



CITY of NOVI CITY COUNCIL

Agenda Item 1
April 19, 2010

SUBJECT: Consideration to adopt Ordinance Amendment No.10-37.35, an ordinance to amend the City of Novi Code of Ordinances, Chapter 34 "Utilities", Article II "Water Systems", Division 1, to revise Section 34-21 and add Sections 34-26 through 34-33 to establish requirements relating to water meter location, accessibility, damage, testing, and reading. **First Reading**

SUBMITTING DEPARTMENT: Department of Public Services - Water and Sewer Division

CITY MANAGER APPROVAL: *DOM*

RH

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BACKGROUND INFORMATION:

The ability to access water meters to perform critical functions (such as taking readings, shutting meters off, and addressing inoperable meters) is imperative for DPS's Water & Sewer Division staff (please refer to Tim Sikma's March 24, 2010 memorandum, attached).

Sections 34-26 through 34-33 are new and provide language that: 1) allows authorized City employees to gain access to meter locations to perform meter-related functions; 2) allows the City to shut-off the water supply after a 30-day notice period if a meter is inaccessible; 3) requires that water meters be located in an accessible location; 4) defines the acceptable range for meter accuracy and a means for dealing with meters that register outside of it; and, 5) spells-out provisions for meter reading and consequent billing. Finally, Section 34-21 provides updated procedures related to discontinuance of water supply.

The ordinance sections have been favorably reviewed by the City Attorney's office (Beth Kudla's April 12, 2010 letter, attached).

RECOMMENDED ACTION: Consideration to adopt Ordinance Amendment No.10-37.35, an ordinance to amend the City of Novi Code of Ordinances, Chapter 34 "Utilities", Article II "Water Systems", Division 1, to revise Section 34-21 and add Sections 34-26 through 34-33 to establish requirements relating to water meter location, accessibility, damage, testing, and reading. **First Reading**

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Crawford				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

MEMORANDUM



TO: ROB HAYES, DIRECTOR OF PUBLIC SERVICES *RHB*
FROM: TIM SIKMA, WATER AND SEWER MANAGER *T*
SUBJECT: WATER METER ORDINANCE RECOMMENDATION
DATE: MARCH 24, 2010

*3/25/10
To: Mayor & City
Council Members*

forth coming.

Please find a copy of the revised ordinance language for water meters. We are recommending this ordinance revision primarily to address meter accessibility. The Water & Sewer Division has had difficulty gaining access to water meters that are not operating properly because of their location. In some situations, the homeowner or business owner may have added plumbing or covered the water meter with a permanent wall or a structure that makes the meter inaccessible. This ordinance revision will allow the Water and Sewer Division to gain access to a meter using water shut-off procedures when a resident has a non-operating meter. The shut-offs would occur during normal business hours and only after giving a 30-day notice to the resident.

In addition to water meter accessibility, the ordinance revisions address meter location requirements and owner responsibility for damage reimbursement. The revision also describes meter accuracy, meter testing, meter reading, and billing adjustment procedures that we are already using in our billing calculations. It is our understanding that Oakland County Water Resources Commission, City of West Bloomfield, and the City of Troy have similar ordinances. We have tailored their ordinance language to best suit the needs of our City.

We plan to have the first reading of this ordinance on the April 5, 2010, City Council agenda and the second reading on April 19, 2010 agenda. Should you have questions regarding this ordinance request, please do not hesitate to contact me.

ARTICLE II. WATER SUPPLY SYSTEM*

DIVISION 1. GENERALLY

(Sec. 34-16. to Sec. 34-25 omitted for purposes of this memorandum)

Sec. 34-26 Water Meters. All premises using water supplied by the City of Novi shall be metered. No person except an authorized City employee shall break or injure the seal or change the location of, alter or interfere in any way with any water meter.

Sec.34-27 Meter Location.

Water meters shall be set in an accessible location and in a manner satisfactory to the water and sewer division. The water meter shall be at all times protected from inclement weather that may cause freezing of the water service and damage to the meter. Where the premises contain no basement or other suitable indoor location, the meter may be installed outside in a meter pit or box, the location of which shall be approved by the water and sewer division. Where it is necessary to set the meter in a pit or box, such pit or box shall be built at the expense of the owner as directed by the water and sewer division.

Sec.34-28. Access to Meter.

The City of Novi, or its authorized agent or officer shall have the right to shut off the supply of water to any premises where an authorized employee is not able to obtain access to the meter. Any authorized City employee shall at all reasonable hours have the right to enter the premises where such meters are installed for the purpose of reading, testing, replacing or inspecting the water meter or meters. No person shall hinder, obstruct or interfere with such employee in the lawful discharge of such employee's duties in relation to the care and maintenance of such water meter.

Sec. 34-29 Reimbursement for damage

The owner of the premises upon which a meter is installed, is hereby made responsible for the same. Any damage which a water meter may sustain resulting from carelessness of the owner, agent or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be caused by frost, hot water or steam backing from a boiler shall be paid by the owner of the property to the City of Novi on presentation of a bill which shall be based on time and materials, and shall be collected as service charges as determined by an authorized employee .

Sec.34-30. Accuracy.

A water meter shall be considered accurate if when tested it registers not to exceed five percent more or five percent less than the actual quantity of water passing through it. If a meter registers in excess of five percent more than the actual quantity of water passing through it, it shall be considered fast to that extent. If a meter registers in excess of five percent less than the actual quantity of water passing through it, it shall be considered slow to that extent.

Sec.34-31. Meter Testing.

A consumer may request, at their expense, that the water meter be tested. The consumer shall provide access for an authorized employee to temporarily remove and replace the meter for testing. The water and sewer division may, at their discretion, replace the water meter regardless of the test results. If the meter is found accurate, the consumer requesting the test will be charged for the meter test in an amount determined by Resolution. If the meter is found defective, it shall be repaired or an accurate meter installed and no charge will be made.

Sec.34-32. Bill adjustment.

If a water meter has been tested at the request of a consumer and shall have been determined to register fast, the City of Novi shall credit the consumer with a sum equal to the percent fast multiplied by the amount of all bills incurred by such consumer, within the three months prior to the test, and if a meter so tested is determined to register slow, the City may collect from the consumer, a sum equal to the percent slow, multiplied by the amount of all the bills incurred by the consumer for the prior three months. When the City on its own initiative makes a test of a water meter, it shall be done without cost to the consumer, other than the consumer paying the amount due the City for water used by the consumer as above provided, if the meter is found to be slow.

Sec.34-33. Meter reading.

(a) The City shall use actual meter reads for billing purposes. Billings for water and sewer charges, where applicable, shall be based upon the actual readings obtained from the water meter and/or the remote reading device by an authorized employee, or by consumers via telephone, in person or by post cards marked and returned by the consumer where possible.

(b) In the event an actual read cannot be obtained prior to the end of the billing period, the City may estimate the read. Estimated reads will be based upon the average water consumption from the previous two years for the same billing period.

(c) A meter where the read cannot be estimated based upon the actual read due to inaccessibility shall be considered a non-operating meter and an authorized employee shall have the right to shut off the supply of water.

Sec 34-34. Conflicts with other ordinances.

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this chapter full force and effect.



April 12, 2010

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secretwardle.com

Mayor Landry and City Council
City of Novi
45175 W. Ten Mile Road
Novi, MI 48375

Elizabeth M. Kudla
Direct: 248-539-2846
bkudla@secretwardle.com

**Re: Proposed Amendment – Water Supply System Ordinance
Our File No. 55142.NOV**

Dear Mayor Landry and Councilmembers:

The City's Public Services Department has recently had difficulty accessing certain water meters in order to read the meter for billing purposes. As a result, the City must estimate the customer's bill without any certainty as to whether the customer is being overcharged or undercharged. In reviewing the code to determine which ordinance provisions could be enforced to require customers to allow the City access to read the water meter, it was determined that the code does not currently include standard provisions generally included in city water system ordinance relating to water meters. As a result, our office has been working jointly with the City's Water and Sewer Manager to prepare the proposed amendment to the water supply system ordinance implementing standard meter provisions.

The proposed amendments:

- Require water service to be metered.
- Require meters to be located in an accessible location.
- Require customers to allow the City access to existing inaccessible meters. Customers who do not permit access would be subject to discontinuance of service with 30 days notice and the opportunity for an appeal hearing.
- Require the customer to pay for damage the customer causes to the meter.
- Provides for a procedure for the customer to request the City to test the meter for accuracy with a corresponding procedure for bill adjustment for inaccurate meters.
- Sets procedure for the City to read the meters and to estimate a bill if a meter is temporarily out-of-service or inaccessible.
- Provides for a more detailed procedure for notice and appeal of disputed billing issues and other violations prior to termination of water service.

We note that though giving the City the ability to discontinue water service for a customer's refusal to permit access to the water meter may be an extreme remedy, it would only be applied if the customer was given 30-day notice and opportunity

Mayor Landry and City Council
City of Novi
April 12, 2010
Page 2

for a hearing that the customer disregards. Several nearby communities, including Farmington Hills, Bloomfield Hills, and Auburn Hills have the same or similar provisions providing for the discontinuance of service for refusal to allow access to the meter.

Please feel free to contact me with any questions or concerns in regard to this matter.

Very truly yours,



ELIZABETH M. KUDLA

EMK

Enclosures

C: Maryanne Cornelius, Clerk (w/Enclosures)
Tim Sikma, Water and Sewer Manager (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

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STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND CHAPTER 34, "UTILITIES,"
TO ADD REGULATIONS RELATING TO WATER
METERS**

THE CITY OF NOVI ORDAINS:

PART I

That Chapter 34, "Utilities," Article II, "Water Supply System," Division 1, "Generally," Section 34-21 is hereby amended to state as follows:

Sec. 34-21. Delinquent charges constitute lien; authority of city to discontinue water for nonpayment of charges.

(a) *Lien.* The charges for water services are a lien on-premises served and are hereby recognized to constitute such lien. Whenever any such charge against any such premises shall be delinquent for three (3) months, the city employee in charge of the collection thereof shall certify bi-annually, on May 1 and November 1 of each year, to the treasurer or assistant treasurer of the city the fact of such delinquency, whereupon such charge shall be by him/her entered upon the next tax roll as a charge against such premises and shall be collected, and the lien therefore enforced, in the same manner as general city taxes against such premises are collected and the lien thereon enforced. When a tenant is responsible for such services as is provided by section 21 of Act No. 94 of the Public Acts of Michigan of 1933, (MCL 141.21), as amended, no service shall be rendered such premises until a cash deposit as set by resolution of the council shall have been paid as security for payment of assessed charges and services.

(b) *Discontinuance of water supply.* In addition to other remedies provided, the city shall have the right to shut off and discontinue the supply of water to any premises when it has determined any one (1) of the following conditions exist:

(1) A state of emergency threatening human health or safety necessitates immediate termination of water service.

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI

ORDINANCE NO. 10-37.35

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TO ADD REGULATIONS RELATING TO WATER
METERS

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(b) *Discontinuance of water supply.* In addition to other remedies provided, the city shall have the right to shut off and discontinue the supply of water to any premises when it has determined any one (1) of the following conditions exist:

(1) A state of emergency threatening human health or safety necessitates immediate termination of water service.

(2) A state of emergency threatening the security or sanitary integrity of the city's water distribution system or any part of it necessitates immediate termination of water service.

(3) Non-payment of water/sewer charges when due; in which case the procedure provided below shall be followed.

(4) The customer has violated a provision of this article; in which case the procedure provided below shall be followed.

(c) *Water service termination procedure.*

(1) Except when the immediate termination of water service is necessary, as provided above, the provisions of this section shall govern all terminations of water service.

(2) The city upon determination that conditions exist justifying the termination of water service, shall mail to, or personally serve upon the customer, a notice of termination. The notice of termination shall contain the following:

a. If amounts are owed to the city for nonpayment of water and sewer services, the notice of termination shall be included in the past due notice. The past due notice shall include the amount to be paid, a date, at least thirty days from the due date upon which service may be terminated, and a notice that unless the city receives complete payment of the amount shown prior to the date of termination, water service shall be terminated;

b. If the customer is in violation of a provision of this article, the nature of the violation and the section number being violated, a dated of termination that is at least thirty (30) days from the date of the notice of termination, and a notice that unless the violation is corrected prior to the date of termination water service shall be terminated.

c. The notice shall state that a customer may notify the city that he or she disputes the correctness of all or part of the amount shown to be owed, if the amount in dispute was not the subject of a previous dispute, or that he or she disputes the alleged violation of the article cited.

(3) If, prior to the date of termination:

a. The city has not received complete payment of the amount shown on the past due notice or has not determined the violation has ceased to exist; or

b. The customer has not notified the city that he or she disputes the correctness of all or part of the amount shown on the past due notice, or that he or she disputes the existence of the violation;

then the city shall terminate the water service provided to the customer on the date of termination.

(4) If the city receives payment of the entire amount shown on the notice of termination prior to the date of termination, such payment shall be considered a timely and complete payment for purposes of this article. If the city determines that the violation no longer exists as of the date shown on the notice of termination, the department shall not terminate water service to the customer.

(d) *Customer dispute.*

(1) At any time before the date of termination of water services for nonpayment or for a violation of this article, a customer may dispute the correctness of all or part of the amount shown or dispute the existences of the allegation in accordance with the provisions of this section. A customer shall not be entitled to dispute the correctness of all or part of the amount owed to the city if all or part of the amount were the subject of a previous dispute contested under this section.

(2) The procedure for a customer's dispute shall be as follows:

a. Before the date of termination, the customer shall notify the city, orally or in writing, that he or she disputes all or part of the amount shown on past due notice, or the existence of a violation, stating as completely as possible the basis for the dispute.

b. If the city determines that the present dispute is untimely or that the customer previously disputed the correctness of all or part of the amount shown to be owed, the department shall mail to the customer a notice stating that the present dispute is untimely or invalid. The city shall then proceed as if the city had not notified the city of the present dispute.

c. If the city determines that the present dispute is not untimely or invalid, the city, within three (3) days after receipt of the customer's notice, shall arrange an informal meeting between the customer and official from the public services department.

d. Based on the city's records, the customer's allegations, and all of the relevant materials available to the official, the official shall resolve the dispute, attempting to do so in a manner satisfactory to both the city and the customer.

e. Within five (5) days of completion of the meeting, the official shall mail to the customer a copy of his or her decision resolving the dispute.

f. If the decision is unsatisfactory to the customer, the customer, within five (5) days of his or her receipt of the official's decision, may request, in writing, a formal hearing before a hearing examiner, to be appointed by the city manager.

g. The formal hearing before the examiner shall be held within ten (10) days of the city's receipt of a customer's written request.

h. At the hearing, the city and the customer shall be entitled to present all evidence that is, in the hearing examiner's view, relevant and material to the dispute, and to examine and cross-examine witnesses. A tape-recorded (or at the option of the city, a stenographic) record of the hearing shall be maintained.

i. Based on the record established at the hearing, the examiner, within five (5) days of the completion of the hearing, shall issue his written decision formally resolving the dispute. His or her decision shall be final and binding on the city and the customer.

(3) Utilization of this dispute procedure shall not relieve the customer of his or her obligation to timely and completely pay all other undisputed water and sewer service charges and the undisputed portions of the amounts which are the subject of the present dispute. Notwithstanding any provision of this article to the contrary, failure to timely and completely pay all such undisputed amounts shall subject a customer to termination of water service in accordance with the provisions of this article.

(4) Until the date of the hearing examiner's, or the hearing examiner's decision, whichever is later, the city shall not terminate the water service of this customer and shall not issue a notice of termination to him solely for nonpayment of the disputed amount or with respect to the disputed violation alone. If it is determined that the customer must pay some or all of the disputed amount, the city shall promptly mail to, or personally serve upon, the customer, a notice of termination which shall contain the following:

- a. Amount to be paid;
- b. Date of the notice of termination;
- c. Date of termination, which shall be at least thirty (30) days after the date of notice of termination;
- d. Notice that unless the city receives a complete payment of the amount shown prior to the date of termination, the water service shall be terminated.

(5) The city shall terminate water service for nonpayment of water and sewer charges only during the hours of 9:00 a.m. to 3:00 p.m., Monday through Thursday. No terminations shall be permitted on a legal holiday or on the day before a legal holiday.

PART II

That Chapter 34, "Utilities," Article II, "Water Supply System," Division 1, "Generally," is hereby amended to add the following Sections:

Sec. 34-26. Water Meters.

All premises using water supplied by the City of Novi shall be metered. No person except an authorized City employee shall break or injure the seal or change the location of, alter or interfere in any way with any water meter.

Sec. 34-27. Meter Location.

Water meters shall be set in an accessible location and in a manner satisfactory to the Water and Sewer Division. The water meter shall be at all times protected from inclement weather that may cause freezing of the water service and damage to the meter. Where the premises contain no basement or other suitable indoor location, the meter may be installed outside in a meter pit or box, the location of which shall be approved by the Water and Sewer Division. Where it is necessary to set the meter in a pit or box, such pit or box shall be built at the expense of the owner as directed by the Water and Sewer Division.

Sec. 34-28. Access to Meter.

The City of Novi, or its authorized agent or officer shall have the right to shut off the supply of water to any premises where an authorized employee is not able to obtain access to the meter. Any authorized City employee shall at all reasonable hours have the right to enter the premises where such meters are installed for the purpose of reading, testing, replacing or inspecting the water meter or meters. No person shall hinder, obstruct or interfere with such employee in the lawful discharge of such employee's duties in relation to the care and maintenance of such water meter.

Sec. 34-29. Reimbursement for Damage.

The owner of the premises upon which a meter is installed, is hereby made responsible for the same. Any damage which a water meter may sustain resulting from carelessness of the owner, agent or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be caused by frost, hot water or steam backing from a boiler shall be paid by the owner of the property to the City of Novi on presentation of a bill which shall be based on time and materials, and shall be collected as service charges as determined by an authorized employee.

Sec. 34-30. Accuracy.

A water meter shall be considered accurate if when tested it registers not to exceed five percent more or five percent less than the actual quantity of water passing through it. If a meter registers in excess of five percent more than the actual quantity of water passing through it, it shall be considered fast to that extent. If a meter registers in excess of five percent less than the actual quantity of water passing through it, it shall be considered slow to that extent.

Sec. 34-31. Meter Testing.

A consumer may request, at their expense, that the water meter be tested. The consumer shall provide access for an authorized employee to temporarily remove and replace the meter for testing. The Water and Sewer Division may, at their discretion, replace the water meter regardless of the test results. If the meter is found accurate, the consumer requesting the test will be charged for the meter test in an amount determined by resolution of City Council. If the meter is found defective, it shall be repaired or an accurate meter installed and no charge will be made.

Sec. 34-32. Bill Adjustment.

If a water meter has been tested at the request of a consumer and shall have been determined to register fast, the City of Novi shall credit the consumer with a sum equal to the percent fast multiplied by the amount of all bills incurred by such consumer, within the three months prior to the test, and if a meter so tested is determined to register slow, the City may collect from the consumer, a sum equal to the percent slow, multiplied by the amount of all the bills incurred by the consumer for the prior three months. When the City on its own initiative makes a test of a water meter, it shall be done without cost to the consumer, other than the consumer paying the amount due the City for water used by the consumer as above provided, if the meter is found to be slow.

Sec. 34-33. Meter Reading.

- (a) The City shall use actual meter reads for billing purposes. Billings for water and sewer charges, where applicable, shall be based upon the actual readings obtained from the water meter and/or the remote reading device by an authorized employee, or by consumers via telephone, in person or by post cards marked and returned by the consumer where possible.
- (b) In the event an actual read cannot be obtained prior to the end of the billing period, the City may estimate the read. Estimated reads will be based upon the average water consumption from the previous two years for the same billing period.
- (c) A meter where the read cannot be estimated based upon the actual read due to inaccessibility shall be considered a non-operating meter and upon 30-days notice to the customer in accordance with the procedures set forth in Section 34-21. an authorized employee shall have the right to shut off the supply of water.

PART II

Savings Clause. That the amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART III

Severability. That should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART IV

Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V

Effective Date: Publication. That the provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

CERTIFICATION

It is hereby certified that the foregoing Ordinance was adopted by the Novi City Council, Oakland County, Michigan, at a meeting of the Council duly called and held on the ____ day of _____, 2010.

CITY OF NOVI

By: _____
Maryanne Cornelius, City Clerk

ADOPTED:

EFFECTIVE:

PUBLISHED:

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI

ORDINANCE NO. 10-37.35

AN ORDINANCE TO AMEND CHAPTER 34, "UTILITIES,"
TO ADD REGULATIONS RELATING TO WATER
METERS

THE CITY OF NOVI ORDAINS:

PART I

That Chapter 34, "Utilities," Article II, "Water Supply System," Division 1, "Generally," Section 34-21 is hereby amended to state as follows:

Sec. 34-21. Delinquent charges constitute lien; authority of city to discontinue water for nonpayment of charges.

(a) *Lien.* The charges for water services are a lien on-premises served and are hereby recognized to constitute such lien. Whenever any such charge against any such premises shall be delinquent for three (3) months, the city employee in charge of the collection thereof shall certify bi-annually, on May 1 and November 1 of each year, to the treasurer or assistant treasurer of the city the fact of such delinquency, whereupon such charge shall be by him/her entered upon the next tax roll as a charge against such premises and shall be collected, and the lien therefore enforced, in the same manner as general city taxes against such premises are collected and the lien thereon enforced. When a tenant is responsible for such services as is provided by section 21 of Act No. 94 of the Public Acts of Michigan of 1933, (MCL 141.21), as amended, no service shall be rendered such premises until a cash deposit as set by resolution of the council shall have been paid as security for payment of assessed charges and services.

(b) *Discontinuance of water supply.* In addition to other remedies provided, the city shall have the right to shut off and discontinue the supply of water to any premises **when it has determined any one (1) of the following conditions exist:**

(1) A state of emergency threatening human health or safety necessitates immediate termination of water service.

(2) A state of emergency threatening the security or sanitary integrity of the city's water distribution system or any part of it necessitates immediate termination of water service.

(3) Non-payment of water/sewer charges when due; in which case the procedure provided below shall be followed.

(4) The customer has violated a provision of this article; in which case the procedure provided below shall be followed.

(c) *Water service termination procedure.*

(1) Except when the immediate termination of water service is necessary, as provided above, the provisions of this section shall govern all terminations of water service.

(2) The city upon determination that conditions exist justifying the termination of water service, shall mail to, or personally serve upon the customer, a notice of termination. The notice of termination shall contain the following:

a. If amounts are owed to the city for nonpayment of water and sewer services, the notice of termination shall be included in the past due notice. The past due notice shall include the amount to be paid, a date, at least thirty days from the due date upon which service may be terminated, and a notice that unless the city receives complete payment of the amount shown prior to the date of termination, water service shall be terminated;

b. If the customer is in violation of a provision of this article, the nature of the violation and the section number being violated, a dated of termination that is at least thirty (30) days from the date of the notice of termination, and a notice that unless the violation is corrected prior to the date of termination water service shall be terminated.

c. The notice shall state that a customer may notify the city that he or she disputes the correctness of all or part of the amount shown to be owed, if the amount in dispute was not the subject of a previous dispute, or that he or she disputes the alleged violation of the article cited.

(3) If, prior to the date of termination:

a. The city has not received complete payment of the amount shown on the past due notice or has not determined the violation has ceased to exist; or

b. The customer has not notified the city that he or she disputes the correctness of all or part of the amount shown on the past due notice, or that he or she disputes the existence of the violation;

then the city shall terminate the water service provided to the customer on the date of termination.

(4) If the city receives payment of the entire amount shown on the notice of termination prior to the date of termination, such payment shall be considered a timely and complete payment for purposes of this article. If the city determines that the violation no longer exists as of the date shown on the notice of termination, the department shall not terminate water service to the customer.

(d) *Customer dispute.*

(1) At any time before the date of termination of water services for nonpayment or for a violation of this article, a customer may dispute the correctness of all or part of the amount shown or dispute the existences of the allegation in accordance with the provisions of this section. A customer shall not be entitled to dispute the correctness of all or part of the amount owed to the city if all or part of the amount were the subject of a previous dispute contested under this section.

(2) The procedure for a customer's dispute shall be as follows:

a. Before the date of termination, the customer shall notify the city, orally or in writing, that he or she disputes all or part of the amount shown on past due notice, or the existence of a violation, stating as completely as possible the basis for the dispute.

b. If the city determines that the present dispute is untimely or that the customer previously disputed the correctness of all or part of the amount shown to be owed, the department shall mail to the customer a notice stating that the present dispute is untimely or invalid. The city shall then proceed as if the city had not notified the city of the present dispute.

c. If the city determines that the present dispute is not untimely or invalid, the city, within three (3) days after receipt of the customer's notice, shall arrange an informal meeting between the customer and official from the public services department.

d. Based on the city's records, the customer's allegations, and all of the relevant materials available to the official, the official shall resolve the dispute, attempting to do so in a manner satisfactory to both the city and the customer.

e. Within five (5) days of completion of the meeting, the official shall mail to the customer a copy of his or her decision resolving the dispute.

f. If the decision is unsatisfactory to the customer, the customer, within five (5) days of his or her receipt of the official's decision, may request, in writing, a formal hearing before a hearing examiner, to be appointed by the city manager.

g. The formal hearing before the examiner shall be held within ten (10) days of the city's receipt of a customer's written request.

h. At the hearing, the city and the customer shall be entitled to present all evidence that is, in the hearing examiner's view, relevant and material to the dispute, and to examine and cross-examine witnesses. A tape-recorded (or at the option of the city, a stenographic) record of the hearing shall be maintained.

i. Based on the record established at the hearing, the examiner, within five (5) days of the completion of the hearing, shall issue his written decision formally resolving the dispute. His or her decision shall be final and binding on the city and the customer.

(3) Utilization of this dispute procedure shall not relieve the customer of his or her obligation to timely and completely pay all other undisputed water and sewer service charges and the undisputed portions of the amounts which are the subject of the present dispute. Notwithstanding any provision of this article to the contrary, failure to timely and completely pay all such undisputed amounts shall subject a customer to termination of water service in accordance with the provisions of this article.

(4) Until the date of the hearing examiner's, or the hearing examiner's decision, whichever is later, the city shall not terminate the water service of this customer and shall not issue a notice of termination to him solely for nonpayment of the disputed amount or with respect to the disputed violation alone. If it is determined that the customer must pay some or all of the disputed amount, the city shall promptly mail to, or personally serve upon, the customer, a notice of termination which shall contain the following:

a. Amount to be paid;

b. Date of the notice of termination;

c. Date of termination, which shall be at least thirty (30) days after the date of notice of termination;

d. Notice that unless the city receives a complete payment of the amount shown prior to the date of termination, the water service shall be terminated.

(5) The city shall terminate water service for nonpayment of water and sewer charges only during the hours of 9:00 a.m. to 3:00 p.m., Monday through Thursday. No terminations shall be permitted on a legal holiday or on the day before a legal holiday.

~~for the nonpayment of water charges when due. Prior to the termination of water services, the city shall provide the customer with a written notice which details the availability of an administrative procedure for the consideration of a complaint for erroneous billing. A customer may contest the water charges by appeal to the director of public services or his or her designee within thirty (30) days after the due date. If the assessed charges are not paid within thirty (30) days after the due date thereof, then water service to such premises shall be discontinued. Water service so discontinued shall not be restored until all sums then due and owing shall be paid, plus the turn-on, turn-off charge as set by resolution of the council.~~

PART II

That Chapter 34, "Utilities," Article II, "Water Supply System," Division 1, "Generally," is hereby amended to add the following Sections:

Sec. 34-26. Water Meters.

All premises using water supplied by the City of Novi shall be metered. No person except an authorized City employee shall break or injure the seal or change the location of, alter or interfere in any way with any water meter.

Sec. 34-27. Meter Location.

Water meters shall be set in an accessible location and in a manner satisfactory to the Water and Sewer Division. The water meter shall be at all times protected from inclement weather that may cause freezing of the water service and damage to the meter. Where the premises contain no basement or other suitable indoor location, the meter may be installed outside in a meter pit or box, the location of which shall be approved by the Water and Sewer Division. Where it is necessary to set the meter in a pit or box, such pit or box shall be built at the expense of the owner as directed by the Water and Sewer Division.

Sec. 34-28. Access to Meter.

The City of Novi, or its authorized agent or officer shall have the right to shut off the supply of water to any premises where an authorized employee is not able to obtain access to the meter. Any authorized City employee shall at all reasonable hours have the right to enter the premises where such meters are installed for the purpose of reading, testing, replacing or inspecting the water meter or meters. No person shall hinder, obstruct or interfere with such employee in the lawful discharge of such employee's duties in relation to the care and maintenance of such water meter.

Sec. 34-29. Reimbursement for Damage.

The owner of the premises upon which a meter is installed, is hereby made responsible for the same. Any damage which a water meter may sustain resulting from carelessness of the owner, agent or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be caused by frost, hot water or steam backing from a boiler shall be paid by the owner of the property to the City of Novi on presentation of a bill which shall be based on time and materials, and shall be collected as service charges as determined by an authorized employee.

Sec. 34-30. Accuracy.

A water meter shall be considered accurate if when tested it registers not to exceed five percent more or five percent less than the actual quantity of water passing through it. If a meter registers in excess of five percent more than the actual quantity of water passing through it, it shall be considered fast to that extent. If a meter registers in excess of five percent less than the actual quantity of water passing through it, it shall be considered slow to that extent.

Sec. 34-31. Meter Testing.

A consumer may request, at their expense, that the water meter be tested. The consumer shall provide access for an authorized employee to temporarily remove and replace the meter for testing. The Water and Sewer Division may, at their discretion, replace the water meter regardless of the test results. If the meter is found accurate, the consumer requesting the test will be charged for the meter test in an amount determined by resolution of City Council. If the meter is found defective, it shall be repaired or an accurate meter installed and no charge will be made.

Sec. 34-32. Bill Adjustment.

If a water meter has been tested at the request of a consumer and shall have been determined to register fast, the City of Novi shall credit the consumer with a sum equal to the percent fast multiplied by the amount of all bills incurred by such consumer, within the three months prior to the test, and if a meter so tested is determined to register slow, the City may collect from the consumer, a sum equal to the percent slow, multiplied by the amount of all the bills incurred by the consumer for the prior three months. When the City on its own initiative makes a test of a water meter, it shall be done without cost to the consumer, other than the consumer paying the amount due the City for water used by the consumer as above provided, if the meter is found to be slow.

Sec. 34-33. Meter Reading.

(a) The City shall use actual meter reads for billing purposes. Billings for water and sewer charges, where applicable, shall be based upon the actual readings obtained from the water meter and/or the remote reading device by an authorized employee, or by consumers via telephone, in person or by post cards marked and returned by the consumer where possible.

(b) In the event an actual read cannot be obtained prior to the end of the billing period, the City may estimate the read. Estimated reads will be based upon the average water consumption from the previous two years for the same billing period.

(c) A meter where the read cannot be estimated based upon the actual read due to inaccessibility shall be considered a non-operating meter and upon 30-days notice to the **customer in accordance with the procedures set forth in Section 34-21**~~consumer~~, an authorized employee shall have the right to shut off the supply of water.

PART II

Savings Clause. That the amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART III

Severability. That should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART IV

Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V

Effective Date: Publication. That the provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

CERTIFICATION

It is hereby certified that the foregoing Ordinance was adopted by the Novi City Council, Oakland County, Michigan, at a meeting of the Council duly called and held on the ____ day of _____, 2010.

CITY OF NOVI

By: _____
Maryanne Cornelius, City Clerk

ADOPTED:

EFFECTIVE:

PUBLISHED:

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