

## **Chapter 607 – Storage Tank Regulation**

### **Section 607.1 – Intent**

- A. Lenox Township and the Detroit Water and Sewer Department (DWSD) entered into a Water Service Agreement dated November 15, 2005, with respect to the provision of water services to the Township from the City of Detroit's System. On January 1, 2016, the Township and DWSD assigned the Water Service Agreement to the Great Lakes Water Authority, a Michigan municipal authority and public body corporate created pursuant to Act 233 of 1955 (GLWA). The Water Service Agreement as assigned (GLWA Contract) provides for the terms and conditions of water service provided to the Township by GLWA, including the setting and readjusting of the water service rates charged to the Township by GLWA based on the Township's volume, maximum day, and peak hour water usage. The GLWA Contract provides for periodic adjustments of the Township's maximum flow rates, on a four (4) to five (5) year schedule, to reflect the Township's usage as shown by historical flow data collected by GLWA.
- B. The Township provides water and sewer services to certain retail customers of the Township's public water supply system which customers can use large quantities of water over short periods of time by filling elevated or underground water storage tanks during off-peak times (12:00 AM to 5:00 AM) to remain within the maximum flow rate limits as set by GLWA during normal peak times (6:00 AM to 12:00 AM). Filling water storage tanks during peak times can have a direct impact on the Township's max day and peak hour water usage and may directly result in a rate increase being imposed on the Township by GLWA, which rate increase would then be passed on to all water customers throughout the Township. As a result of the historical flow data leading up to the adoption of this Ordinance, GLWA has notified the Township that the Township's assigned flows, and corresponding water rates may be increased to account for flow resulting from the filling of existing water storage within the Township unless the water storage tank operations are controlled in accordance with the off-peak filling schedule approved by GLWA. For the above reasons, to further the objectives of fairness and proportionality in the costs and rates charged to all users of the public water system in the Township, and in order to ensure that all water storage tank filling operations remain within the Township's assigned GLWA Contract flow rates, the Township intends with this Ordinance to require all water storage tank filling within the Township to comply with the operational parameters required by GLWA, and provides for penalties and remedies to be applied in the event that the storage tank operations impact the Township's maximum flow rates.

## Section 607.2 – Definition

**Storage Tank** – Any private underground surface or elevated water storage tank exceeding one hundred thousand (100,000) gallons in size.

## Section 607.3 – Storage Tank Operations

- A. The owner and operator of a Storage Tank shall comply with the Water Tank Filling Schedule set by GLWA as set forth in the GLWA contract on file with the Township, which schedule requires the owner or operator to fill the Storage Tank beginning after 12:00 A.M. and concluding before 5:00 A.M., except in the event of an emergency, the owner or operator shall refrain from filling the Storage Tank at any other time, without prior approval from the Township.
- B. In the event of an emergency requiring filling of a Storage Tank outside of the Water Tank Filling Schedule, before filling the tank, the owner or operator shall immediately notify the Township of the emergency, the reasons the emergency requires immediate filling of the Storage Tank, and the timing and the anticipated amount of the water usage. The notification to the Township shall be by way of contacting the Department of Public Works Superintendent at an emergency telephone number that the Superintendent will provide to the owner or operator. The Township shall provide the information regarding the emergency to GLWA.
- C. The owner or operator of a Storage Tank shall connect the Storage Tank to the Township Supervisory Control and Data Acquisition (SCADA) System that is connected to GLWA Wholesale Automated Meter Reading (WAMR) system to allow the Township to track water usage on a real-time basis. The Township will set its GLWA WAMR alerts at levels low enough to allow the Township adequate time to contact the appropriate owner or operator to require that Storage Tank filling be delayed, to avoid a contract exceedance if water usage is approaching the max day and/or peak hour limitations under the Township's GLWA Contract.
- D. The owner or operator shall comply with the following additional operational measures with respect to its Storage Tank:
  1. Township staff and/or consultants shall be present to monitor the SCADA programming at the Storage Tank to ensure that the tank operations are following the Township's GLWA Contract values.

2. At the Township's direction, the owner or operator shall temporarily cease Storage Tank filling operations and shall adjust timing, as needed, to avoid GLWA Contract flow limit exceedances.
3. Owner or operator shall provide the township Department of Public Works Superintendent or his designee immediate access to the Storage Tank controls and permit the Township to manually override and adjust the Storage tank fill operations in the event usage is approaching GLWA Contract limits.
4. The owner or operator shall meet the Township two (2) times annually, to review compliance with this Ordinance.

#### **Section 607.4 – Violations, Enforcement, Penalties, and Remedies**

- A. Whenever the Township's Department of Public Works Superintendent or his designee finds that a person has violated a provision or failed to meet a requirement of this Ordinance, the Superintendent, or his designee, may issue a written notice of violation to the owner and/or operator of the Storage tank, which notice may include an order requiring the owner and operator to comply with the following without limitation:
  1. Immediate cessation and desisting of the violating actions, practices, or operations.
  2. Abatement or correction of the violation.
  3. Payment of an amount to reimburse the township for administrative costs incurred while identifying the violation and having to undertake efforts to address the violation.
  4. Payment in the amount of all costs incurred by the Township resulting from the noncompliance as necessary to offset rate increases passed on to the Township by GLWA for exceeding maximum flow rates because of the noncompliance.
- B. The notice shall set forth a deadline within which the owner or operator must comply with each requirement in the order.
- C. The notice shall advise that should the violator fail to comply with this Ordinance, or an order set forth in the notice within the established deadline, the Township may take all or any of the following actions:
  1. If the owner or operator has failed to pay any amount required by the order, the amount set forth in the notice, plus interest at the rate of five percent (5%) per annum assessed on the balance beginning on the date of the notice, shall constitute a fee and charge for

water usage and shall be added to the owner's or operator's periodic water bill for collection thereafter.

2. The Township may issue a municipal civil infraction citation as provided under this Ordinance.
3. The Township may file an action in the Macomb County Circuit Court, or another court of competent jurisdiction, as provided under this Ordinance.

D. Failure to comply with any orders set forth in a notice issued under this Subsection shall constitute a violation of this Ordinance.

E. Amounts charged and ordered by the Township to be paid under and in accordance with this Section shall be considered charges and fees for water usage. If an owner or operator has failed to pay an amount to the Township required by a Township notice and order issued under this Section, the amount set forth in the notice, plus interest at the rate of five percent (5%) per annum assessed on the balance beginning on the date of the notice, shall be added to the owner's or operator's periodic water bill for collection thereafter.

#### **Section 607.5 – Violations Deemed a Public Nuisance, Civil Action**

A. Because filling Water Storage Tanks during peak times can negatively affect the water pressure for other users of the system and fire hydrants and can also have a direct impact on the Township's max day and peak hour water usage resulting in a Township wide rate increase being passed on to the Township by GLWA, thereby constituting a threat to the public health, safety, and welfare and also affecting the water system funds and finances of other system users, it is hereby declared that non-compliance with the terms of this Ordinance is deemed and shall be presumed to constitute a public nuisance. If an owner and/or operator of a Water Storage Tank has violated or continues to violate any provision of this Ordinance, the Township may file a civil action with the Circuit Court for the County of Macomb, or another court of competent jurisdiction, for any of the following:

1. A temporary restraining order.
2. A preliminary and/or permanent injunction restraining the owner and/or operator from continuing the violation and undertaking activities that would create further violations.
3. Compelling the owner and/or operator to perform abatement of or otherwise correct the violation.

4. An award of damages for costs incurred by the Township resulting from the noncompliance as necessary to offset rate increases passed on to the Township by GLWA for exceeding maximum flow rates because of the noncompliance.
5. Any other relief or remedy, at law or in equity, determined to be necessary by the Township under the circumstances. In the event the Township is granted any such relief, the Township may also request and shall be entitled to a court order requiring the owner and/or operator, jointly and severally, to pay attorney's fees, court costs, and other expenses associated with and incurred by the township during enforcement of this Ordinance.

#### **Section 607.6 – Enforcement, Penalty, and Remedy Options Not Exclusive**

The methods and processes of enforcement, penalties, and remedies listed in this Ordinance are not exclusive of each other or any other remedies available under any applicable federal, state, or local law, and it is within the discretion of the Township to undertake all or any of the methods or processes of enforcement and to impose and/or seek cumulative penalties and remedies available to it under this Ordinance and all other applicable state, federal and local laws.

