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via email to: villageofduncan@frontier.com

Mari Evans
Village Clerk
P.O. Box 254
Duncan, NE 68634-0254

RE: *Amended Water & Sewer Ordinance/2015*

Dear Mari:

Per your recent email concerning this ordinance, enclosed herewith is the revised document for your review. If it meets with the Board's approval, please contact our office and it will be done in final form before the November Board Meeting.

Thank you.

Very truly yours,

SIPPLE, HANSEN, EMERSON,
SCHUMACHER & KLUTMAN

BY 

Stan A. Emerson

SAE:mkw
Enclosure

ORDINANCE NO. 15-_____

AN ORDINANCE OF THE CHAIRPERSON AND VILLAGE BOARD OF THE VILLAGE OF DUNCAN, NEBRASKA TO AMEND NUMEROUS AND VARIOUS SECTIONS OF THE VILLAGE CODE FOR THE VILLAGE OF DUNCAN, NEBRASKA; SPECIFICALLY, AMENDING SECTIONS 50.03, 50.05, 50.06, 51.02, 51.05, 51.10, 51.13, 51.15, 51.29 AND 52.01, ALL OF WHICH GENERALLY AMEND PORTIONS OF THE WATER AND SEWER PROVISIONS FOR THE VILLAGE OF DUNCAN, NEBRASKA, INCLUDING THE DISCONNECTION PROCESS AND FEES; ASSIGNING RESPONSIBILITIES TO MAINTAIN THE SERVICE LINES TO CUSTOMERS; PROVIDING FOR THE MONTHLY PAYMENT OF WATER AND SEWER FEES; ESTABLISHING THE WATER AND SEWER FEES; ELIMINATING REFERENCES TO THE VILLAGE MARSHALL; DEFINE PERMITTED USAGE OF PRIVATE WELLS AND THE PROCEDURE THEREFORE; AMENDING LIEN PROCEDURES; PROVIDING FOR THE EFFECTIVE DATE HEREOF AND THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith.

BE IT ORDAINED BY THE CHAIRPERSON AND VILLAGE BOARD OF THE VILLAGE OF DUNCAN, NEBRASKA, that the Village Code shall be amended with regard to the following specific sections thereof.

50.03 OWNERS REQUIRED TO PAY ALL CHARGES.

(A) The owners of all real property who receive water or sewer disposal services from the village shall be required to promptly pay all charges for such goods and services. Said charges shall be set by the Village Board and may be amended from time to time.

(B) All charges prescribed for the water and sewer disposal services shall be a lien on the real estate for which the water or service is supplied or used and if not paid when due, such charges shall be certified to the County Treasurer and may be recovered by the village in an action at law, which shall be at the owner's expense, including all attorney fees and costs incurred on behalf of the village. Additionally, it may be certified to the County Clerk and assessed against the real estate and premises served, to be collected and returned as other village taxes are certified, assessed, collected and returned. The village may, at its option, terminate service of delinquent customers.

50.05 WATER AND SEWER RATES.

The following is established as a tariff of water rates for residential, commercial and industrial consumers of water from the water works system in the Village of Duncan,

Nebraska based upon a monthly rate. For all residential and commercial users, a minimum charge of \$18 per month, per meter, will be assessed for water supplied to the user. In addition, each of the above-described users shall pay a fee of \$1.00 per each 1,000 gallons or portion thereof, on a monthly basis per meter. Said rate shall be effective from January 1, 2016 through December 31, 2016. For the calendar year 2017, the minimum charge shall be \$20 per month, per meter, with an additional charge of \$1.50 per 1,000 gallons or portion thereof. During the calendar year 2018, the minimum charge shall be \$22 per month, per meter, with an additional charge of \$1.50 per 1,000 gallons or portion thereof. During the calendar year 2019 and thereafter, the minimum charge shall be \$24 per month, per meter, with an additional charge of \$2.00 per 1,000 gallons or portion thereof. The meter for each user shall be read during the last week of each month.

Bills not paid by the 1st day of the following month shall be deemed delinquent. The Village Clerk shall have the duty of collecting the fees on a monthly basis. In its sole and absolute discretion, the Village Board may provide water services beyond the corporate limits of the Village. In this event, the water charge shall be 1.5 times the rate for residential water users. The Fire Department will not be charged for water used in training or active fire fighting. In addition, St. Stanislaus Cemetery shall be charged only during peak times to include May through October of every year. It shall pay the current monthly meter and water rates during those months.

Water fees shall be due and payable at the office of the Village Clerk in the Village of Duncan. Bills shall be sent monthly to all water users and said bills shall be due on the 1st day of each month following the end of the month. The rates for water to be paid by the owner of the property to which the water is delivered shall be in the amounts as set forth above, plus any applicable taxes.

Bills not paid by the 1st of the following month shall be deemed delinquent. Upon an account being deemed delinquent as herein defined, the Village Clerk shall charge an additional \$5 collection fee. In the event it is not paid by the end of that month, the Village Clerk shall give notice to the party by First Class Mail that water service may be disconnected after one week notice, provided that if the delinquent consumer is a known welfare recipient by virtue of written disclosure of that status made to the Village Clerk by such consumer, it shall be the duty of the Village Clerk to notify the consumer and the County Department of Health and Human Services or its successor agency, by regular mail, postage prepaid, of the proposed termination. In the event the account is not fully paid by the time set forth by the Village Clerk and the written notice of the delinquency, the service shall be disconnected according to law.

As a final step of the disconnection process, a written notice shall be sent by first class mail to the consumer, postage prepaid, with notice of the planned date and time of disconnection and the amount required to be paid to avert disconnection. A fee

of \$25 shall be assessed as additional charges on the account for such service of notice together with the additional charges and fees as described above. If all fees are not paid prior to the established date of disconnection, an additional \$75 disconnect fee shall be added to all sums otherwise owed for the disconnection due to unpaid fees. In all cases, the record property owner shall be ultimately responsible for the amounts due for delivery of services to the premises. The fact that a tenant may have used the services or established an account in the tenant's name shall not relieve the property owner of responsibility. In the event sums due are not paid by the property owner and a lender holds a mortgage or other similar interest in the property obtained after the effective date of this Ordinance, the lender shall be notified of said sum due. In cases in which the residential real estate is leased, the landowner shall be primarily responsible for all charges. Statements of account in such cases shall be mailed to the landlord. The landlord may request that a copy of the statement also be mailed to the lessee. A \$2.00 per month service fee shall apply in those cases in which a copy of a statement is requested to be mailed to the lessee.

In the event services to a premises are shut off due to delinquency in payment, a required \$30 deposit shall be made; all sums due for delivery of past services to such premises and all costs of disconnecting the service including, but not limited to any cost of accessing the shutoff valve, service of notice charges and any necessary installation or replacement of the shutoff valve shall be paid; and a \$75.00 re-connection fee shall be paid before services shall be restored. If a consumer shall, for any reason, order the service to be discontinued; shall refuse to pay for the water delivered to the premises or shall remove himself or herself from the premises, the amount due under the terms of this section, together with any fees and charges in arrears, shall be considered as delinquent and is hereby declared a lien upon the premises or real estate to which the water was delivered. Upon refusal of the consumer to pay the delinquent charges, it shall be collected by being placed upon the assessment rolls and tax books for collection or by bringing an action in court, including the Small Claims Court, for collection of such delinquent fees, attorney fees and court costs.

The Village Board hereby establishes the rates for sewer services to be paid by the consumers of the service in the minimum amount of \$40 per month for residential and commercial uses, except as otherwise described herein. The standard residential and commercial rate shall be \$40.00 per month, plus any applicable taxes. Fees for all other consumers, not specifically set forth herein, located outside the corporate limits of the Village of Duncan shall be 1.5 times those set by the Board for residents of the Village. The Village Clerk shall have the duty of collecting the fees of the consumers of the sewer department on a monthly basis. Bills shall be due on the 1st day of the following month. The collection procedures and process for delinquent sewer rates shall be the same as that procedure as set forth in Section 2 above.

This ordinance is perspective in nature. All fees accrued under the existing provisions remain in full force and effect.

When water is used for special purposes not contemplated by the schedules as contained within these series of ordinances, the rates for such taking shall be fixed by the Chairperson and Board of Trustees of the Village of Duncan, Nebraska.

Any payments made by check and the check is returned for any reason including, but not limited to, insufficient funds, a returned check charge of \$20 shall be added to the water or sewer statement.

50.06 WATER WELLS.

(A) From and after the effective date of this section, it shall be unlawful for any person, corporation or other legal entity to drill any of the following facilities within the corporate limits of the Village of Duncan, to-wit: potable water well; sewage lagoon; absorption or disposal field for water; cesspool; dumping grounds; feedlot; livestock pasture or corral; chemical product storage facility; petroleum product storage facility; pit toilet; sanitary landfill; septic tank; sewage treatment plant; sewage wet well.

(B) With regard to any wells currently existing within the corporate limits of the Village of Duncan and currently being operated, those wells shall be permitted to continue without compliance with the terms of this section provided, however, that all existing wells must be registered with the Village Clerk and be inspected. Furthermore, provided that upon said existing well ceasing to be operated for any reason for a period in excess of six months, said well shall be brought into strict compliance with the terms hereof prior to any subsequent operation. In no event shall an existing well be re-drilled.

(C) Private wells are allowed on properties for outside watering or geothermal equipment only. Except as provided within this ordinance, private wells are not allowed for inside home supply. All wells must have a zoning permit by application and be granted the same and pay the zoning permit fee of \$20. All wells, whether existing or a new well, must be registered with the Village Clerk, must be installed by and with a licensed well driller and be approved by the State of Nebraska. Said wells must be initially inspected by the village and, at any other time, if the village suspects or believes it is being used in an unauthorized manner. All inspections, permits, fees, state costs and any other costs associated with the well, is the sole responsibility of the customer.

(D) In the event any of the above-described facilities are installed or operated from and after the effective date of this section, the governing board of the village shall abate such facility as a public nuisance and, in addition thereto, any person, corporation or other legal entity violating any of the terms of this section is hereby determined to be guilty of a Class III Misdemeanor as the same is defined by state statute. The penalty for such violation shall be that as defined by state law for the violation of a Class III Misdemeanor.

51.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MAIN. Any service pipe used for the purpose of carrying water to and disbursing the same in the village.

SEPARATE PREMISES. More than one consumer procuring water from the same service or supply pipe. The second premises may be a separate dwelling, apartment, building or structure used for a separate business.

SERVICE PIPE. Any pipe extending from the shutoff, stop box or curb cock at or near the lot line to and beyond the property line of the consumer to the location on the premises where the water is to be disbursed.

SUPPLY PIPE. Any pipe tapped into a main and extending from there to a point at or near the lot line of the consumer's premises where the shutoff, stop box or curb cock is located.

51.05 PAYMENTS, WHEN DUE; DELINQUENCY.

(A) All rates and rents, except the rosters on buildings or other special purposes, will be payable monthly, on the first day of each month, following the issuance of a statement, payable to the Village Clerk, who shall collect said rates and rents for the Village and rates and rents for buildings and other special purposes, will be payable on demand.

(B) The Water Commissioner shall faithfully account for and pay over to the Treasurer of said village all money received on account of said system of waterworks. The owner of rented premises will, in all cases, be held responsible and fees required to pay for water use to such premises.

(C) The Water Commissioner shall shut off the water from any premises if the rent of which is not paid within ten days after the same shall become due and payable.

51.10 LEAKS.

It shall be the duty of the Water Commissioner to report of all cases of leakage and waste and use of water and all violations of this chapter or any other provision, rules and regulations pertaining to the waterworks of the village or the sewage works of the village that may be brought to his notice and he shall enforce compliance with all such regulations. Consumer is responsible for leaks/repairs from the home to the main, including both water and sewer lines and taps.

51.13 COST AND EXPENSE OF APPLYING FOR PERMISSION TO TAP INTO A WATER MAIN; TO PROVIDE FOR A TAPPING FEE CHARGE; TO PROVIDE FOR THE REQUIREMENT OF METERS AND CHARGES IN TH EVENT A METER FAILS TO PROPERLY REGISTER.

In all cases in which individuals apply for permission to tap into the village water main, said application shall be accompanied by a fee of \$20 payable to the village. The consumer shall pay all expenses for tapping. In all cases in which permits are allowed and issued, the owner or his or her agent shall pay all costs for each new opening used. The Water Commissioner shall make and cause to be made the necessary tap or opening in the commercial main in the village, but all expenses, including the bringing of said water from the village main to the lot line and into the premises, shall be at the expense of the applicant. All work done and materials used and furnished by the applicant shall be in strict accordance with the ordinances of the village. The meter shall be placed in a substantially frost proof pit at a point near the inter-curb line of the street area, provided water meters may be used in basements or inside residences or business buildings on the premises of consumers if the Water Commission shall be convinced the meter so placed will be properly protected and conveniently set for reading the same. The water meters required for measuring water use by the applicant or consumer shall be furnished by the village and all meters so furnished and set by the village shall be the property of the village and the village shall be obligated to keep said meters in working order and the village reserves the right to choose the type of meter to be used in said system; provided, however, if the consumer permits or allows the water meter to be damaged, injured or destroyed through his or her own recklessness, carelessness or negligence so that the meter must necessarily be repaired or replaced, the village shall bill and collect from said consumer the cost of such meter repair or replacement the same as water rent; provided further, permitting the water level to be damaged or destroyed by freezing shall be deemed and considered always as negligence on the part of the consumer. Should any meter get out of order or repair or fail to register properly, the consumer shall then be charged at the rate of the average monthly consumption as shown by the meter in order for the six months previous or a fraction thereof, if the same has not been used that long, under the regular minimum rate and meter rate as established by this chapter.

51.15 METER READING.

It shall be the duty of the Water Commissioner to read and inspect all water meters throughout the village monthly. A statement showing the consumption of water in gallons for the preceding month shall be rendered monthly. After each reading, the Water Commissioner shall see that each water meter is securely sealed.

51.29 METER RATES; MINIMUM CHARGES.

This section is hereby repealed.

52.01 GENERAL PROVISIONS.

(A) The village shall address any short-term water shortage problems through a series of states based on conditions of supply and demand with accompanying triggers, goals and actions. Each state is more stringent in water use than the previous state, since there will be a greater deterioration in water supply conditions.

(B) The Chairperson of the Board is hereby authorized to implement the appropriate conservation measures as set forth in this section, when any of the conditions have been reached which would qualify for any of the specific stages.

(C) The Chairperson of the Board is given discretion to declare each particular state as deemed appropriate by the Chairperson of the Board by reviewing the severity of the trigger conditions and other additional information and is further authorized to implement conservation measures within the guidelines provided for each particular stage.

Section 2. This ordinance and all sections thereof shall become effective from and after the date of publication or posting as required by law.

Section 3. All ordinances or portions thereof in conflict herewith are hereby repealed.

INTRODUCED BY VILLAGE BOARD MEMBER: _____

PASSED AND APPROVED THIS _____ DAY OF OCTOBER, 2015.

CHAIRPERSON

(SEAL)

ATTEST:

VILLAGE CLERK

APPROVED AS TO FORM:

VILLAGE ATTORNEY