

TOWN OF FAYAL WATER ORDINANCE

THIS ORDINANCE is made and adopted this 16 day of December, 1997, by the Town Board of the Town of Fayal, a Minnesota municipality exercising urban town powers.

ARTICLE I

PREFACE

Fayal has since 1988 installed various water lines in its community through self-financing and governmental grants for purposes of fire protection, domestic water and commercial water.

In the last year, Fayal has, with Eveleth and Gilbert, studied the option of obtaining water in the Town of Fayal at a bulk rate wherein Fayal would become the distributor and supplier of water to residents and customers in the Town of Fayal. Fayal has negotiated with both communities concerning a bulk water rate and has entered into an agreement with the City of Gilbert for the provision of water to the Town of Fayal.

ARTICLE II

AUTHORITY

This ordinance is made pursuant to Minn. Stat. §368.01, subd. 6 and is further authorized by Minn. Stat. §365.20.

ARTICLE III

PURPOSE AND SCOPE OF THIS AGREEMENT

The purpose of this Ordinance is to provide for the design, acquisition, construction, ownership, operation and maintenance of a public water supply system within the municipal limits of Fayal so as to provide a reasonable, alternative, and safe water supply for the residents of Fayal. It is understood and agreed that expansion of the water system in Fayal will be staged and that the later stages of expansion may not occur for several years.

ARTICLE IV

MAINTENANCE AND OPERATION OF THE WATER SYSTEM

A. Fayal shall establish a Public Works Department, which shall be under the supervision of the Fayal Public Utilities Commission. The Public Works Department of Fayal shall be responsible for the management and operation of the entirety of the municipal water system located in Fayal. The water system within Fayal shall not be enlarged or extended without the consent of the Fayal Town Board.

B. No person, firm, corporation or entity shall make any type of connection to the water system except upon making application therefor on a form prescribed by Fayal and receiving a permit issued by Fayal for such purposes. Fayal shall adopt such reasonable rules and regulations by ordinance and/or resolution to govern the application process and the information to be provided by the applicant for connection. In addition thereto, Fayal shall be allowed to charge an application fee which fee shall be established by resolution of the Town Board for Fayal from time to time.

C. No connection shall be made with respect to the water system serving the property of any person or occupants of the land, parcel or premises affected that have not paid or provided for the payment of the full and proportionate share of the said utilities in which said share shall be payable as follows:

1. No connection shall be made to the city water system until such time as the applicant or owner pays the connection charges established by the Town Board for Fayal by resolution established from time to time. The connection fee shall be in addition to any fees or charges required under the provisions of this Ordinance and/or under any special assessment levied against that property.

2. For services to property which service lines have not been previously run from the street laterals to the property line, the owner, occupant or user shall pay to the Town Clerk of Fayal a service line charge, the amount of which shall not be less than the Town's cost of making the necessary connections, taps and installation of pipe and appurtenances to provide service to the property, however, with the approval of the Town, the owner or applicant shall have the right to contract directly with the registered installer for the installation and connection of the service line.

3. Prior to any connections, the owner, occupant or user shall pay in cash or agree to pay charges in the form of special assessments as may be levied against the affected property by the Town in which the property is located in the event the Town in which the property is located has levied special assessments against the property for the water improvement.

4. The Town Board for Fayal may establish water districts and establish area charges, connection charges and lateral charges for each said district by town

board resolution.

D. Before proceeding with the construction, enlargement, alteration or repair of any water line connecting to the water system to any house or building, the owner or his agent shall first obtain a permit for such purpose from Fayal through its Town Clerk. The applicant shall pay to the Town Clerk a permit fee, the amount of which shall be established from time to time by Town Board resolution of Fayal. The Plumbing Inspector shall examine all applications before construction is begun; and after the construction, enlargement, alteration or repair is completed, the Plumbing Inspector shall be notified. It shall be unlawful to cover any connecting line until inspection has been made and such connection and the work incident thereto has been approved by the Town as a proper and suitable connection.

ARTICLE V

WATER METER REGULATIONS

A. Before any water conveyed through the municipal water system shall be used or utilized on the land or premises of any person, firm, corporation, or entity there shall first be installed a water meter owned by the Town of Fayal that will accurately measure the water consumed on the premises, except and unless such installation shall be exempted by Fayal.

B. All applications for the installation, maintenance and repair of water meters shall be made to the Town Clerk for Fayal, who shall proceed to process such application within a reasonable time thereafter. All meters installed shall be furnished by Fayal and shall remain the exclusive property of Fayal. Regulations for the cost of furnishing and use of water meters shall be established by the Town Board for Fayal

by resolution from time to time.

C. No person, firm, corporation or entity, other than Fayal or its designee, shall install and/or repair any water meter within the Town limits. Every water meter connected to the water system shall be sealed by or under direction of the Town Clerk or the Fayal Public Works Department, and no person, firm, corporation, or entity shall break or remove such seal. Whenever any seal attached to a water meter by or under direction of the Town Clerk or Fayal Public Works Department is found to be broken and the broken condition of such seal was broken contrary to the terms and provisions of this Ordinance, the same shall constitute a violation of the Ordinance of Fayal affecting the regulation of water meters.

D. All water meters connected to the water system shall be accessible to the Town Clerk of Fayal or the Fayal Public Works Department or its designee at any reasonable hour or any business day; and the refusal of admission by any owner or occupant of any premises wherein a water meter is installed after such owner or occupant was notified that admission was desired for purposes of inspecting a water meter installed on said premises shall constitute a violation of this Ordinance and a violation of the Ordinance of Fayal affecting the regulation of water meters and their reading.

E. Water meters shall be repaired or replaced from time to time as is necessary to ensure accurate measuring of the flow of water. Fayal may adopt a policy determining responsibility for the cost of such repair or replacement which policy shall be uniformly applied throughout the Town. Fayal shall establish reasonable regulations.

F. It shall be unlawful for any person to tamper with, alter, bypass or in any manner whatsoever interfere with the proper use and functioning of any water meter.

G. If a meter fails to register or accurately measure the water, the charge for the water consumed shall be paid for at the established rate based upon past average billing as determined by the Public Works Department for Fayal and/or the Town Clerk of Fayal.

H. Whenever a water user questions the accuracy of the meter and desires that his meter be tested, he shall pay a fee in an amount which shall be established from time to time by the Town Board for Fayal by resolution to have such meter tested. If a meter is accurate within a range of -3% to +1.5% a charge will be made for the testing and no adjustment will be made on the water bill.

I. The Town Board for Fayal shall provide a system of water meter reading by postcard, meter person or any other method deemed suitable to the purpose of the Town Board for Fayal. Fayal may also establish the billing areas or districts and provide for the reading of meters or billing charges by calendar quarters or such periodic intervals as the Town Board for Fayal shall determine suitable and necessary from time to time by resolution. Provided further, however, that where a meter reading is done by postcard, the Town Board may establish a penalty for the failure to return meter reading cards within the time designated on said card and such fee shall be established by resolution of Fayal.

J. The Town Board reserves the right to discontinue service to any customer of the water system without notice, when necessary, for repairs, additional connection or reconnection.

K. Fayal reserves the right to discontinue service to any customer of the water system when notice is hereinafter provided for nonpayment of charges or bills, or for disregard of any rules or regulations in connection with the use or operation of said system. The service of water shall not be shut off until notice and an opportunity for hearing have first been given to the occupant and owner of the premises involved. The notice shall be served either personally or by certified mail, and it shall state that if payment is not made before the date stated in the notice, but not less than ten (10) days after the date on which the notice is given, the water supply to the premises shall be shut off. The notice shall also comply with state law and provide provisions as are required under the Minnesota Statutes. The notice shall also state that the occupancy may, before such date, demand a hearing before the Public Utilities Commission of Fayal in which case the water supply will not be shut off until after the hearing is held. If, as a result of the hearing, the Public Utilities finds that an amount due and owing is unpaid and there has been no legal reason why the water supply of the delinquent customer may not be shut off in accordance with this ordinance, the Town may then shut off the water supply.

Whenever any service has been discontinued for nonpayment of charges or bills, or for disregard of any rules or regulations in accordance with the procedures set forth above, it shall not be resumed except upon payment of the charges or bills accrued, together with interest thereon at the legal rate provided for judgments pursuant to statute of the State of Minnesota, and payment to the City for a restoration fee, the amount of which shall be established by the Town Board for Fayal by resolution from time to time.

In the event a water bill, whether incurred prior to or subsequent to the passage of this ordinance, is unpaid after the due date, as established by board resolution from time to time, the bill shall be considered delinquent; and the service may be continued as set forth above, and the Town Board for Fayal may then cause the charges noted in such billing to become a lien against the property served by certifying to the County Auditor the amount of said delinquent bill in accordance with the statutes of the State of Minnesota. Such action is optional and may be subsequent to the taking of legal action to collect delinquent amounts.

ARTICLE VI

LIABILITY FOR REPAIRS

After the initial connection has been made to the service line, the applicant, owner, occupant or entity, or user of such premises shall be liable for all repairs required to any water line necessary for connection to the premises to the street main, including any repairs necessary to the curb stop box and any necessary street repairs; and it shall be the responsibility of the applicant, owner, occupant or user to maintain the stop box at such height as will ensure that it remains at the finish grade of the land or property.

A. In the event a water main becomes frozen, Fayal shall be responsible for thawing the same. The property owner shall have the sole responsibility of thawing frozen water service from its connection to the street main into the premises.

All contractors engaged in thawing water lines must comply with the provisions of the ordinance adopted or as amended or rules and regulations within Fayal affecting contractor's permits. With the prior permission of Fayal, a water customer may be

allowed a credit on a water bill for allowing water to run to prevent freezing.

ARTICLE VII

IMPLIED CONSENT TO RULES, REGULATIONS AND RATES

Every person applying for water service, every owner of property for which such an application is made, every person accepting water service, and every owner of property where such service is accepted subsequent to the execution of this Ordinance shall be deemed, upon making such an application or accepting service, to consent to all the rules, regulations and rates established by the ordinances of Fayal, the resolutions adopted thereto and pursuant to this Ordinance, and those as may hereafter be set forth and adopted by the Town Board for Fayal or the Fayal Public Utilities Commission.

ARTICLE VIII

BILLING

The Town Board for Fayal shall have the authority to prescribe, by resolution from time to time, the rates to be charged for water service to each customer, and the Town may prescribe the date of billing, disconnect for nonpayment within a prescribed period, and/or penalty for failure to pay within such period and such further rules and regulations relative to the use and operation of such systems as it may deem necessary from time to time.

ARTICLE IX

EMERGENCY REGULATIONS

Fayal may impose emergency regulations pertaining to the conservation of water by resolution of the Town Board for Fayal by giving notice by publication, or

posting same, in the Town Hall and at such public places as the Board may direct. Whenever the Town Board determines that a shortage of water supply threatens the Town of Fayal, Fayal may in its resolution limit the times and hours during the day in which the water may be used for sprinkling, irrigation, car washing, and other external purposes. After publication of a notice setting forth the restriction for use of water for said purpose, or two days after mailing a copy of such notice to each customer, no person shall use or permit water to be used in violation of the resolution; and any customer who so does shall be charged such sum as may be established by resolution for each day the violation continues, and the charge shall be added to the customer's next water bill. Continued violation shall be cause for discontinuance of the water service.

ARTICLE X

LEAK IN SERVICE LINE

Any owner, occupant or user of a premises who shall discover a leak in a service line to the premises shall notify Fayal within 24 hours. Any water wasted due to failure of such person to comply with this regulation shall be estimated by the Town Clerk and such amount shall be charged against the owner of such premises at the established rate.

ARTICLE XI

INSTALLATION OF CONNECTIONS

All installations and connections to the water system shall be performed by a registered installer licensed to do plumbing within Fayal; except that nothing within this Ordinance shall be construed to prohibit an individual owner from obtaining a

permit to connect to an existing service line located totally within the owner's property and installing such connection by his own labor provided, however, that such connection is conducted under the regulations of this Ordinance, rules and regulations thereunder, all other ordinances of Fayal, applicable statutes of the State of Minnesota, and requirements of the Town Engineer and Town Plumbing Inspector.

ARTICLE XII

TOWN OF FAYAL NOT LIABLE

Fayal shall not be held liable at any time for any deficiency or failure in the supply of water to the customer whether the same be occasioned by the shutting off of water for repairs or connections or for any cause whatsoever.

ARTICLE XIII

RIGHT TO ENTER LAND

Fayal, by authorized employee or agent, shall have the right to enter, and shall be admitted to any lands within the Town at any reasonable hour for the purpose of inspection of materials, plumbing work or fixtures used by or in connection with the water system.

ARTICLE XIV

USE OF PRIVATE WATER SYSTEMS

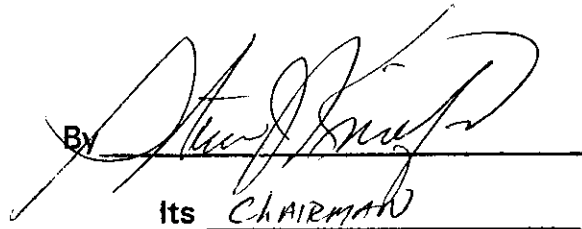
Whenever any premises are connected to the Town water system, there shall be maintained a complete physical separation between Fayal municipal water supply system and the private water supply system of any property or homeowner so that it is impossible to intentionally or unintentionally allow any water produced by a private system to be introduced into the supply line from Fayal water system.

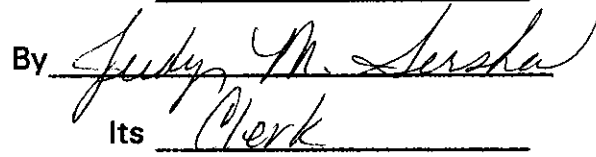
ARTICLE XV

SEPARABILITY OF SECTIONS

In the event any provision of this Ordinance shall be held to be invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the balance of this Ordinance or any provision hereof.

TOWN OF FAYAL

By 
Its CHAIRMAN

By 
Its CLERK

Attest:

By 
Town Clerk

**TOWN OF FAYAL, ST. LOUIS COUNTY MINNESOTA
SUMMARY OF ORDINANCE NUMBER 97-3**

**AN ORDINANCE TO PROVIDE FOR THE DESIGN, ACQUISITION,
CONSTRUCTION, OWNERSHIP, OPERATION, AND MAINTENANCE OF A PUBLIC
WATER SYSTEM WITHIN THE MUNICIPAL LIMITS OF FAYAL**

The following summary of the Water Ordinance for the Town of Fayal has been prepared for purposes of publication. The ordinance in its entirety, as well as other documentation can be reviewed at the office of the Fayal Township Clerk, 3600 Shady Lane, Eveleth, Minn. 55734, between the hours of 7:30 and 11:30 Monday through Friday.

Article I. Preface.

Article II. Authority. This ordinance is made pursuant to Min Stat 368.01, subd 6 and 365.20.

Article III. Purpose and Scope.

To provide for the design, acquisition, construction, ownership, operation and maintenance of a public water supply system within the municipal limits of Fayal so as to provide a reasonable, alternative, and safe water supply for the residents of Fayal.

Article IV. Maintenance and Operation of the Water System

A. Management and operation to be under the supervision of the Fayal Public Works Commission.

B. Connection to water system shall be only by permit and receipt of fee by the Town of Fayal.

C. Town of Fayal authorized to collect certain fees and payments prior to the connection to the water system to include:

1. Connection Charges
2. Service line charges
3. Special Assessments that may be levied
4. Any service area charges that may be established.

D. Provides for the inspection of installations or connections to the water system.

Article V. Water Meter Regulations

A. All water consumed from the system will be metered by a meter owned by the Town.

B. All meters to be provided by and owned by the Town of Fayal. Fees for meter installations may be established.

C. All meters to be sealed by the Town. Repairs or replacement requiring the removal of seals only when authorized by the Town.

D. All meters to be accessible to authorized Town personnel at reasonable times.

E. Meters may be repaired or replaced from time to time. Responsibility for costs of such repairs will be determined from time to time.

- F. It will be unlawful to tamper with any water meter.
- G. Average past billing will be used if meter fails to accurately measure consumption.
- H. Water user may request meter accuracy tested upon the submittal of an established fee. -3% to +1.5% deemed to be acceptable accuracy.
- I. Town Board authorized to billing method and intervals and penalties for late payments.
- J. Town reserves the right to discontinue service for repairs and connections.
- K. Town reserves the right to discontinue service after proper notice for nonpayment of bills or disregard of rules and regulations.

Article VI Liability for Repairs

After initial connection, user will be liable for all repairs from and including the curb stop box.

- A. Fayal will have the responsibility for the thawing of water mains. Property owners will have the responsibility from the connection to the main to the premises. A permit may be obtained to allow water to run to preclude freezing.

Article VII Implied Consent to Rules, Regulations, and Rates.

Every person obtaining water service shall be deemed to consent to all the rules, rates, and regulations established by the ordinances of Fayal.

Article VIII Billing.

Town of Fayal will prescribe from time to time rates and penalties for water customers.

Article IX Emergency Regulations

Town of Fayal may impose emergency regulations pertaining to the conservation of water.

Article X Leak in Service Line

Occupant or user shall notify Fayal within 24 hours of the discovery of a leak. Town may assess charges for wasted water.

Article XI Installation of Connections

Any installation, other than by the owner, shall be by a licensed plumber.

Article XII Town of Fayal not Liable

Fayal shall not be held liable at any time for any deficiency or failure in the supply of water to the customer whether the same be occasioned by the shutting off of water for repairs or connections for any cause whatsoever.

Article XIII Right to Enter Land

Authorized personnel will have right to enter at reasonable times to inspect materials, work or fixtures on the water system.

Article XIV Use of Private Water Systems

There shall be a complete physical separation between the Fayal municipal system and any private water supply system to preclude any water from the private system to enter the municipal system.

Article XV Separability of Sections

In the event any provision of this Ordinance is held to be invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the balance of this Ordinance or any provision hereof.

Adopted: 16 December 1997

Steven J. Kniefel
Chairman, Town of Fayal

Judy M. Sersha
Clerk of Fayal

Affidavit of Publication

STATE OF MINNESOTA)
)ss
COUNTY OF ST. LOUIS)

Eileen Rioux, being duly sworn, on oath says that he/she is the publisher or authorized agent and employee of the publisher of the newspaper known as Mesabi Daily News, and has full knowledge of the facts which are stated below:

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Fayal Township, RE: Water Ord. Amendment #1

which is attached was cut from the columns of said newspaper, and was printed and published one time; it was published on Tue the 13th day of Oct, 19 98; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size and kind of type used in the composition and publication of the notice.

* abcdefghijklmnopqrstuvwxyz

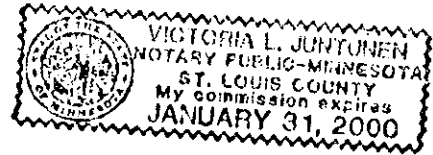
BY: Eileen Rioux

Victoria Juntunen
Subscribed and sworn to before me on this 13th day of Oct, 19 98.
Notary Public

* ALPHABET SHOULD

BE AS THE NOTICE.

FORMATION



Amendment No. 1
TOWN OF FAYAL WATER ORDINANCE
No. 97-3 (Adopted 16 Dec 1997)
The Board of Supervisors of the Town of Fayal do hereby ordain that Article VI and Article VI para. A of Ordinance #97-3 "The Town of Fayal Water Ordinance" adopted 16 Dec 1997 be revised to read as follows:

ARTICLE VI
LIABILITY FOR REPAIRS

- (1) Lowest classified rate for commercial users for col
(2) Maximum rate allowed for the above matter
(3) Rate actually charged above matter

The Town of Fayal shall be the owner of the water main, the curb stop boxes and all feeder lines in between the water main and the curb stop box. By purchasing water from the Town of Fayal, all customers consent to such ownership and convey such portion of feeder line and curb stop box to the Town of Fayal. The Town of Fayal shall have access to the curb stop box at all times. The property owner shall be the owner of all water lines from the curb stop box to the premises.

After the initial connection has been made to the service line, the applicant, owner, or user of such premises shall be liable for all repairs required to any water line from the curb stop box to the premises and any related street repairs; and it shall be the responsibility of the applicant, owner, or user to maintain the stop box at such height as will ensure that it remains at or above the finished grade of the land or property. The Town of Fayal shall be responsible for repairs made between the water main to, and including, the curb stop box, and any related street repairs.

A. Fayal Township shall be responsible for thawing frozen water mains and feeder lines up to and including the curb stop box. The applicant, owner, or user shall be solely responsible for thawing frozen service lines from the curb stop box to the premises.

The remainder of Article VI and the remainder of the entire Ordinance 97-3 shall be unchanged.

Adoption of the Foregoing Amendment to Town of Fayal Ordinance #97-3 "THE TOWN OF FAYAL WATER ORDINANCE" was moved by Supervisor Turner and seconded by Supervisor Tammaro and it was approved on 6 October 1998 by the following vote:

Ayes: Turner, Tammaro, Kniefel, Ojanpa, Bratt
Nays: None
Absent: None
Amendment will take full effect upon publication as provided by state statute.
Steven J. Kniefel, Chairman
Judy M. Sersha, Clerk
(MDN 10-13-98)

\$ 11.25/inch
(Line, word, or inch rate)
\$ 11.25/inch
(Line, word, or inch rate)
\$ 9.60/inch
(Line, word, or inch rate)