term 'individual dwelling unit' shall include each house, each apartment unit, each condominium unit, and each unit of a duplex, triplex, or quadruplex. The water connection fee shall be Five Hundred Dollars (\$500.00) per individual dwelling unit.
2. Utility Connection Fee - Non-Residential Use for new construction. The utility connection fee for a non-residential use shall be charged One Thousand Dollars (\$1,000.00) per meter to be installed

##### **b) Shut-off Fee:**

\$100.00 (Billing suspended)

##### **c) Reinstatement Fee:**

\$100.00 (Billing Resumed)

*(Intended interpretation of items b and c is solely for residents who vacate dwelling not for repairs. No on/off fee will be collected for repairs, as it will be understood that billing is not suspended.)*

##### **d) Delinquent Reconnection Fee:**

\$50.00

##### **e) Late Payment Penalty:**

10% or Ten Dollars, which ever is greater

##### **f) Returned Check Fee:**

Check returned for non-payment, for any reason, will be subject to a Twenty-five Dollar (\$25.00) penalty

##### **g) Delinquent Service Deposit:**

When a customer's service is disconnected for non-payment, a deposit in the amount of one hundred dollars (\$100.00) will be required before service is restored. Deposits shall be retained the village and the village shall have the right to apply said deposit toward any such unpaid charges, and if any charges remain

unpaid, shall have all the rights given to the village under the provisions of this chapter.

*(Intended interpretation of items d, e, and g: When a customer is delinquent and service has been shut off for non-payment the customer will be responsible for the \$50.00 dollar delinquent reconnection fee, plus full payment of monies due including the 10% late payment penalty, and the \$100.00 delinquent service deposit will be paid in full before service is reconnected)*

## **REFUGE**

- A. Collections rates will be determined periodically when contracts are awarded by the Village Board to service providers. Charges will be calculated on a monthly basis and billed quarterly in conjunction with the village water billing system.
- B. It is not the intent of the Village of Benson to view this service as a revenue center, however, as provided in Section I, Part I of this ordinance, charges shall be reasonable and commensurate with the service performed.
- C. Administrative costs as determined periodically by the Village Of Benson may be added to the contract price.
- D. The delivery of municipal refuse service by the Village is a mandatory service and owners or occupants of any residential dwelling shall not have the right to refuse such service.

## **11. DEPOSITS.**

- a) From and after July 1, 2010 any time service is activated, reinstated, or new service is installed, the user shall pay to the village a deposit of one hundred dollars (\$100.00), which shall be retained by the village as a guarantee that the premises shall not be vacated leaving any unpaid charges for water, waste collection, or combined water and waste collection service. In the event that the premises are so vacated, the village shall have the right to apply said deposit toward any such unpaid charges, and if any charges remain unpaid, shall have all the rights given to the village under the provisions of this chapter.
- b) In the event of a transfer of the property, if a refund of said deposit is requested, the transferee of the property must make a similar deposit of one hundred dollars (\$100.00), subject to the same conditions.
- c) In the event service is discontinued for non-payment, a similar deposit of one hundred dollars (\$100.00), subject to the same conditions, will be required before service is reinstated.
- d) In the event a premises is vacated and is later occupied, and if there is not then held by the village a deposit of one hundred dollars (\$100.00), as

provided for in this section, the person so occupying the premises must make a deposit of one hundred dollars (\$100.00), which shall be retained by the village as a guarantee that the premises shall not be vacated leaving any unpaid charges for water, waste collection, or combined water and waste collection service.

## **12. LIABILITY FOR PAYMENT.**

The owner of the premises, the occupant thereof and the user of the service shall be jointly and severally liable to pay for the services on such premises and the service is furnished to the premises by the Village of Benson only upon the condition that the owner of the premises, occupant, and user of the service are jointly and severally liable therefore to the Village of Benson.

## **13. BILLINGS PERIODS; DELINQUENCY; LIENS; POWER TO BRING SUIT; PENALTY**

The word service shall mean water service, refuse disposal service, or combined water and refuse disposal service.

### **A. Bills:**

The owner of the premises, the occupant thereof and the user of the service shall be jointly and severally liable to pay for the service to such premises and the service is furnished to the premises by the village only upon the condition that the owner of the premises, occupant, and user of the services are jointly and severally liable thereof to the village.

### **B. Billing Periods:**

- a) The Village Board shall establish billing periods for service by resolution from time to time. Bills for service shall be sent out by The Village Board, or there authorized agent(s), by the first day of the month succeeding the period for which the service is billed. All bills for service are due and payable 30 days after billing. A due date will appear on each statement or invoice. Bills not paid by the posted due date are delinquent.
- b) The 10% interest charge or Ten Dollars, which ever is greater, shall be charged from the date of delinquency to the date of payment.
- c) When the thirtieth (30th) day of any month shall be Sunday or a legal holiday, then such bills for service shall be payable on the next succeeding secular day without any additional penalty.
- d) All revenues and money derived from the operation of the waterworks system shall be held by the Village Board, or there authorized agent(s), and separately accounted for from all other monies that may come into his or her hands, and shall be deposited to the account of the Village of Benson, without any deductions

whatsoever, within ten (10) days after receipt thereof. Said funds shall be administered in every respect as provided by law.

### **C. Delinquency:**

In the event the charges for services are not paid within thirty (30) days after rendition of a bill for such service, such charges shall be deemed and are hereby declared to be delinquent.

- a) Viewed as a combined system, failure to pay any one part, water or refuge, will constitute delinquency of the whole.
- b) In the event the charges for such service become delinquent, The Village Board, or there authorized agent(s) is hereby authorized and directed to cause notice to be given in writing to the customer of the premises where such delinquency exists.
- c) That any customer believing such bill to be erroneous may appear at next regularly scheduled village board meeting, for an administrative hearing before the village board prior to termination of service, and that absent such and appearance or after the conclusion thereof, if the bill is found not to be erroneous, that such services shall be discontinued without further notice.
- d) Upon the discontinuation of any service the following charges shall be collected before re-commencing service, Once turned off, water and refuge services shall not be restored until all delinquencies, damages, and fees for turning the services off and on are paid in full.

When a customer's water service is discontinued for non-payment of bills the owner of the premises shall be responsible for and incur all expenses in performance of Code Compliance, including new water meters wherever necessary. Nothing in this Section shall be construed as limiting or denying the Village of its Statutory or other right of lien or other judicial proceeding against the owner or user of the property for any charges or expenses incurred.

### **D. Liens**

The Village Clerk or the Villages Attorney, when authorized by the Village Board, will file with the County Recorder of Deeds a statement of claim for a lien. The statement shall contain a legal description of the premises served, the amount of the unpaid bill and the notice that the village claims a lien for this amount as well as for all charges subsequent to the period covered by the bill. If the user whose bill is unpaid is not the owner of the premises then the Village Clerk or the Villages Attorney, when given notice of this, shall mail to the owner of the premises if the address is known, whenever such bill becomes delinquent.

### **E. Power to bring suit: Civil Action Against Occupant.**



The Village Board may from time to time direct the Village Attorney to take civil action against "sue" the occupant, user, or owner of the real estate in a civil action to recover the money due for services rendered, plus a reasonable attorney's fee, to be fixed by the court. Whenever a judgment is obtained in such a civil action, the foregoing provisions in this section with respect to filing sworn statements of such delinquencies in the office of Recorder of Deeds and creating a lien against the real estate shall not be effective thereafter as to the charges sued upon and no lien shall exist thereafter against the real estate for the delinquency. Judgment in such a civil action operates as a release and waiver of the lien for the amount of the judgment.

#### **14. PENALTY**

Whoever violates any provision of this chapter, for which another penalty is not already provided, shall be fined not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00) for each offense.

#### **Section II.**

**Partial Invalidity.** if any section, subdivision, or sentence of this Ordinance is for any reason held invalid or to be unconstitutional, such decisions shall not affect the validity of the remaining portions as provided by law.

#### **Section III.**

This ordinance shall be in full force and affect from June 7, 2010, after its passage, approval and publication as provided by law.

ADPOTED THIS SEVENTH DAY OF June, A.D. 2010 pursuant to roll call vote, as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

PASSED AND APPROVED THIS SEVENTH DAY OF JUNE, A.D., 2010

---

Arthur Skip Brooks, Village President