

RECORD OF ORDINANCES

Davton Legal Blank, Inc.

Form No. 30943

Ordinance No. 19-08

Passed November 14 2008

AN ORDINANCE CREATING A WATER AVAILABILITY CHARGE FOR THE VILLAGE OF LITHOPOLIS.

WHEREAS, the Village has the ability to set water rates and charges, and

WHEREAS, Village Council has an obligation to ensure that there is sufficient revenue collected to make debt service payments in the Water Enterprise Fund, and

WHEREAS, Village Council desires to set the rate of a Water Availability Charge and establish how and when it will be collected:

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LITHOPOLIS, FAIRFIELD COUNTY, STATE OF OHIO:

Section 1. Village Council adopts the rules and regulations that shall be known as the Water Availability Charge (Attachment A).

Section 2. Where there is a conflict between this ordinance and any other Village ordinance, this ordinance shall be controlling.

Section 3. This ordinance shall be in effect at the soonest date provided by law.

Date Passed:

Attest: Jacinta Scraggover
Clerk

Signed: [Signature]
Mayor

Date: November

Date: 11/14/08

Approved as to Form:

Jon M. Browning
Village Solicitor

Water Availability Charge

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Section 1 Purpose and objective.

Council finds that advice the village received, from its' contract engineers **RD Zande and Associates**, with regards to construction and financing of a new water plant and tower in 2002 was faulty. The financial projections that Zande provided were unsustainable for our area and there was no room for a reduction in new home construction. Council depended upon this information in securing the OWDA Loan and with the near total collapse of the new home market, the village is now unable to make the substantial debt service payments required by the 2003 contract with OWDA.

Further Council finds, determines and declares that the water production and distribution system, which provides for the production, treatment, storage, and distribution of drinking water, provides benefits and services to all property within the Village limits. Such benefits include, but are not limited to: the provision of adequate systems of distribution, conveyance, storage, treatment and production of fresh and safe drinking water; the reduction of hazards to property and life resulting from untested or untreated wells; and improvements in general health and welfare through reduction of potentially unsanitary conditions in private wells. It is the responsibility of Council to provide adequate resources to the Water Enterprise Fund to achieve these objectives.

Section 2 Creation of a Water Availability Charge.

The function of the Water Availability Charge is to provide for the safe and efficient productions and distribution of drinking water. This includes debt service, design, planning, regulation, education, coordination, construction, operations, maintenance, inspection and enforcement activities.

It is the express intent of the Water Availability Charge to generate sufficient resources to allow the Village to meet its financial obligations, both for operational expenses and debt service and allocate the cost of providing water service to each user in such a manner that the allocated costs are proportionate to the cost of providing water service to that user, insofar as those costs can reasonably be determined.

Section 3 Definitions.

Whenever used in this section and in subsequent Rules and Regulations the meaning of the following words and terms shall be defined in this section:

3.1 "Adjustment" means a modification in a customer's water availability charge for certain activities that impact water use or impacts the Village's costs of providing water availability to a particular parcel.

3.2 "Developed Agricultural Property" is defined as a lot or parcel of real estate which may contain 1 or greater dwelling units and/or other building structures but does not include undeveloped properties.

3.3 "Approved plans" shall mean plans approved according to a permits and plan review which will govern all improvements made within the Village that require water service or changes or alterations to existing water service.

3.4 "Code" means the Lithopolis Municipal Code, its' Ordinances and Resolutions.

3.5 "Administrator" means the Village Administrator.

3.6 "Facilities" means various waterworks that may include pipes, valves, curb boxes, meters, ERTs, storage areas, and other structural components.

3.7 "Private water facilities" are defined as private wells.

Section 4 Water Availability Charge

All charges and all sources of revenue generated by or on behalf of the Water Utility shall be deposited in the Water Enterprise Fund and used exclusively for the Water Enterprise Fund expenses.

Section 5 In-Village Rate Structure and Charges and Fees

The Water Availability Charge shall be assessed to each and every platted and separately addressed or numbered parcel of land within corporate limits of the Village. This charge is not related to the use of water service and does not rely on occupancy of the premises to be in effect and is hereinbefore provided, and in the amount of \$25.00.

Section 6 Out-of-Village Rate Structure and Charges and Fees

The Water Availability Charge shall be assessed to each and every water user located outside the municipal limits of the Village of Lithopolis. This charge is not related to the use of water service and does not rely on occupancy of the premises to be in effect and is hereinbefore provided, and in the amount of \$25.00.

Section 7 Water Availability Only Accounts

Water Availability Charge only accounts are properties that do not contain water service and may not contain any structures but have water service available to the property. New and additional Water Availability Charge only accounts will be determined by the Village Administrator.

Section 8 Revocation of Charges

At such time that regular water use rent collections increase and/or collections for new water capacity fees increase to a sufficient level to meet Operation and Maintenance and Debt Service expenses the village shall, upon action by Council, suspend or reduce collection of the Water Availability Charge for each quarter that sufficient funds, as certified by the Village Fiscal Officer, are collected. Such notice of suspension shall be printed upon each Utility Bill sent to property owners or users.

Section 9 Powers of the Village Administrator

The Water Availability Charge levied pursuant to this ordinance shall be collected by the Lithopolis Public Works Department. Notwithstanding other provisions of the Lithopolis Village Code, the Village Administrator or his/her Designee shall make and enforce such rules and regulations as deemed necessary for the safe, economical, and efficient management and protection of the Village's Water system.

Section 10 Right to appeal

A property owner may appeal the Water Availability Charge based upon one of the following conditions;

1. An individual parcel is considered non-buildable at this time.
2. An individual dwelling unit is serviced by a private water facility and is not within 300 feet of a Lithopolis water main.
3. An individual parcel is part of a larger developed area and does not currently have, or will not in the future have, independent water service from the parcel that currently has water service and is assessed the Water Availability Charge.
4. There is no structure on the parcel and the owner affirms and agrees that no water service shall be needed at the parcel during the term of OWDA Loan 3920 or until December 31, 2033. If at some future time the parcel owner decides water service is required, the owner shall pay all back charges from the date of this ordinance to the date that water service becomes available. No Zoning Permit shall be issued until such payment is made in full.
5. A property owner that has a Median Home Income (MHI) that is less than 51% of the MHI for the Village of Lithopolis, as determined by the 2000 US Census may appeal to have their Water Availability Charge reduced to \$12.50 (50% of full Water Availability Charge). Documentation of MHI shall be a Village of Lithopolis Income Tax Return or State of Ohio Income Tax Return. This wavier condition must be renewed annually within a 30 days of the Federal Income Tax filing date or the full charge will be assessed for the remainder of the calendar year.

Filing an appeal with the Village Administrator for adjustment

thereof, stating in writing the grounds for the appeal. The Village Administrator shall consider the appeal and determine whether an adjustment is necessary, and make any adjustment that is appropriate.

Section 11 Collection

Each Water Availability Charge rendered under or pursuant to this ordinance is hereby made a lien upon the corresponding lot, parcel of land, building or premises that have the availability directly or indirectly to access the Water system of the Village, and, if the same is not paid within ninety days after it shall be due and payable, it may be certified to the Auditor of the county in which the property is located, who shall place the same on the tax duplicate of said County with the interest and penalties allowed by law and be collected as other taxes are collected. In addition the Village may use all other means as provided by law, including but not limited to terminating water service to collect such charge.

Section 12 Payment of Charges

Water Availability Charges shall be assessed monthly and with the Water and Sewer Utilities. If water service is terminated due to delinquent payment of charges, service shall not be restored until all delinquent service charges are paid in full. The funds received from the collection of the Water Availability Charge as defined in Section 5 shall be deposited in the Water Enterprise fund.

Section 13 Falsifying Information

No person shall knowingly make any false statement, representation, record, report, plan, or other document and file such with the Division of water and wastewater.

Section 14 SEVERABILITY CLAUSE

If any of the provisions of this ordinance are for any reason illegal or void, then the lawful provisions of this ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

Section 15 REPEALER

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 16 EFFECTIVE DATE.

This ordinance shall be effective at the earliest time permitted by law.

Adopted this 11 day of November, 2008.