

WATER SYSTEMS ORDINANCE

TOWNSHIP OF MANCELONA

COUNTY OF ANTRIM, STATE OF MICHIGAN

ORDINANCE NUMBER 5

Adopted: February 16, 1998

Effective: April 3, 1998

WATER SYSTEMS ORDINANCE

An Ordinance to preserve the peace, general welfare, order, health, and safety of persons and property in the Township by providing for the operation of all public water systems within the Township of Mancelona on a public utility basis, including, but not limited to, Antrim County Water System No. 2, and Valley Road Water System, enacted pursuant, but not limited to, Michigan Public Act No. 94, of 1933, as amended; and, Act 246 of 1945, as amended; to prescribe rates, procedures, penalties, and other matters relative to said water system, and to repeal all ordinances or parts of ordinances in conflict with this Ordinance.

TOWNSHIP OF MANCELONA

Antrim County, Michigan

ORDAINS:

SECTION I

TITLE

This ordinance shall be known as the Mancelona Township Water Systems Ordinance.

SECTION II

PURPOSE

The purpose of this Ordinance is to carry out the provisions of the State Revenue Bond Act of 1933 (1933 PA 94), as amended; to establish procedures

and all other matters for the adequate operation of the water system; to provide for the imposition, collection and enforcement of charges and fees for connection thereto and services therefrom; to provide for the funding of expenses of administration, operation, maintenance and repairs, and additions thereto; to maintain orderly development of the community; to prescribe penalties for the violation of the Ordinance, and otherwise provide for the health, safety, and welfare of the residents and property owners of the municipality by establishing for the reasonable operation of all public water systems within the Township.

SECTION III

DEFINITIONS

For purposes of this Ordinance, certain terms and words as used herein shall have the following meaning:

A. Residential service - services provided to a single-family dwelling, house, apartment, unit, or individual condominium. In multi-family dwellings, each apartment, unit, or individual condominium located within a single building will each be considered to be a separate residential service customer.

B. Commercial service - services provided to parcels of property not used for residential purposes and where any type of business is conducted or income is produced by use of the parcel of property. Commercial service does not include multi-family dwellings or businesses operated at a residence.

C. Mancelona Township Water Department - the Mancelona Township Supervisor and Clerk, together with any other person(s) designated by the Mancelona Township Board.

D. Parcel - a contiguous area or acreage of land which has a single tax identification number on the Mancelona Township tax rolls.

E. Parcel adjacent to an existing water system - a parcel located within the Township of Mancelona whose proximity to an existing water system

is such that it will not create unusual or extraordinary expense in the connection to the water system.

F. Township - the Township of Mancelona, Antrim County, Michigan.

G. Water system - all water mains, water supply facilities and their appurtenances which the township has or shall have possession of and operating responsibility for (whether owned by the Township or not), either in existence in the Township or hereafter acquired or constructed in the Township.

SECTION IV

PRIOR APPROVAL REQUIREMENT FOR CONNECTION

TO THE WATER SYSTEM

AND UNLAWFUL ACTIVITIES

A. Connection to the water system, directly or indirectly, and the use of water therefrom for any purposes(s) shall be done in compliance with all of the following: statutes and regulations of the State of Michigan, including the Michigan Department of Health; ordinances, rules, and regulations of the County of Antrim, including the Antrim County Health Department; rules, regulations, specifications, and ordinances of the Township of Mancelona applicable thereto, as amended. It shall be unlawful for anyone other than the person(s) designated by the Mancelona Township Supervisor and/or the Mancelona Township Water Department to connect any parcel, building, or structure to the water system, either directly, or indirectly through another existing connection. Any owner of a parcel adjacent to an existing water system who desires to have that parcel connected to the water system must apply to the Mancelona Township Water Department for approval of the proposed connection. Upon approval of the connection and the satisfaction of all of the requirements of this Ordinance, only the Mancelona Township Water Department, through its authorized personnel, shall make any and all connections to the water system. All materials installed, including, but not limited to, the water meter(s), shall remain the property of Mancelona Township.

B. The Mancelona Township Water Department shall approve the application for connection to the water systems provided that the requirements of this Ordinance have been satisfied, that the proposed connection is for a parcel adjacent to an existing system, and that the proposed use will not overburden the capacity of the existing water system.

C. Each building or structure located on a parcel shall have a separate water connection, unless otherwise approved by the Mancelona Township Water Department. If the parcel being connected does not have a meter pit already installed, the owner of the parcel shall pay, prior to any such connection, a minimum connection fee of \$ 500.00, or ninety (90 %) percent of the estimated actual cost of labor and materials for each connection, whichever is greater. Upon completion of each connection the owner of the parcel shall be billed for the said costs of the connection which exceed the amount already paid. Any such amount shall be billed immediately after the connection is completed and is due and payable within ten (10) days of the date the bill is sent. Any such bill not paid in full on or before the due date shall be subject to a ten (10 %) percent service charge, and payment shall be collected and/or a lien enforced in the same manner as set forth in this Ordinance for delinquent water bills. Water service will not be turned on until all such costs, fees, and charges are paid in full.

D. In the event that a meter pit has already been installed for the parcel, the owner of the parcel shall pay, prior to any connection, a minimum connection fee of \$ 100.00. In the event that a meter pit has already been installed for a parcel which connects to the Valley Road Water System, the minimum connection fee shall be reduced by the amount of the cost of the water meter as required pursuant to the mandate of the grant applicable to said water system.

E. It shall be the responsibility of the owner of the parcel to have in place, prior to any connection to the water system, a water supply line of sufficient diameter pipe to a location approved by the Mancelona Township Water Department. The Mancelona Township Water Department shall have sole discretion as to the sufficiency of size or adequacy of the water supply line and

the location of the connection to the water system, and may refuse to connect any parcel which does not meet its requirements.

F. It shall be unlawful for anyone other than person(s) designated by the Mancelona Township Supervisor and/or the Mancelona Township Water Department to disconnect, discontinue, or shut off water service at any location except in an emergency. In the event of any such emergency, the Mancelona Township Water Department must be notified immediately.

G. The Mancelona Township Supervisor, the Mancelona Township Water Department, and/or its designees, shall have the right to enter, at any reasonable time, any parcel or premises, structure, or building located thereon, which is connected to the water system, for the purpose of inspecting the water piping system to insure compliance with this Ordinance. In addition, upon request, the owner or occupant shall provide any pertinent information regarding the water piping system.

H. Mancelona Township hereby adopts by reference the water supply cross connection rules of the Michigan Department of Public Health, being R325.11401 to R325.11407, as amended, of the Michigan Administrative Code. All connections must be in compliance with said rules in addition to the requirements of this Ordinance.

I. Any potable water supply made available on any parcel served by the water system shall be protected from possible contamination as specified by the provisions of this Ordinance and by any and all State of Michigan and Antrim County plumbing, building, and health codes, rules, regulations, statutes, or ordinances. Any water outlet which does not meet any such provision or requirement must be labeled in a conspicuous manner as: "Water Unsafe for Drinking".

J. The Mancelona Township Supervisor, the Mancelona Township Water Department and/or its designees are hereby authorized and directed to discontinue water service to any parcel wherein any connection in violation of this Ordinance exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the water system. Water service shall

not be reestablished until the violation has been eliminated in compliance with the provisions of this Ordinance.

SECTION V

RATES, BILLING, AND PAYMENT FOR SERVICES

A. Each residential and commercial service customer shall pay a minimum system charge of \$ 20.00 per month.

B. In addition to the minimum system charge set forth in above, each residential service customer shall pay a water usage charge of \$ 1.25 for each 1,000 gallons of water used in excess of 10,000 gallons per quarter.

C. Residential service customer water bills will be sent on a quarterly basis on January 1, April 1, July 1, and October 1, and are due and payable within thirty (30) days of the date the water bill is sent. Payment received after the 30-day period will be subject to a service charge of ten (10 %) percent of the amount of each outstanding bill.

D. In addition to the minimum system charge as set forth above, each commercial service customer shall pay a water usage rate of \$ 2.00 per 1,000 gallons of water used in excess of 10,000 gallons per month.

E. Commercial service customer water bills will be sent on a monthly basis on the first of the following month, and are due and payable within fifteen (15) days of the date the water bill is sent. Payment received after the 15-day period will be subject to a service charge of ten (10%) percent of the amount of each outstanding bill.

F. A water bill will be sent for each residential or commercial water service customer, and will be sent to the record owner(s) of the real property or parcel receiving water system service(s). The owner of any such real property shall be personally liable for all amounts billed regardless of who is in possession of the real property or parcel receiving water system service(s). Any unpaid water bills shall be a lien on the parcel served.

G. A water service customer's account, residential or commercial, will be considered delinquent if all charges, fees, and penalties are not paid in full

before the beginning of the next billing period. The Township shall have the right to discontinue water service to any customer whose account is delinquent. In addition, the Township may remove the meter from the parcel, and, if it is removed, a minimum reconnection fee of \$ 100.00 shall be paid prior to the reinstallation of the meter. In the event that the Township elects not to discontinue the water service, all charges, fees, and penalties set forth herein shall continue to accrue and shall be due and payable and collected as set forth in this Ordinance. In the event that the water service is discontinued, all charges, fees, and penalties, together with a \$ 20.00 charge to turn the water on, must be paid in full prior to reestablishment of water service. In addition, the Township may take any action permitted by law and/or as set forth herein.

H. Delinquent water bills or accounts shall become a lien on the real property or parcel to which the water service was rendered, and any such delinquent water bill(s) which remain delinquent for six (6) months or more shall be certified annually to the proper tax assessing officer who shall enter the lien on the next tax roll against the real property or parcel to which the services have been rendered. The water bill shall be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon the roll and the enforcement of the lien for the taxes.

I. In the event that a water meter shall fail to properly register the amount of water used in a billing period, the Mancelona Township Water Department may elect to use, as an approximation of actual water used, the amount of water used in a prior billing period.

J. In the event that the owner of a parcel wants to have existing water service discontinued, the Mancelona Township Water Department must be notified in writing ten (10) days before the expiration of the billing period. The discontinuance of water service will then be effective for the next billing period. Upon the effective date that the water service is discontinued, the owner shall pay the minimum system charge, unless the meter is removed as set forth below. Said amounts shall be billed and collected as set forth in this Section V. Any past due

amounts, together with a \$ 20.00 charge to turn the water on, must be paid in full prior to the reestablishment of water service.

K. In the event that the owner of a parcel wants to have existing water service disconnected, and the water meter removed, the Mancelona Township Water Department must be notified in writing ten (10) days before the expiration of the billing period. The disconnection and removal of the meter will then be effective for the next billing period. Upon the effective date that the water service is disconnected, no further charges or fees will be billed. All past due amounts, together with a reconnection fee of \$ 100.00, must be paid in full prior to the reestablishment of water service.

L. At any time hereafter, all water rates, fees, charges, and penalties set forth in this Ordinance may be adjusted by Township Board resolution.

SECTION VI

FUNDING FOR OPERATION AND OPERATING YEAR

A. The Township of Mancelona shall establish a separate operation and maintenance fund into which all revenues collected by the operation of the water system as set forth herein shall be deposited. In addition, any other funds allocated or budgeted for the operation of the water system shall be deposited into this account. All funds in this account shall be designated for, and shall be sufficient to pay, all current expenses of administration, operation, and maintenance to preserve the water system in good repair and working order for the next succeeding billing period.

B. In the event that the operation and maintenance fund account shall not be of a sufficient amount, the Mancelona Township Board may appropriate and use any part of its available income or revenue derived from any source to pay the administration, expenses of operation and maintenance of the water system, but nothing in this Ordinance shall be construed to require the Mancelona Township Board to do so.

C. In the event that the operation and maintenance fund has money in it at the end of the operating year in excess of what is sufficient to satisfy the requirements set forth in this Ordinance, such excess shall be deemed to be surplus, and may be used by Mancelona Township for any purpose which the Mancelona Township Board determines to be in the best interests of Mancelona Township.

D. The operating year for the Mancelona Township water system shall run from January first to December thirty-first.

SECTION VII

PENALTY

Any person who violates any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor. Each violation of this Ordinance shall constitute a separate misdemeanor. Any person who is convicted of such a misdemeanor shall be punished by a fine of not more than \$ 500.00, or by imprisonment in the county jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment in the discretion of the judge imposing sentence, plus costs.

SECTION VIII

ENFORCEMENT

The Township Supervisor is hereby authorized to enforce this ordinance. The Supervisor may delegate the enforcement of this ordinance to the Township Constables, the Antrim County Sheriff's Department, the Michigan State Police, or any other delegatee permitted by law. Prosecutions may be commenced by Appearance Ticket issued by the Township Constables, the Antrim County Sheriff's Department, the Michigan State Police, or by a Complaint and Warrant from the District Court.

SECTION IX
SEPARATE COURT ACTION

Nothing in this Ordinance shall prohibit the Township or any interested party or agency from seeking such other relief as may be permitted by law or in equity regarding the violation of this Ordinance.

SECTION X
VALIDITY

If any section, provision, or clause of this Ordinance, or the application thereof, to any person or circumstance is held to be invalid, such invalidity shall not affect any remaining portions or application of this Ordinance which can be given effect without the invalid portion or application.

SECTION XI
REPEAL

All previous Water Ordinances, and all ordinances, parts of ordinances, resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed upon the effective date of this Ordinance.

SECTION XII
EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days following its publication in the Antrim County News after adoption.

Dated: 4-3-98


MARGARET CHAPMAN, Clerk
Mancelona Township

MANCELONA TOWNSHIP

ORDINANCE CERTIFICATION

At a regular meeting of the Township Board, Township of Mancelona, Antrim County, Michigan, held in the Mancelona Township Hall, located at 202 W. State St., Mancelona, Antrim County, Michigan, on February 16, 1998, at 7:00 p.m.:

PRESENT: Sue Robinson, Ray Merillat, Yousef Jabara, Gerald Patrick and Margaret Chapman

ABSENT: none

Ordinance No. 5, the WATER SYSTEMS ORDINANCE was considered by the Board and upon motion made and seconded, the Township Board duly adopted said Ordinance upon the following vote:

YES: Sue Robinson, Ray Merillat, Yousef Jabara, Gerald Patrick and Margaret Chapman

NO: none

I, Margaret Chapman, as Mancelona Township Clerk, hereby certify that said Ordinance was adopted by the Mancelona Township Board at said meeting as set forth above; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act; that a synopsis of said Ordinance was published in the Antrim County News on *March 4*, 1998, and that a true and complete copy of said Ordinance can be inspected or obtained at the office of the Mancelona Township Clerk in the Mancelona Township Hall.


MARGARET CHAPMAN, Clerk
Mancelona Township

TOWNSHIP OF MANCELONA

RESOLUTION TRANSFERRING FUNDS IN WATER ACCOUNT
AND CLOSING ACCOUNT

At a regular meeting of the Township Board, Township of Mancelona, Antrim County, Michigan, on May 20, 2002, at 7:00 p.m., the following members were:

Present: Daniel Bean Charles Johnson, Maurice McGleish, Cathy S. Robinson

Absent:

WHEREAS, the Board of Mancelona Township, Antrim County, Michigan, in exercising its responsibilities has entered into an agreement with the Mancelona Area Water and Sewer Authority for said authority to assume all fiscal responsibility for the operation of the public water system within the Township, and pursuant thereto agrees to transfer to said Authority all funds in the account designated by the Township to contain all funds regarding said water system, and now:

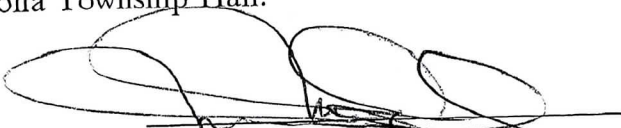
THEREFORE BE IT RESOLVED, that all funds currently in the account designated by the Township to contain the funds resulting from the operation of the public water system within the Township shall be transferred to the Mancelona Area Water and Sewer Authority, and then said account shall be closed.

THE MANCELONA TOWNSHIP RESOLUTION TRANSFERRING FUNDS IN WATER ACCOUNT AND CLOSING ACCOUNT was considered by the Board and upon motion duly made and seconded, and upon a roll-call vote, the Township Board duly adopted said Resolution upon the following roll-call vote:

Yes: Daniel Bean, Charles Johnson, Maurice McGleish, Cathy S. Robinson

No:

I, Maurice McGleish, as Mancelona Township Clerk, hereby certify that said Resolution was adopted by the Mancelona Township Board at said meeting as set forth above; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act; and that a true and complete copy of said Resolution can be inspected or obtained at the office of the Mancelona Township Clerk in the Mancelona Township Hall.


Maurice McGleish
Mancelona Township Clerk

TOWNSHIP OF MANCELONA
WATER AND/OR SEWER SERVICE FRANCHISE ORDINANCE
Ordinance No. 5A of 2002

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO USE LOCAL PUBLIC WAYS AND TRANSACT A PUBLIC WATER AND/OR SEWER SERVICE BUSINESS IN THE TOWNSHIP.

THE TOWNSHIP OF MANCELONA ORDAINS:

SECTION 1. Grant of Non-Exclusive Right

- A. Term. Township of Mancelona (Grantor) grants to the Mancelona Area Water/Sewer Authority, (Grantee) and its successors and assigns subject to the terms and conditions set forth below, the non-exclusive right, power and authority to use, lay, and maintain water lines, pumps, and associated equipment (hereinafter "Water System") and the non-exclusive right, power and authority to use, lay, and maintain pipes, pump stations, lift stations and associated equipment (hereinafter "Sewer System") which are owned either by Grantee or another public water and/or sewer company that has a valid franchise from Grantor and which exists along, across and under the highways, streets, alleys and bridges of the Grantor (hereinafter "Public Ways") and to conduct a local public water and/or sewer service business within the boundaries of Grantor, for a period of five (5) years.
- B. Expansion of System. After first obtaining approval from Grantor of the route and placement of the Water System and/or Sewer System components, which approval shall not be unreasonably withheld, Grantee may expand its use of the Public Ways by constructing and maintaining its own water lines, pumps, and associated equipment and by constructing and maintaining its own pipes, pump stations, lift stations and associated equipment. Any expansion of the Water System and/or Sewer System by the Grantee as approved by the Grantor shall be subject to all terms and conditions of this Ordinance.
- C. Location in Public Ways. To the maximum extent possible, Grantee shall place its Water System and/or Sewer System along, across and under the Public Ways in such a manner so as not to unreasonable interfere with the use of those Public Ways by other authorized utilities.
- D. Lease. Grantee shall not lease or sublease any portion of its Water System and/or Sewer System within the Grantor to a person who by law is required to obtain the Grantor's permission or consent to transaction of business in the Township and who lacks such permission or consent.

SECTION 2. Consideration: Costs: Right-of-Way Fees.

- A. In consideration of the rights, power and authority granted by the Grantor, Grantee shall faithfully perform all duties required by the terms of this Ordinance.
- B. In further consideration of the rights, power and authority granted by the Grantor, Grantee agrees to compensate the Grantor: (a) for the amount of its actual expenses incurred by the Grantor in the drafting and preparation of this Ordinance, including reasonable actual attorney fees, and (b) for the amount of its actual expenses resulting from the process of adopting this ordinance. Grantee's total obligation to compensate the Township for its actual expenses under this paragraph B shall not exceed \$1,000.00. This franchise shall not become effective until all fees and costs have been paid to Grantor.
- C. Grantee agrees to abide by any future ordinance(s) of the Grantor, if and when formally adopted, which may require the payment by Grantee of a fee, charge or other payment on a periodic basis (such as monthly, quarterly, annually), provided that any such future ordinance(s) apply equally to all Water System and/or Sewer System franchise holders, including Grantee. The Grantor shall notify Grantee within sixty (60) days of the formal adoption of such an ordinance by the Grantor, at which time the franchise granted by this Ordinance shall be automatically revoked. Any new franchise granted by the Grantor to Grantee shall be subject to the provisions of such future ordinances, and shall require payment of a similar fee or periodic charge as a condition of the new franchise.

SECTION 3. Use of Public Rights-of-Way by Grantee.

- A. No Burden on Public Ways. Grantee and its contractors, subcontractors and the Grantee's Water System and/or Sewer System shall not unduly burden or interfere with the present or future use of any of the Public Ways within the Township. Grantee shall construct and maintain its Water System and/or Sewer System so as to cause minimum interference with the use of the Public Ways and with the rights or reasonable convenience of property owners. No Public Way shall be obstructed longer than necessary during the work of construction or repair to the Water System and/or Sewer System. Grantee's water lines, pumps, and associated equipment shall be buried so as to not endanger or injure persons or property in the Public Ways. If the Grantor in its reasonable judgment determines that any portion of the Water System and/or Sewer System constitutes an undue burden or interference, Grantee at its expense shall modify its Water System and/or Sewer System or take such other actions as the Grantor may determine is in the public interest to remove or alleviate the burden, and the Grantee shall do so within the time period established by the Grantor.
- B. Restoration of Public Ways. Grantee and its contractors and subcontractors shall immediately restore, at Grantee's sole cost and expense and in a manner approved by the Grantor, any portion of the Public Ways that is in any way disturbed, damaged, or injured by the construction, operation, maintenance or

removal of the Water System and/or Sewer System to as good or better condition than that which existed prior to the disturbance. In the event that Grantee, its contractor or subcontractors fail to make such repair within the time specified by the Grantor, the Grantor shall be entitled to complete the repair and Grantee shall pay the costs of the Grantor for such repair.

- C. Easements. Any easements over or under private property necessary for the construction or operation of the Water System and/or Sewer System shall be arranged and paid for by Grantee. Any use or intrusion on private property without an easement or other instrument evidencing permission of the property owner shall constitute a trespass by Grantee and a violation of this Ordinance. Any easements over or under property owned by the Grantor other than the Public Ways shall be separately negotiated with the Grantor.
- D. Marking. Grantee shall as requested by the Township mark its Water System and/or Sewer System with stakes or other appropriate aboveground markers with Grantee's name and a toll-free number and indicating that there is buried water and/or sewer lines below.
- E. Compliance with Laws. Grantee shall comply with all laws, statutes, ordinances, rules and regulations regarding the installation, construction, ownership or use of its Water System and/or Sewer System whether federal, state or local, now in force or which hereafter may be promulgated. Before any installation is commenced, Grantee shall secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the Grantor or other governmental entity as may be required by law, including, without limitation, all utility and highway permits. Grantee shall comply in all respects with applicable codes and industry standards. Grantee shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended.
- F. Street Vacation. If the Grantor vacates or consents to the vacation of a street or alley within its jurisdiction, and such vacation necessitates the removal and relocation of Grantee's facilities in the vacated Public Way, Grantee agrees, as a condition of this Ordinance, to consent to the vacation and to move its facilities at its sole cost and expense when asked to do so by the Grantor or a court of competent jurisdiction. Grantee shall relocate its facilities to such alternative route as the Grantor, acting reasonably and in good faith, shall designate.
- G. Relocation. If the Grantor requests Grantee to relocate, protect, support, disconnect, or remove its facilities because of street or utility work, Grantee shall relocate, protect, support, disconnect, or remove its facilities, at its sole expense, to such alternate route as Grantor, acting reasonably and in good faith, shall designate.

- H. Public Emergency. The Grantor shall have the right to sever, disrupt, dig up or otherwise destroy facilities of Grantee, without any prior notice, if such action is deemed necessary because of a public emergency. Public emergency shall be any condition which, in the opinion of any of the Township elected officials, poses an immediate threat to the lives or property of the citizens of the Grantor, caused by any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, major water main breaks, hazardous material spills, etc. Grantee shall be responsible for repair at its sole expense of any of its facilities damaged pursuant to any such action taken by the Grantor.
- I. Miss Dig. If eligible to join, Grantee shall subscribe to and be a member of "MISS DIG", the association of utilities formed pursuant to Act 53 of the Public Acts of 1974, as amended, MCLA 460.701. et seq., and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.
- J. Employee Identification. All personnel of Grantee or its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing their name and photograph. Grantee shall account for all identification cards at all times. Every service vehicle of Grantee, its contractors or subcontractors shall be clearly identified as such to the public.

SECTION 4. No Grantor Liability; Indemnification.

- A. Grantor Not Liable. The Grantor, and its agents, employees, and contractors, shall not be liable to Grantee or Grantee's customers for any interference with or disruption in the operation of Grantee's Water System and/or Sewer System, or the provision of service through the Water System and/or Sewer System, or for any damages arising out of Grantee's use of the Public Ways.
- B. Indemnification. As part of the consideration for of this Ordinance, Grantee shall defend, indemnify, protect and hold harmless Grantor, its officers, agents, employees, departments, boards, and commissions from any and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, and reasonable expenses of any nature (including, without limitation, actual fees and expenses of attorneys, expert witnesses and consultants), arising out of or resulting from the acts or omissions of Grantee, its officers, agents, employees, contractors, successors, or assigns, but only to the extent of the fault of the Grantee, its officers, agents, employees, contractors, successors, or assigns.
- C. Assumption of Risk. Grantee undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any Grantor-owned or controlled property, including Public Ways, and Grantee hereby agrees to indemnify and hold harmless the Grantor

against and from any claim asserted or liability imposed upon the Grantor for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the Water System and/or Sewer System or Grantee's failure to comply with any federal, state or local statute, ordinance or regulation.

- D. Notice, Cooperation and Expenses. The Grantor shall give Grantee prompt notice of the making of any claim or the commencement of any actions suit or other proceeding covered by the provisions of this Section. Nothing herein shall be deemed to prevent the Grantor from cooperating with Grantee and participating in the defense of any litigation by Grantor's own counsel. Grantee shall pay all expenses incurred by Grantor in defending itself with regard to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the reasonable value of any services rendered by or on behalf of the Grantor's attorney, and the actual expenses of Grantor's agents, employees or expert witnesses, and disbursements and liability assumed by Grantor in connection with such suits, actions or proceedings.

SECTION 5. Insurance.

Grantee shall, at the time of ownership or construction of the Water System and/or Sewer System or any extension thereof, obtain and maintain in full force and effect, for the entire effective period of this Ordinance, the following insurance covering all insurable risks associated with its ownership and use of its Water System and/or Sewer System:

- A. A comprehensive general liability insurance policy, including Completed Operations Liability, Independent Contractors Liability, Contractual Liability coverage and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage, in an amount not less than Five Million Dollars (\$5,000,000.00).
- B. An Automobile Liability Insurance Policy to cover any vehicles used in connection with its activities under this Ordinance, in an amount not less than Two Million Dollars (\$2,000,000.00).
- C. Workers' Compensation and Employer's Liability Insurance with statutory limits.

The Grantor shall be named as an additional insured in all applicable policies. All insurance policies shall provide that they shall not be canceled or modified unless thirty (30) days prior written notice is given to the Grantor. Grantee shall provide the Grantor with a certificate of insurance evidencing such coverage as a condition of this Ordinance and shall maintain on file with the Grantor a current certificate. All insurance shall be issued by insurance carriers licensed to do business by the State of Michigan

or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance and surplus line carriers shall be rated A+ or better by A.M. Best Company. Each policy which is to be endorsed to add the Grantor as an additional insured hereunder, shall contain cross-liability wording, as follows:

In the event of a claim being made hereunder by one insured for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is or may be made in the same manner as if separate policies had been issued to each insured hereunder.

If the insurance policies required by this Section are written with deductibles, the deductibles shall be approved in advance by the Grantor. Grantee agrees to indemnify and hold harmless the Grantor from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished by this Ordinance.

Grantee shall require that its contractors and subcontractors working in Public Ways carry, in full force and effect, workers' compensation, comprehensive public liability and automobile liability insurance coverages of the type which Grantee is required to obtain under the terms of this Section with appropriate limits of insurance.

SECTION 6. Franchise Not Exclusive

The rights, power and authority granted herein are not exclusive.

SECTION 7. Rates

Grantee shall be entitled to charge the inhabitants of the Grantor for water and/or sewer services furnished at the rates reasonably necessary to pay all operation and maintenance expenses, including debt retirement. Such rates shall be subject to review upon request of the Grantor.

SECTION 8. Revocation

The franchise granted by this Ordinance is subject to revocation or termination at the will of either party upon sixty (60) days' written notice to the other party.

SECTION 9. Jurisdiction

Grantee shall be and remain subject to all Ordinances, rules and regulations of the Grantor now in effect or which might subsequently be adopted for the regulation of land uses or for the protection of the health, safety and general welfare of the public; provided, however, that nothing herein shall be construed as a waiver by Grantee of

any of its existing or future rights under Michigan or federal law or a limitation upon the existing or future powers of the Grantor pursuant to Michigan or federal laws.

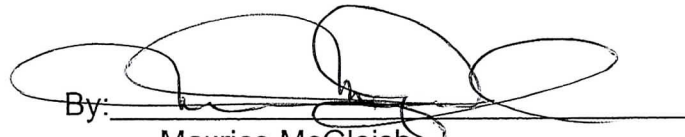
SECTION 10. Effective Date.

This Ordinance shall take effect sixty (60) days after adoption by the township board and shall continue in effect for a period of five (5) years thereafter, subject to revocation as provided by this Ordinance at any time during said five (5) year period; provided, however, it shall cease and be of no effect unless and until within fifteen (15) days after adoption the Grantee shall file its written acceptance of the same with the township clerk, and pay to the Grantor the sum required by Section 2(B) hereof.

TOWNSHIP OF MANCELONA

By: 
Charles Johnson

Its: Supervisor

By: 
Maurice McGleish

Its: Clerk