

HUNTERTOWN ORDINANCE No. 11- 06

AN ORDINANCE ESTABLISHING A SURCHARGE FOR WATER SERVICE FOR PREMISES SERVED BY THE HUNTERTOWN MUNICIPAL WATER UTILITY; PROVIDING FOR PERIODIC INSPECTIONS AND/OR TESTS OF WATER METERS AND FIXTURES, AND ELIMINATION OF CROSS-CONNECTIONS OF WATER LINES OF BUILDINGS AND APPURTENANCES CONNECTED TO SAID WATER UTILITY; AND PROVIDING FOR MORATORIUM ON THE COLLECTION OF SAID SURCHARGE.

WHEREAS, the Town of Huntertown, Indiana, operates a municipal water utility for the use and benefit of the residents of said Town and other areas connected thereto; and,

WHEREAS, pursuant to Ordinance No. 47, as amended, and Ordinance No. 49, as amended, all customers of the water utility are required to have their water service metered by properly operating water meters; and,

WHEREAS, Town of Huntertown, Indiana, adopted Ordinance No. 47, as amended on March 25, 2006, by Ordinance No. 06-006, which provides:

“The premises receiving a supply of water and all service line, meter, remote meter reading device, and fixtures, including any and all fixtures within said premises shall at all reasonable hours be subject to inspection by duly authorized employees of the municipality;” and,

WHEREAS, the Town Council is legally bound to enforce said provision of its ordinances; and,

WHEREAS, the Town has experienced and is experiencing differences in the monthly volume of water generated which is substantially greater than the volume of water for which its customers are charged each month; and,

WHEREAS, over time, water meters cease to operate properly and fail to accurately measure the volume of water delivered, and thereby deprive the water utility of revenue according to its prevailing rates; and,

WHEREAS, some customers have not cooperated in making the meters servicing their premises available for inspection to ascertain the operating condition and accuracy of the water meters installed on their premises, or for inspection of possible cross-connections therein, in violation of the above quoted Ordinance; and,

WHEREAS, violations of the above quoted Ordinance potentially contribute to inaccurate information upon which rates for water service are based; and,

WHEREAS, it is impossible to determine specific individual violations of the aforementioned Ordinance without access to the individual premises by authorized employees of the municipality to make the necessary inspections; and,

WHEREAS, the Town Council desires to enforce the ordinances of the Town in as efficient, effective and rational a manner as possible so as not to be offensive, oppressive or unfair to the persons using said water system; and,

WHEREAS, the Town Council believes that in order to accomplish the aforesaid goals and insure, as completely as possible, compliance with the ordinances of the Town, a comprehensive, systematic compliance and enforcement procedure is necessary, proper and in the best interests of the health, safety and welfare of the citizens of the Town of Huntertown and surrounding areas.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Huntertown, Indiana, as follows:

Section 1: This Ordinance shall be deemed supplemental to all other ordinances and provisions thereof for enforcement and compliance purposes only and shall not be deemed to be amendatory or recissionary with respect to same and further, any charges, fees, fines or penalties hereinafter imposed or levied shall be in addition to any charges, fees, fines or penalties heretofore in effect or which may hereafter be imposed.

Section 2: A surcharge of Fifty Dollars (\$50.00) per month, per billing account, shall be imposed in addition to all other charges heretofore authorized and imposed beginning the month immediately following passage and adoption of this Ordinance by the Town Council of the Town of Huntertown.

Section 3: There shall be a moratorium upon the requirement for payment by any persons for a period of six (6) months from the time of imposition of said surcharge as set forth in Section 2 above. Further, any person who has, pursuant to Section 4 below, consented to the inspection of their respective premises within ninety (90) days of the date of adoption of this Ordinance, shall not be liable for payment until such inspection has been accomplished and the person given the opportunity to bring said premises into compliance within the time frame set out in said Section 4.

Section 4: A person may avoid liability for payment of the surcharge established in Section 2 above upon a showing that he is in compliance with all provisions of Ordinances No. 47 and No. 49, and any amendments thereto, of the Town of Huntertown, Indiana, which showing shall consist of the following procedures and conditions as to each building or appurtenance receiving water service from the water utility :

- (A) Each person shall, as to each such building or appurtenance receiving water from the water utility, execute a "Grant of Permission" to the Town of Huntertown, to come upon the property and within the premises thereon, of such persons to inspect and/or perform inspections and tests as may be deemed necessary by the Town of Huntertown to verify the compliance hereinbefore referred to;
- (B) The Grant of Permission set forth in Section (F) shall be deemed to include periodic inspections and/or tests as may be determined to be necessary by the Town of Huntertown to maintain, insure and monitor compliance with the provisions of said Ordinances;

- (C) The term "Town of Huntertown" as used herein, shall mean and include such employees, or designees of the Town of Huntertown, Indiana, as it shall, from time to time utilize in making the inspections and/or tests heretofore referred to. Such persons shall have on their persons, identification to verify the fact that they in fact represent said Town for said purposes.
- (D) The inspections shall be made upon reasonable notice of at least forty-eight (48) hours. There shall be no fee charged for said inspections.
- (E) If, upon the initial inspection contemplated by Section 4(A) above to verify compliance, a person is in fact found to be not in compliance, said person shall be given thirty (30) days from the date of said inspection to so comply.
- (F) Upon sale or transfer of ownership of the real property to which this Ordinance applies, when establishing a new sanitary sewer account, the owner shall execute a consent for inspection, or be subject to the surcharges herein imposed.

Section 5: In the event, a person is found to be in compliance as heretofore set forth and, upon subsequent inspection is found not to be in compliance, said person shall be liable for payment of an amount equal to the sum of the months since adoption of this Ordinance, multiplied by the monthly surcharge in effect during such periods as the case may be; provided that, such liability shall be reduced to fifty per cent (50%) of said amount if said person complies within a period of ten (10) days after notice by the Town of Huntertown of his non-compliance. In the event a person is found to be in a state of non-compliance a second or subsequent time, then said person shall be liable for a sum equal to Five Hundred Dollars (\$500.00) plus an amount equal to the number of months since adoption of this Ordinance, or since the date of the last inspection in which the person was found to be in compliance, as the case may be, multiplied by the monthly surcharge in effect during such period.

Section 6: The Town Council has determined that the measures heretofore set out are a reasonable means of insuring compliance with and are further necessary to protect and insure the health, safety and welfare of the citizens of the Town of Huntertown, Indiana, and surrounding areas.

Section 7: The provisions of this Ordinance shall be severable and should any Section or part thereof be deemed invalid or unenforceable, by a Court of competent jurisdiction, such section, clause, sentence or provision shall be deemed stricken and said invalidity or unenforceability shall not affect the validity or enforceability of any other part or parts of this ordinance which can be given effect without such part or parts as may be so deemed invalid or unenforceable.

Section 8: The Town Council hereby declares that an emergency exists requiring the immediate effect of this Ordinance, which shall be in full force and effect from and after the date of its passage by the Town Council. The Clerk-Treasurer is directed to post this Ordinance in accordance of Indiana Code §36-5-2-10(b).

Adopted by the Town Council of the Town of Hometown, Indiana, on this 20 day of JUNE, 2011.

HUNTERTOWN TOWN COUNCIL

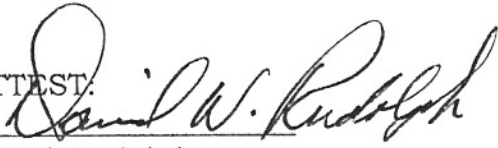
By: _____
Jim Fortman, President

By: _____
Michael Aker, Council Member

By: _____
Patricia Freck, Council Member

By: _____
Susan Gongwer, Council Member

By: _____
Gary Grant, Council Member

ATTEST: 

David Rudolph
Clerk-Treasurer