

**CHARTER TOWNSHIP OF WATERFORD  
ORDINANCE NO. 2016-04**

**WATER HYDRANT CHARGE REPEAL ORDINANCE**

An Ordinance to repeal Section 17-338 in Division 1 of Article V in Chapter 17 of the Waterford Charter Township Code.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

**Section 1 of Ordinance**

Section 17-338 in Division 1 of Article V in Chapter 17 of the Waterford Charter Township Code, that reads as follows is hereby repealed in its entirety.

**Sec. 17-338. Annual rate charge**

The Township shall pay for all water used by it at the established rates for each hydrant connected to the system. Such rental may be paid in equal quarterly installments.

**Section 2 of Ordinance**

Should any section, subdivision, sentence, clause or phrase of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

**Section 3 of Ordinance**

This Ordinance shall take effect immediately upon publication.

**CERTIFICATION**

I certify that this Ordinance was adopted by the Board of Trustees of the Charter Township of Waterford at a regular meeting held on \_\_\_\_\_, 2017.

CHARTER TOWNSHIP OF WATERFORD

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Sue Camilleri, Township Clerk

Introduced: December 12, 2016

**CHARTER TOWNSHIP OF WATERFORD  
OAKLAND COUNTY, MICHIGAN**

**WATER HYDRANT CHARGE RESOLUTION**

**RECITALS:**

A. Section 17-338 in Division 1 of Article V in Chapter 17 of the Waterford Charter Township Code, which was in the 1986 version of the Township's compiled ordinances as Section 26.078, provides as follows:

**Sec. 17-338. Annual rate charge**

The Township shall pay for all water used by it at the established rates for each hydrant connected to the system. Such rental may be paid in equal quarterly installments.

B. Considering that the last year in which a rate was paid under the 1986 and current versions of the Township's compiled ordinances, and the Township Attorney's opinion that Section 17-338 is not required under Michigan law, it should have been repealed during the 2014 recodification of the Waterford Charter Township Code.

C. On December 12, 2016, the Township Board introduced Ordinance No. 2016-04, to repeal Section 17-338 and scheduled that Ordinance for possible adoption on January 9, 2017.

D. Although Township Board approved budgets since 1995, including the 2017 budget approved on December 12, 2016, have not established or required payment of a rate for hydrant water use, Section 17-001 of the Waterford Charter Township Code now provides for the Township Board to establish charges by resolution.

**IT IS THEREFORE RESOLVED** that pending the repeal of Section 17-338 and thereafter, to the extent this Resolution is required in addition to the Township Board approved budgets since 1995, the Township Board confirms and establishes the rate described in Section 17-338 as zero (\$0.00) dollars.

**CERTIFICATION**

I hereby certify that this Resolution was adopted by the Charter Township of Waterford Board of Trustees at a regular meeting on December 12, 2016.

Charter Township of Waterford

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sue Camilleri, Township Clerk



JOHNSON ROSATI SCHULTZ JOPPICH PC

27555 Executive Drive Suite 250 ~ Farmington Hills, Michigan 48331  
Phone: 248.489.4100 | Fax: 248.489.1726

Gary L. Dovre  
gdovre@jrsjlaw.com

www.jrsjlaw.com

December 6, 2016

Township Board of Trustees  
Charter Township of Waterford  
5200 Civic Center Drive  
Waterford, MI 48329

RE: Annual Rate Charge Under Ordinance Code Section 17-338  
1. Water Hydrant Charge Repeal Ordinance  
2. Water Hydrant Charge Resolution

Dear Board Members:

Among the goals of the 2014 recodification of the Township's Code of Ordinances was to repeal provisions that were no longer needed or being utilized. It has come to my attention that Section 17-338 in Article V of Chapter 17 of the Code was such a provision that should have been repealed. That section reads as follows:

**Sec. 17-338. Annual rate charge**

The Township shall pay for all water used by it at the established rates for each hydrant connected to the system. Such rental may be paid in equal quarterly installments.

The ordinance history for Section 17-338 suggests it dates back to at least 1986 when it was Section 26.078 in that version of the compiled ordinances. According to information provided to me by the Township's Assistant Budget Director, the last year in which an amount was paid under this ordinance was in 1995, more than 20 years ago. Regardless of whether the Township Board at that time adopted a resolution establishing the hydrant rental rate at zero, all Township Board approved budgets since then have effectively done that.

In the absence of outstanding revenue bonds pledging water system revenues for repayment, in my opinion there is no Michigan law requiring the Township to pay for fire hydrant water use. Even if water system revenue bonds were outstanding so as to trigger some fire hydrant water use payment obligation, in my opinion there is no Michigan law that requires an ordinance provision such as Section 17-338 to be on the books.

With the above basic background, unless the Township Board wants to establish a rate to be paid to the water and sewer fund by some other Township fund for fire hydrant water use, Section

December 6, 2016

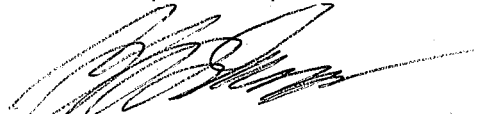
Page 2

17-338 should be repealed by introduction at your December 12, 2016, meeting and adoption at your January 9, 2017, meeting of the enclosed ordinance.

My second recommendation is that at your December 12, 2016 meeting you adopt the enclosed resolution that pending repeal of the ordinance, establishes the fire hydrant water usage rate at zero, consistent with Township Board's authority to establish charges by resolution under Section 17-001 of the Ordinance Code.

Sincerely yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.



Gary L. Dovre

GLD:jah  
Enclosures