

ORDINANCE NO. 727

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF BERNE, INDIANA AMENDING AND RESTATING A PORTION OF CHAPTER 53 OF THE BERNE CITY CODE INCLUDING PROVISIONS REGARDING THE DEPOSIT MADE BY CUSTOMERS OF THE WATERWORKS SYSTEM OF THE CITY OF BERNE

WHEREAS, the Common Council of the City of Berne adopted Ordinance No. 726 establishing a deposit to be made by customers of the Water Utility upon applying for such service; and

WHEREAS, the Common Council has had further conversations regarding the appropriate sum of said deposit; and

WHEREAS, certain owners / landlords of properties that are occupied by persons other than the owners, but whose tenants have received services from the Water Utility, have contacted the City and requested for the City to waive the deposits, and in lieu of such deposits, the owners / landlords will indemnify the City for any unpaid utility invoices remaining after their tenants vacate such properties; and

WHEREAS, IC 8-1.5-3-8(i) states that a municipal legislative body may not impose a requirement that an owner of the property occupied by persons other than the owner accept responsibility for charges incurred by the person occupying the property, but said IC 8-1.5-3-8 does not state that a municipality may not waive a deposit if said owner voluntarily accepts such responsibility in lieu of such deposit.

NOW THEREFORE, BE IT RESOLVED AND ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BERNE, INDIANA THAT ORDINANCE CHAPTER 53, SECTION 53.02(A) OF THE BERNE CITY CODE BE AMENDED AS FOLLOWS:

Section 53.02 Deposit.

(A) Upon applying for water utility service from the City for a residence, an applicant, whether an owner, tenant or contract purchaser, shall pay to the Clerk-Treasurer a deposit in the sum of \$200.00, which sum shall be utilized by the City to ensure payment by the person occupying the property of the rates, charges and fees assessed for the services rendered by the City water utility with the respect to the property. However, if an owner/ landlord of a property occupied by a person other than the owner requests that the City waive the deposit to be paid by the person occupying said property, and in lieu of such deposit, the owner / landlord agrees to indemnify and hold harmless the City for any unpaid utility invoices remaining after the occupier of said property vacates such property, and said owner / landlord further executes an approved Utility Indemnification Agreement setting forth such indemnification, then the City will waive the deposit otherwise required herein.

All ordinances and parts of ordinances in conflict herewith are hereby repealed. This ordinance shall be effective upon passage.

Duly passed, adopted and resolved by the Common Council and approved by the Mayor of the City of Berne, State of Indiana, on August 10, 2020.

COMMON COUNCIL OF THE CITY OF BERNE

Curtis L. Wurster, President
Kelly A. Amstutz
Ronald N. Dull
Rodney E. Mason
John M. Wanner

APPROVED:
Gregg A. Sprunger, Mayor

ATTEST:
Gwen Maller, Clerk-Treasurer