

# **Village of Cass City, MI Ordinance No. 185**

AN ORDINANCE TO AMEND

THE VILLAGE OF CASS CITY CODE OF ORDINANCES,  
CHAPTER 40, ARTICLE II, (WATER), SECTION 40-31-40-43 ENTITLED “**WATER SHUT  
OFF FOR NON-PAYMENT AND REGULATION OF PRIVATE WATER WELLS  
ORDINANCE**” AS FOLLOWS

**The Village of Cass City ordains.....**

**Chapter 40 - Utilities, Article II - Water, Division 1 Generally - Water Shut-Off for Non-Payment and Regulation of Private Water Wells, Section 40-31-41-**

## **Sec. 40-31 Shut Off for Non-Payment**

Water Service may be discontinued to any premises for non-payment of any water rates or charges due to the Village. Water services so discontinued shall not be restored until all sums due and owing are paid, together with all fees and charges as determined by the Village, within its discretion, or its authorized agent. All delinquent fees and charges may be recovered through court action against the owner of the property served, as well as any tenant supplied with such water. The Village may, by resolution, establish a payment plan to satisfy any sums, delinquent fees and charges due and owing.

## **Sec. 40-32 Turning Water on After Discontinuance**

Where the water has been turned off by the Village for any reason, no person or entity except an authorized representative of the Village may turn it on again. Water services shall not be restored until all sums due and owing are paid, including but not limited to, all delinquent fees and charges as determined by the Village, within its discretion, or its authorized agent. The Village may, by resolution, establish a payment plan to satisfy any sums, delinquent fees and charges due and owing.

## **Sec. 40-33 Private Water Well Regulation Definitions**

The following words or terms, when used herein in connection with the regulation of private water wells, shall be deemed to have the meanings set forth below:

“Construction site dewatering” means temporary removal of ground water from an excavating site.

“Owner” means the person or entity holding the legal or equitable title to real property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee or any other person or entity, firm or corporation directly or indirectly in control of a building, structure or real property or his duly authorized agent.

“Water main” means a pipe owned or controlled by the Village located within the street right-of-way or other public easement used to carry water within the Village water service system to the water customer.

“Water well” means a hole drilled or bored into the earth for the purpose of removing water through mechanical or not mechanical means.

#### **Sec. 40-34 Private Water Wells Prohibited.**

Except as provided in Section 40-35, no person or entity shall install, construct, develop, maintain or use a water well within the Village.

#### **Sec. 40-35 Permitted Water Wells.**

The following water wells are permitted within the Village, under the terms and conditions specified:

- A. A water well used solely for the purpose of construction site dewatering or for conducting response activities, including sampling or treatment of the groundwater, under a plan approved and permits issued by the Michigan Department of Environmental Quality.
- B. A water well lawfully in existence at the time of the enactment of this ordinance provided, however, the size of such water well shall not be expanded.
- C. A water well for new development when a water main is not located within 200 feet of the property, provided that the water from the water well is tested annually and approved for human consumption by the Michigan Department of Environmental Quality, Drinking Water and Radiological Protection Division, or the county health department.

#### **Sec. 40-36 Connection to Village Water Service Required.**

Except for existing water wells permitted under Section 40-53(B) above, the owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the Village which there is now located

or may in the future be located a water main within 200 feet of the property is hereby required at his or her expense to install suitable plumbing facilities therein, in accordance with the plumbing codes then in effect and enforced within the Village, and to connect such facilities directly with the Village water service. For water wells permitted under Section 40-35(C) above, the owner shall connect to the Village water service within ninety days after receiving a notice to connect from the Village.

**Sec. 40-37 Violations; municipal civil infraction.**

Any person or entity who violates any provision of Chapter 40. Article II. Division 1, Section 40-33-40-39; shall be responsible for a municipal civil infraction and shall be subject to a fine. The Village shall establish by resolution a fee schedule setting forth the municipal civil infraction fines for violations. Each day Chapter 40. Article II. Division 1, Section 40-33-40-39 is violated shall be considered as a separate violation carrying with it a separate municipal civil infraction and fine. This section shall not apply to delinquent payments to the Village for water services or the SHUT OFF FOR NONPAYMENT in this Ordinance.

**Sec. 40-38 Nuisance Per Se.**

A violation of Chapter 40. Article II. Division 1, Section 40-33-40-39 is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

**Sec. 40-39 Civil Remedies.**

In addition to enforcing Chapter 40. Article II. Division 1, Section 40-33-40-39 through Sec. 40-37, the Village may initiate proceedings in the Circuit Courts to abate or eliminate the nuisance per se or any other violation.

**Sec. 40-40. Repealed.**

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

**Sec. 40-41 Severability.**

In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases, words or application of this Ordinance.

**Adoption.**

**A First Reading of this Ordinance is hereby declared to have been approved by the Village Council of the Village of Cass City, County of Tuscola, State of Michigan, at a meeting, called and held on the 29th day of April 2019, and the second reading has been set for May 20, 2019.**

**Effective Date.**

This Ordinance shall take effect immediately thirty (30) days following a second reading and adoption and with publication.

**Publication.**

This Ordinance shall be recorded by the Village Clerk in the Village Ordinance Book as soon as it is adopted, which record shall be authenticated by the signatures of the Village President and Village Clerk and shall be published once in the Village newspaper of record.

**A Motion to Approve Village of Cass City, MI Ordinance No. 185, AN ORDINANCE PROHIBITING PRIVATE WATER WELLS WITHIN THE VILLAGE, REQUIRING CONNECTION TO MUNICIPAL WATER SYSTEM WHEN SERVICE IS WITHIN 200 FEET, PROVIDING EXCEPTIONS FOR CURRENT WATER WELLS, AND PROVIDING PENALTIES FOR VIOLATIONS Chapter 40 - Utilities, Article II - Water, Division 3 - Prohibiting Private Water Wells AND TO AMEND Chapter 40 - Utilities, Article II - Water, Division 1 Generally - WATER SHUT-OFFS FOR NON-PAYMENT, Section(s) 40-31 – 40-32 .**

**Was offered by Trustee Piaskowski and supported by Trustee Leeson**

**Ayes: Ball, Herron, Kirn, Leeson, Piaskowski, Zawilinski, Delamarter**

**Nays: None**

**Ordinance Adopted as presented .**

Effective: 30 days following a second reading and adoption by the Cass City Village Council, with publication

*Daniel Delamarter*

**President, Village of Cass City**

*Nanette Walsh*

**Clerk/Treasurer, Village of Cass City**