

**AN ORDINANCE REPEALING ORDINANCE #603 – TITLE 53 WATER – AND  
ADOPTING ORDINANCE #647 OTHERWISE KNOWN AS TITLE 53 “WATER”**

BE IT ORDAINED by the Common Council of the City of Box Elder, Meade and Pennington Counties, South Dakota, that Ordinance # 603 is hereby repealed in its entirety, and Ordinance # 647 is hereby adopted creating TITLE 53 – Water to read as follows:

**TITLE 53  
WATER**

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## GENERAL PROVISIONS

### 53.01 – PURPOSE AND SCOPE:

These rules and regulations are hereby adopted for water within the service area of the City of Box Elder. The Common Council of the City of Box Elder has deemed these regulations and controls to be reasonable and necessary for the efficient, economic and safe operation of the water treatment and distribution system serving the Box Elder area.

### 53.02 – JURISDICTION:

This Ordinance shall govern all territory within the municipal limits of the City of Box Elder, and within those areas outside of the municipal limits of the City of Box Elder where the City of Box Elder is providing water service.

### 53.03 – SEVERABILITY AND SEPARABILITY:

Should any Article, Section, Subsection, or Provision of this Ordinance be found to be or declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the Ordinance or any part thereof, other than the portion so declared invalid or unconstitutional.

**53.04 – DEFINITIONS:** For the purposes of this Ordinance, and to carry out the provisions and intentions as set forth herein certain words, terms, and phrases are to be used and interpreted as defined hereafter. Words used in the present tense shall include the future tense; words in the singular number include the plural; words in the plural number include the singular; the word “person” includes a firm, partnership, or corporation as well as an individual; the term “shall” is always mandatory and not discretionary; and the word “may” is permissive.

**CITY:** The City of Box Elder, South Dakota.

**City System:** The municipal water distribution system operated by the City.

**COUNCIL:** The Common Council of the City.

**INDIVIDUAL:** A natural person, corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals. It also includes an executor, administrator, trustee, receiver, or other representative appointed according to law. Whenever the word “individual” is used in any provision of this code prescribing a penalty or fine as to the partnership or associations, the word includes the partners or members thereof, and as to corporations, includes the officers, agents, or members who are responsible for any violation of such section.

**MANUFACTURED HOME:** For the purpose of City Ordinances, particularly Title 53, a manufactured home placed on a parcel of land within the City not be more than twenty (20) years of age, no less than sixteen (16) feet in width and constructed almost

entirely in a factory with a peaked, non-reflective roof. The house is placed on a steel chassis and transported to the building site. The wheels can be removed but the chassis stays in place. The structure is intended to be a single-family dwelling, designed to be a permanent residence, that meets or exceeds the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401-5426) and the Federal Manufactured Home Construction and Safety Standards as codified in 24 CFR Part 3280, commonly known as HUD (U.S. Department of Housing and Urban Development) Code.

**MOBILE HOME:** A factory-built, single-family dwelling, designed to be a permanent residence, and built prior to enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401-5426) and the Federal Manufactured Home Construction and Safety Standards as codified in 24 CFR Part 3280,, commonly known as the HUD (U.S. Department of Housing and Urban Development) Code. Mobile homes typically are not placed on a permanent foundation or basement and consist of one or two transportable sections that have a permanently attached towing hitch and chassis.

**MODULAR HOME:** Any conventionally manufactured dwelling unit meeting or exceeding all local code requirements; that is constructed in two (2) or more main sections and transported to and permanently assembled on a foundation at the site. The chassis or frame for which the sections are transported, shall not be in part or whole required for the structural integrity of the building. Said frame, trailer or chassis shall be removed prior to placement of the structure on a permanent foundation.

**QUALIFIED CONTACTOR:** Any person, firm, partnership or corporation who is engaged in the act of construction, plumbing, electrical, excavation, or any other similar construction work who is licensed and in good standing with the City.

## WATER SERVICE REGULATIONS

### 53.15 – GENERAL REGULATIONS:

53.15.01: The Public Works Director is authorized and directed to enforce all provisions of this Ordinance.

53.15.02: The Public Works Director shall have the power to enforce rules, procedures, and supplemental regulations to clarify the application of its provisions. Such rules, procedures, and regulations shall be in conformance with the intent and purpose of this Ordinance and are subject to appeal to the Council.

53.15.03: The Public Works Director may designate inspectors or employees as necessary to carry out required functions of the water system.

53.15.04: Water service shall be turned on only after installation of a water meter.

53.15.05: Water service shall only be turned on by authorized employees of the Public Works Department.

53.15.06: Unauthorized water service turn-on shall be grounds for immediate termination of water service without notice.

**53.16 – ADMINISTRATION:**

53.16.01 – Information:

The Public Works Director shall prescribe the form and detail of all applications, permits, and reports required by this Title, may determine the frequency of such items, except where a frequency is specified, and may provide interpretations or determine the application of these Rules and Regulations where their meaning or application is requested.

53.16.02: APPLICATION FOR PERMIT:

Applicants seeking to obtain water, either directly or indirectly from the Box Elder water distribution system, within or outside the corporate limits of the City, shall make application or have a licensed Plumbing Contractor or licensed Pipe-Laying Contractor make application, in writing, to the Public Works Director or their designated representative. Said application is to state the name of the owner, description of premises, the size of the tap, kind of service pipe to be used, and purpose for which it is to be used. Said application must be made at least two (2) days before the work is to be commenced. After the application for a new water service or distribution system has been approved by the Public Works Department, and after payment of all applicable fees, a permit will be issued to the applicant based on the size of the water service line.

53.16.03: ACCESS TO CONSUMER'S PREMISES:

The Public Works Department shall have the right to enter the water user's premises at all reasonable times, without notice, or to enter the water user's residence at a mutually agreed upon time during normal work hours of the Public Works Department to read, inspect, or keep meters in good repair and/or install or remove any or all of the meter's apparatus used in connection with the supply of water or for the following reasons:

- a) To make necessary or desirable repairs including alterations or extensions due to leaks;
- b) For non-payment of any bills;
- c) For failure to provide proper security deposit when requested to do so;
- d) For fraudulent use of the water;
- e) For misrepresentation in the application to the City for water service;
- f) When the water user has vacated the premises;
- g) For tampering with the City's meter or meter connections or to safeguard the City's property from damage or further damage;
- h) For reasons of health and/or safety;
- i) During periods of water shortage;
- j) For securing compliance with orders issued by civil or military authority;



- k) For any violation of law, contract, or formal agreement or understanding related to water service;
- l) For annual inspection of water meter;

If the water user fails to allow admittance of the Public Works Department employee for reading the meter, or any other above stated reason, water service may be discontinued immediately.

The Public Works Department may cause to be installed a remote reader and/or a different meter on any water user's service to allow City employees to not have to enter the premises for managing the water service.

#### 53.16.04 Expenses of Repairs

Persons taking water from the distribution mains must keep their service lines and fixtures connected therewith in good repair and protected from frost at their own expense and must prevent all unnecessary waste or the water will be turned off. No abatement shall be allowed from the prices charged or agreed upon by reason of the breaking of the service line or corporation stop, and no claim shall be made against the City or any of its officers, by reason of the breaking; nor will the City or the Public Works Director be responsible for the damage growing out of the stoppage of said water or any insufficient supply of the same or as to quantity or quality of the water. The property owner or owners shall be responsible for their service line including maintenance and expenses of repairs from their curb stop or master shut-off. The City of Box Elder will assume the responsibility for the service line from the corporation stop at the water main to the curb stop or master shut-off; whichever comes first.

#### 53.16.05 Notice to Inspector

Any plumber or person doing work under the provisions of these regulations shall, when work is prepared for inspection as provided in this regulation, notify the Public Works Director or his/her authorized representative that such inspection is requested, giving the location of the premises and the time such work will be ready for inspection.

#### 53.16.06 Abandonment of Service

In the case any water service line should have to be abandoned, the owner of the water service to be abandoned shall properly excavate and expose the old service line and disconnect the line at the water main within thirty (30) days after the water service has been abandoned. If the service line being abandoned is supplying two (2) or more distinct premises, the person no longer needing the service will be responsible to excavate and properly disconnect and backfill their portion of the service line at the point determined by the Public Works Director or their duly authorized agent. There shall be no backfilling of the trench at the point which the water service has been turned off, until the point of disconnect has been inspected by the Public Works Director or their duly authorized agent.

Service lines that are abandoned are to be disconnected at the corporation stop at the main in a manner approved by the Public Works Director or their authorized agent. Service lines shall be considered abandoned when:

- a) the structure being served by the service line is demolished or removed from the site and the service line is smaller than 1-inch diameter (nominal) or
- b) the service line has not been used for at least five (5) years and it is smaller than 1-inch diameter (nominal).

If a service line is considered abandoned and not shut off and disconnected at the water main within thirty (30) days of abandonment, then the landowner shall be responsible for the cost of all repairs to the service line all the way to the main, including any damages that may occur as the result of said line developing any leaks. If any new service line is installed it must be 1-inch diameter (nominal) or larger.

#### 53.16.07 Discontinuation

Any person desiring to discontinue using water must notify the Public Works Director or their authorized agent to that effect. Charges will be prorated to the disconnect date.

#### 53.16.08 Water for Fire Purposes

Whenever proprietors of lumber yards, manufacturing, halls, stores, hotels, or public buildings (regular customers of the water system) wish to lay larger pipe with hydrants and hose couplings, to be used only in case of fire, they will be permitted to connect with the street main at their own expense in a manner approved by the Public Works Director, or their authorized agent, upon application for a permit and payment of any required fees according to the schedule for such purpose set forth by Resolution or Ordinance.

The use of water for fire purposes only, will be free of charge. Such pipes must be provided with a suitable valve, which must be sealed by the Public Works Director or his authorized agent and stopcock and waste cock attached to the bottom or inside of the building. In case the seal is broken for the extinguishment of fire, the party shall immediately give notice to the Public Works Director. No stand pipe or water tank will be allowed on the premises for any use other than fire purposes.

#### 53.16.09 Taking Water from or Meddling with Public Hydrants

No person shall unscrew or take off any cap on any water hydrant, or in any way meddle or interfere with such hydrant or take or carry away any water from any public hydrant, except the Public Works Department or authorized agents and the Chief of the Box Elder Volunteer Fire Department or authorized agents when in the line of duty, without permission of the Public Works Director or his designee.

#### 53.16.10 Restricting Use

The Public Works Director reserves the right at any time to restrict the use of said water.

#### 53.16.11 Water System Expansion Inspection Fees

Any person or persons making such application shall agree as a part of such application to pay the City a fee or charge for engineering approval and inspection of such proposed water main into the water system according to a price schedule determined at the start of the construction season. The charge shall be adopted annually by Resolution or Ordinance passed by the City Council. The payment of such charge or fee is to be made upon approval of said application and before said connection is made.

#### 53.16.12 Damages

No person shall uncover or maliciously, willfully or negligently break, damage, destroy, deface, or tamper with any structure, appurtenance, or equipment which is part of the City water system.

#### 53.16.13 Private Water Systems

No private water systems shall have a cross connection to the City water system at any time.

#### 53.16.14 Enforcement

The Public Works Director shall administer and enforce the provisions of this Title.

#### 53.16.15 Responsibility

The Public Works Director may delegate to employees or agents, the responsibility for administering under his supervision, any part of the provisions of this Title where such delegation is deemed to be in the best interest of the City.

#### 53.16.16 Sewer User Fee Enforcement

The Public Works Director will enforce the collection of the sewer use fee ordinances by having the water service disconnected as provided for in the ordinances pertaining thereto and acts amendatory to said ordinances. A fee will be required to reconnect the water service according to the schedule adopted by Resolution or Ordinance.

### **53.17 - WATER SERVICE:**

#### 53.17.01 Application for water service by a resident and/or customer:

- A. Applications for water service will be made in person at the Water Billing Office. Valid identification shall be required of the applicant.



- B. Application for water service may be denied for any property and/or address that has had three (3) delinquent account events during any 12-month period. Applications for water service from these locations will only be accepted from the property owner of that address or parcel of land.
- C. A customer deposit is due and payable to the City of Box Elder with the application for water service.
- D. The customer whose application for water service is approved, is thereafter responsible for payment of all bills incurred in connection with the water service furnished by the City.
- E. The customer whose application for water service is approved, is thereafter responsible for maintaining a valid mailing address with the Administrative Office.
- F. The signed application for water service shall be deemed consent by the applicant to allow Public Works Department employees access to the customer's premises, at all reasonable hours, for purposes of installing, reading, inspecting, maintaining or removing water meters, for fixing water lines, to access a curb stop to shut off or turn on water, or for any other purpose in connection with water service.
- G. The Public Works Department shall require proof of an approved City Moving Permit before providing water service to a manufactured home and shall require that such a home be skirted, if not placed on a basement or crawl space, before providing water service.
- H. The Public Works Department may require a customer to grant or convey, or cause to be granted or conveyed, to the Public Works Department a permanent easement and right-of-way across property owned or controlled by the customer whenever said easement or right-of-way is necessary for the Public Works Department to furnish water service to said customer.
- I. The Public Works Department may reject any application for water service that:
  - 1. involves excessive water service costs,
  - 2. may affect the supply of water service to other customers,
  - 3. is delinquent in payment for any previous water service account or is otherwise currently in violation of any provision of this Title or any other City Ordinance, or
  - 4. the Public Works Director has determined that approval is not in the best interests of the City.

Any denial of water service under this Section may be appealed to the City Council. Such appeals must be filed, in writing, with the Finance Officer within thirty (30) days of the date of the denial of water service.

- J. The Public Works Department may, for violation of any of the provisions of these regulations relating to application for water service, and seven (7) days after sending a written notice by first class mail to the last known address of the customer, discontinue water service and remove the water meter from the customer's property. Where the water meter is thereafter reinstalled, said customer shall first pay the Public Works Department a reinstallation fee of (See section 53.20.11).

#### 53.17.02

##### **53.17.02 Application for Water Service by a contractor or temporary user:**

- A. The contractor/applicant upon submitting application for a building permit for new construction, will be required to set up a temporary water service account as a condition of building permit issuance. Temporary water service accounts will automatically start upon installation of the water meter in the City approved meter pit. The person applying for a building permit will be required to sign an agreement of responsibility for payment of the temporary water account until the account has been closed and the water turned off, or the account converted to another owner/responsible party.

For all new construction, the installation of the meter pit will be the responsibility of the General Contractor and shall be installed as close to the water service line curb stop as is reasonably possible.

- 1) On parcels of land where a meter pit is already installed and for which a building permit is being requested, the meter will be installed within three (3) working days of issuance of the building permit, and the temporary water service account will be activated upon installation of the meter.
  - 2) On parcels of land where no meter pit is present at the time of issuance of a building permit, the contractor shall within sixty (60) days of issuance of the permit, install a City approved meter pit, request a meter pit inspection and installation of the water meter. The temporary water service account will be activated upon installation of the meter.
- B. The applicant, unless otherwise provided, shall pay the normal minimum water fee or actual usage, whichever is greater, excluding sewer or garbage charges, each month the temporary water service account is in effect unless otherwise authorized in writing from the Public Works Director.
- 1) In One- & two-family dwelling units, temporary water service accounts will automatically convert to a regular water account adding sewer and garbage fees

upon the issuance of a Certificate of Occupancy or 160 days from the building permit issuance, whichever occurs first.

2) In Multi-family dwelling units (three or more dwelling units per structure) temporary water service accounts will automatically convert to a regular water account adding sewer fees upon the issuance of a Certificate of Occupancy or twelve (12) months from the building permit issuance, whichever occurs first.

3) In Commercial units, temporary water service accounts will automatically convert to a regular water account adding sewer fees upon the issuance of a Certificate of Occupancy or twelve (12) months from the building permit issuance, whichever occurs first.

4) Where there are extenuating circumstances, the Public Works Director may at their discretion extend the temporary water service account.

- C. Theft of service by a contractor or person responsible for the property shall be punishable by issuance of an Administrative Citation and/or Class II Misdemeanor, and revocation of their City contractor's license or right to conduct business within the City for a minimum of one (1) year (12 months).

### **53.18 - CLASSIFICATION OF WATER SERVICE:**

53.18.01 RESIDENTIAL: This class of water service applies strictly to single-family dwelling units and multi-family dwelling units up to and including four-plexes and may include residences where a home occupation use occurs.

53.18.02 BULK RESIDENTIAL: This class of water service applies to all multi-family dwelling units, manufactured home courts, or multiple-dwelling buildings or developments, which are served by a master water meter.

53.18.03 COMMERCIAL: This class of water service applies to all customers that are not classified as Residential or Bulk Residential.

53.18.04 IN-TOWN USERS: This category, which may be found within each of the three (3) classes of water service, applies to any customer whose water service location lies within the municipal limits of the City.

53.18.05 OUT-OF-TOWN USERS: This category, which may be found within each of the three (3) classes of water service, applies to any customer whose water service location lies outside of the municipal limits of the City, except those customers that have been designated by the Council as in-town users because of a previous agreement with the City for water service.

### **53.19 - FEES, DEPOSITS, AND RATES:**

53.19.01 TAP FEES: If the installation is performed by Public Works, the fee imposed, shall cover the cost of parts (such as, but not limited to, curb stop, riser, pipe,

tapping saddle, and corporation valve) and labor to connect to a City water main. All taps into City water mains will be performed by, or under the supervision of, the Public Works Department.

53.19.02 WATER SERVICE AVAILABILITY FEES are intended to defray the capital costs to the City's water system caused by the addition of new water service customers. Water Service Availability Fees shall be \$750.00 per single family dwelling unit or its equivalent, as determined by the chart below.

<i>Domestic Water Tap Size</i>	<i>SFDE</i>	<i>WSAF Total Fee</i>
1 "	1	\$750.00
1.5"	2.59	\$1,942.50
2"	4.08	\$3,060.00
3"	9.16	\$6,870.00
4"	16.29	\$12,217.50
6"	36.70	\$27,525.00
8"	65.25	\$48,937.50
10"	101.95	\$76,462.50

*SFDE = Single Family Dwelling Equivalent*  
*WSAF = Water Service Availability Fee*

53.19.04 Payment of Tap Fees and/or Water Facility Availability Fees are the responsibility of the project applicant.

53.19.05 CUSTOMER DEPOSITS are based on water meter size.

The Public Works Director shall have the right at any time to require the water user to make a reasonable water user deposit fee, or to give a reasonably safe guarantee to secure payment of its bills for water service, conforming to the laws of the State of South Dakota. The minimum deposit required for residential property account owners with an accessible individual shut-off and meter will be eighty-five (\$85.00) dollars; for renters with an accessible individual shut-off and meter, one hundred dollars (\$100.00) unless the renter can furnish a letter of good credit from a like utility, then in that case, an eight-five (\$85.00) dollar charge will be made; for business, commercial and Bulk

Residential users with an accessible individual shut-off and meter, one hundred (\$100.00) dollars.

1. A separate customer deposit shall be required for each water meter installed.
2. The amount of each customer deposit is not negotiable.
3. The Public Works Director shall have the right to double the amount of a customer deposit for any applicant who has previously been delinquent on a water service account or where the account shows a poor financial history.



4. All water user deposit fees shall be placed in a Water User Deposit Trust Account and said deposits shall be returned to the user at the termination of the service after the user has paid any unpaid water bills, including a final bill. The deposits shall be returned by check once each month, on or about the 15<sup>th</sup> of the month.  
All interest earned by the Water User Deposit Trust Account shall be transferred to the Water System Operation Fund.
5. Each customer deposit is transferable. Any customer desiring to transfer a customer deposit shall personally appear at the Administration Office and request the transfer in writing.
6. Each customer deposit is refundable upon closure of the customer's water service account. To obtain a refund of a customer deposit, the customer must make an appointment with the Administration Office for a final water meter reading. The amount of the final water bill will be deducted from the amount of the customer deposit before a refund will be issued. The refund of the customer deposit will be made after the first regular Council meeting following the final water meter reading.
7. If the Public Works Director finds that the request for a customer deposit refund is questionable, the Public Works Department may require the customer to provide a copy of the City-issued receipt for the customer deposit.

#### 53.19.06 Review of Rates:

All fees, deposits, water service rates, and surcharges may be reviewed and approved by City Council as needed. Unless otherwise determined by the City Council the volumetric water rate shall increase by 4% annually, effective January 1<sup>st</sup> 2021.

53.19.07 The Public Works Department will be responsible for collecting and recording all fees, deposits, charges, and rates.

#### 53.19.08 Water Receipts Deposited in Water Fund Account

All funds belonging to the City and derived from revenues arising from the operation of the City System shall be deposited in a water fund account and be used for no other purpose than to defray the expense of operating and expanding of the City System, including necessary capital expenditures and for payment of bonds issued to purchase or improve the water works.

### **53.20 METER READING, BILLING, AND COLLECTING:**

53.20.01 Bills for water service will be figured in accordance with the adopted water rate schedule and will be based on the amount consumed for the period covered by the meter readings, except where a customer orders water service turn-off less than one (1) month after water service turn-on. In such cases, the



minimum bill to the customer for that period shall be equal to the minimum charge for one (1) full month of water service plus any water used.

53.20.02 The initial or minimum charge as provided in the water rate schedule shall be made for each water meter installed, regardless of location.

53.20.03 Charges for water service commences when the water meter is installed, and the water service connection is made, whether water is used or not.

53.20.04 Each water meter will be assigned an individual account by the Public Works Department.

53.20.05 Water furnished for a given lot shall be used only on that lot.

53.20.06 Each class of water service must be separately metered.

53.20.07 Each customer's water service must be separately metered at a single delivery and metering point and have an individual shut off.

53.20.08 If separate shut offs and meters do not exist the property owner shall complete the installation of each accessible individual shut-off and meter within forty-five (45) days of the Public Works Director providing written notification that the service line(s) for accounts located at the building or property are subject to this requirement.

The Public Works Director may grant a temporary waiver to the above requirement if the account is solely in the name of the property owner.

Financial hardship shall not be considered as a reason for issuance of waiver.

53.20.09 Each commercial unit shall have a separate water meter.

53.20.10 Readings from different water meters will not be combined for billing, although said water meters may be for the same premises. Every water meter shall have a separate billing account.

53.20.11 Bills are generated on or about the twentieth (20<sup>th</sup>) day of each month and payments are due the first (1<sup>st</sup>) day of the following month. All payments for water service must be received by the city on or before 5:00 p.m. on the fifteenth (15<sup>th</sup>) of the month in which they are due or are assessed a \$10.00 late charge. If, however, the 15<sup>th</sup> falls on a Saturday, Sunday, or on a holiday recognized by the City, the late charge will not be added to the bill until after 5:00 p.m. on the next scheduled business day.

A customer water account will be deemed delinquent, on the fifteenth (15<sup>th</sup>) of the month in which the second consecutive monthly bill is due if neither monthly bill has been paid. The City will notify customers of a delinquency by mail on the 16<sup>th</sup> of the month and include the total amount due and the date water service

will be suspended. Water service will be suspended on the 27<sup>th</sup> day of the month if payment has not been received by 5 p.m. and the account placed on the shut-off list. If, however, the 27<sup>th</sup> falls on a Saturday, Sunday, or on a holiday recognized by the City, water service will be suspended if the payment has not been received by 7:00 a.m. on the next scheduled business day.

Once an account has been placed on the termination list and has **not** been paid prior to the scheduled termination date, there will be a one hundred dollar (\$100) administrative service fee added to the account, whether or not the water is shut off or the account is terminated. The Finance Officer of the City has the discretion to waive the \$100 administrative fee if the customer can show a history of on-time payments, no past delinquent payments, and unforeseen circumstances.

- A. On any occasion when the water service has been suspended for non-payment, the account balance due shall be paid in full, as indicated on the account and printed on the delinquency notice. The account balance due shall include the amount due for water service, twenty dollars (\$20) in late fees and the one-hundred dollar (\$100) administrative fee, prior to services being restored. Current charges, if not due, are not included in the account balance due after water service has been suspended.
- B. Unpaid water bills shall become a lien or property tax assessment upon the property for which water service is provided, and such bill and lien shall be enforceable against the owner of the property. The property owner shall receive notice of an unpaid water bill by the tenant after it is due.
- C. Suspended water service will not be reinstated until all water bills, fees, charges, rentals, and meter deposits have been paid in full. Accounts that have been turned off for nonpayment will be turned on during normal business hours only, unless otherwise authorized by the Public Works Director.
- D. Monthly service fees will continue to be assessed even after service is suspended due to nonpayment.
- E. In the event the account holder and the property owner are not the same person and the account holder becomes delinquent on three (3) consecutive occasions, a notice and final bill will be sent to the account holder and the property owner. At the end of the then current billing cycle, the account will be transferred into the property owner's name and will become the property owner's obligation.
- F. The Finance Officer shall develop an Administrative Utility Collection Procedure Policy to implement procedures concerning this section.

53.20.12 Failure to receive bills or notices shall not prevent such bills from becoming delinquent nor relieve the customer from their responsibility for payment.

**53.20.13 BILLING UPON ESTIMATE:**

If the Public Works Department is unable to obtain access to premises or dwellings at the time of meter reading, an estimated bill will be issued, based upon the last meter reading. The proper adjustment will be made when the meter reading is obtained. In no case will any bill be estimated more than one (1) month consecutively unless the meter is in a manhole which cannot be opened due to inclement weather. If any meter reading is not obtained at the end of any such two (2) month period, the water will be turned off ten (10) days after notice in writing has been mailed to the last known address of the person charged for water use, or by leaving notice by door card at the address of the consumer account that such water service will be shut off within forty-eight (48) hours until such meter reading is obtained, and the water shall not be turned on again until a reconnect charge is paid for turning water off and on in accordance with the following schedule: 8:00 a.m. - 5:00 p.m. Monday-Friday \$25.00; after 5:00 p.m. Monday-Friday, when authorized \$125.00; and Saturday, Sunday, and holidays, when authorized, \$125.00.

If water service has been turned off at the request of the water user, and it is not in order to repair faulty utility equipment, there shall be a service charge required and that charge shall be deposited in the Water Fund. That charge will be one fee in accordance with the following scheduled: 8:00 a.m. - 5:00 p.m. Monday - Friday \$75.00; after hours: \$150.00. Service fees will be added to the customers water account and will be subject to the same delinquent and termination fees as required as a utility account holder.

53.20.14 The City at its discretion, may furnish water to customers outside the City limits, if sufficient water is available, at a two (2) times higher rate, in accordance with applicable water rates and charges. The tap fee and impact fee charges for such services, shall be at a rate of 150% higher than the fees shown on the approved rate schedule.

**53.25 WATER SYSTEM CONSTRUCTION & ENGINEERING STANDARDS:**

53.25.01 All extensions or expansion to the City's water distribution system must follow adopted Public Works design standards and constructed within the public right-of-way or public easements. No water mains shall be constructed in any private easements.

**53.25.02 Unlawful Connections**

It shall be unlawful for any person to lay any water service line or introduce into, or about any building or any grounds, any water lines, or do any plumbing work in any building or on any grounds for the purpose of

connecting such pipes or plumbing, either directly or indirectly to the City water mains, or make any additions to or alterations of any water lines, fixtures or apparatus for the supply of any premises with water from the City water mains without first obtaining a permit to do such work. All water mains constructed within the corporate limits and all water mains constructed outside the corporate limits which eventually are contemplated to become a part of the City System, must be laid according to detailed plans and specifications approved by the Public Works Director and the South Dakota Department of Water and Natural Resources. The City reserves the right to exceed South Dakota Department of Water and Natural Resources Standards.

- 53.25.03 All taps or connections to the City distribution system will be made by or under the direction of the Public Works Director or other designated City employee. No person shall be permitted to tap or make connections, either directly or indirectly, to the City's water system except by permit.

#### 53.25.04 Service Line Connections

All work to be done in laying of the service line from the City water main into said premises and all labor connected therewith by the provisions of this Title shall be done by or under the direction of a Plumbing Contractor or Pipe-Laying Contractor, licensed by the State of South Dakota and the City. The Contractor shall be employed and paid by the owner or consumer and who shall at the same time save the City harmless and indemnify said City against all accidents or damage to person or property arising from neglect in performance of the work.

All Service lines shall be maintained by the Public Works Department from the City water mains to the Water curb stop after they are constructed. The City will not be liable for any reason for any damage to, or cost of repair or replacement of, any improvements that are located within the public right of way, including but not limited to decorative mail boxes or landscaping. The cost or repair to or the loss for damage to any improvements made or constructed within the public right of way by the property owner or another will be the responsibility of the property owner.

At any time a property lies within two-hundred (200) feet of a public water main, said property shall be required to connect to the public water system. (Reference, South Dakota Codified Laws 9-47-28)

- 53.25.05 The Public Works Department may, at its discretion, require installation of a water meter and meter pit at the property line or on the customer's property in a location that is easily accessible.

All installations shall be in conformance with the City Development Standards as well as City Standard Details and Specifications or as approved in writing by the Public Works Director.



The service line pipe size used from the City distribution line to the meter shall be determined in accordance with the Uniform Plumbing Code as adopted by the South Dakota State Plumbing Commission. The smallest residential or commercial service line size that will be allowed is one-inch (1") line. The Public Works Director reserves the right to exceed South Dakota Department of Plumbing Standards. Service line sizes more than those stipulated by this Section may be used only with the consent of the Public Works Director.

#### 53.25.07 Inspection and Turning on Water

After the service line and curb stop have been installed, the Public Works Director or his authorized representative shall inspect the exposed line and turn on the corporation stop. Any adjustments that may be required shall be made by the installer.

#### 53.25.08 Building Valve

Each building's water service shall be provided with a readily accessible gate, ball valve or other non-restricting flow valve located inside the building near the point where the water service enters. This valve shall be a threaded type that is easily removed without soldering. Soldered type valves will not be permitted.

A full-sized dual check backflow preventer if not installed in a pit outside the structure, shall be installed at the service entrance to the building.

#### 53.25.09 Water Meters:

Only Public Works Department employees shall install water meters.

When any new water services are requested, the applicant shall pay the water meter deposit at the time of request as part of the tap fee and/or impact fee. The Meter shall always be accessible for examination and repair. Accessibility will be determined by the Public Works Department. No repairs to the meter will be done by the Public Works Department if the meter is wrapped with insulation or heat tape. The owner of the service line will be responsible for the repairs.

One inch (1") or smaller meters that are approved for installation outside of a house, basement, or approved crawl space, must be in an approved meter pit.



Meters larger than one-inch (1") ~~inch~~, which are installed outside the structure, must be in an approved concrete vault no smaller than 4 feet wide by 8 feet long by 6 feet deep.

It is Public Works Department policy to replace all water meters that are more than fifteen (15) years old. On average the accuracy of water meters that are more than fifteen (15) years old has been found to be below acceptable standards.

53.25.10 All Manufactured Home Parks, multi-family structures, or other multi-user locations deemed necessary by the Public Works Director, shall have a master meter installed.

53.25.11 When two (2) or more water meters (plus the curb stop for each water meter) are installed on the same property for different customers, the water meters shall be closely grouped, and each water meter clearly designated for the customer it serves.

53.25.12 Backflow Prevention and Pressure Reducers

A double check valve assembly for backflow prevention shall be installed in accordance with South Dakota State Plumbing Code Section 20:54:10:52 in any new connection to the water system, or any existing connections in existence prior to the adoption of these rules and regulation, if any remodeling or changes are made to the same.

The backflow preventer must be after the meter. Pressure reducers must be installed before the meter where pressure is 80 pounds or higher.

53.25.13 The Public Works Department or any other City department shall not be responsible for inspecting the customer's water piping or apparatus beyond the water meter.

53.25.14 The Public Works Department may refuse service until the customer's water lines or piping are installed in such a manner as to prevent cross-connections or backflow and all connections from other sources are disconnected.

53.25.15 The City shall not be liable for damage of any kind whatsoever resulting from water service or the use of water on a customer's premises unless such damage results directly from gross negligence on the part of the Public Works Department. The City shall not be responsible for negligence of third persons or force majeure conditions causing interruption of water service.

53.25.16 Replacing or Repairing Service Line(s):

The expense of replacing or repairing a service line is the responsibility of the owner from the curb stop to their structure.

In case of a leak in any private service line, the property owner must initiate the repair of said service line within five (5) days after notice to repair the same from the Public Works Department. If no action is taken to repair said service line after such notification by the Public Works Department, the Public Works Department, at its option, may hire a contractor to repair the line or perform repairs at current market rates and bill the landowner for costs incurred in addition to administrative costs.

53.25.17 If a customer fails to properly repair any leaky water service pipe or other apparatus promptly upon receipt of a notice from the Public Works Director, or his designee, then the water service may immediately be shut off to the premises and remain shut off until the necessary repairs have been made. There shall be a fee of \$50.00 for turning the water service off and \$50.00 to turn it back on.

53.25.18 The City shall not be liable for any damages resulting from:

1. the breaking of any service pipes or apparatus;
2. any damage that may result from shutting off the water service for repairs; or
3. variation in water pressure.

No reduction will be made from the regular water rates because of a leaking fixture.

53.25.19 Repairing and Cleaning Mains:

The Public Works Director reserves the right, at any time to shut off the water on the main pipe for the purpose of repairing the same, making connections or extensions to the same, or for the purpose of cleaning the same, and it is expressly understood that no claim shall be made against the City by reason of the breaking of the service line, curb stop, or from any damage arising from shutting off the supply of water for the repair, laying or replacing of mains, hydrants or other connections or from any damage arising from the cleaning of the mains. The Public Works Director or his designee may give such reasonable notice as shall be practical.

53.25.20 Water Main Extension - Application

Any owner(s) of real estate in the City desiring to have the water mains of the City extended to their property, shall make written application to the Public Works Director, which application shall set forth the area to be served and the length of the proposed water main extension and such other information as may be required by the Director and the South Dakota Department of Environment and Natural Resources. Each applicant for water main extension shall, as part of said application, be required to pay for the cost of the water main extension, including all labor and materials, except as outlined below.

The City may, at the discretion of City Council, participate in material costs of constructing a main from the closest source of City water to the property line of the developer. For example, if a water main larger than eight inches (8") in diameter is required by the City for such water main extension, the City may agree to pay the difference in the material cost over and above the cost of the eight-inch (8") water main.

The developer shall furnish fire hydrants with valve and valve box, gasket and bolts, for fire hydrant installation. The make and model of the fire hydrant shall be approved by the Public Works Director or its designee. The contractor shall excavate and backfill for the hydrant, line, dry well and support block, and install the same at no cost to the City. The contractor shall install no less than one (1) cubic yard of properly graded gravel or crushed gravel or crushed stone to serve as a dry well for the fire hydrant.

The Developer shall furnish all water main shut off valves, valve boxes, thrust blocks, services lines, curb stops with boxes, corporation stops, service line saddles, tees and all other necessary fittings as required by the Public Works Director at no cost to the City. A 12-gauge solid copper insulated wire shall be installed, for location purposes, with all mains and services and properly terminated in valve boxes. Fire hydrants, curb boxes, and other locations as required by the Public Works Director shall terminate in a wire terminal box.

Any extension to the Box Elder Water System shall be looped lines with no dead-end mains permitted without prior approval from the Public Works Director.

The Public Works Director shall require hydrants at approved dead-end mains, which shall be installed by the developer/contractor according to City specifications.

All such applications shall be submitted to the Public Works Director for approval. The Public Works Director or City Engineer of record shall determine the size of the water main that is to be used in such water main extension based on the estimated future water requirements of the area to be served by such water main extension.

#### 53.25.21 Interconnection and Extension by the City

Whenever it is desirable or necessary in the judgment of the City to interconnect existing segments or extensions of the water system, and no application for such interconnection or extension has been made to the Public Works Director, the City may order and authorize such interconnection and extension of the existing water mains and the City shall be reimbursed for such interconnection and extension, including all labor and materials, as provided in Section 53.25.20 of this Title, by the adjacent property owners, by each of said property owner paying his/her proportionate share of said cost at the time

he/she makes application to use and connect to said interconnection and extension.

#### 53.25.22 Water Main Installation

Plans and specification for each water main extension project shall be submitted to the Public Works Director and South Dakota Department of Water and Natural Resources for approval. The installation procedure shall conform to adopted City standards, and to the standards established by the American Water Works Association (AWWA).

Pressure and leakage tests shall be made by the Contractor on all new water main extensions. The mains shall be tested at 150 psi, or two (2) times the operating pressure, whichever is greater for a minimum of two (2) hours. Allowable leakage per 1000 feet of six-inch (6") pipe is 0.50 gallons per hour.

Chlorination of the water mains shall conform to the AWWA Standard for Disinfecting Water Mains. Chlorination material shall provide a dosage of no less than 50 parts per million. The retention time shall be at least 24 hours and shall produce not less than 25 parts per million of chlorine at the end of the retention period.

In no case, shall a water main less than six inches (6") be installed on the Box Elder Water system after the adoption date of this ordinance. Water mains shall be installed with a minimum of six feet (6') of cover.

#### 53.25.23 Responsibility of Contractor

Adequate bond shall be furnished by all licensed plumbers or sewer water installers, so that workmanship and materials can be guaranteed for a minimum of two (2) years.

If a leak should develop in a new water service line within two (2) years of its installation, the plumber or water sewer installer, installing the same, shall be notified by the Public Works Director or their agent to make the repair within five (5) days, unless the leak is so extensive to require the service line to be shut off. In such case, the contractor must respond within 24 hours after notification. If the repairs are not made by the specified date, the Public Works Director shall make the necessary repairs, or cause the same to be done, and the original contractor shall be billed the costs of labor, material, fifteen percent (15%) overhead, and a \$50.00 administrative fee.

### **53.30 CUSTOMER/PROPERTY OWNER RESPONSIBILITIES:**

53.30.01 The property owner's responsibility for the water service line begins immediately after the curb stop, which is to be located at the property line at, time of construction, and continues to the residence or business being served.



If an existing water service line requires repair, and the curb stop is not located at the property line, the curb stop must be relocated to the property line immediately. The cost for such relocation is the financial responsibility of the property owner.

- 53.30.02 If a curb stop is run over or damaged in any way, it will be the responsibility of the property owner to have the curb stop repaired so it can be turned off or on by the Public Works Department. It is the responsibility of the property owner to have the curb stop accessible to the Public Works Department always.

The placement of curbs stops/curb boxes in sidewalks is acceptable. The placement of curb stops/curb boxes in a driveway will not be accepted and will be required to be moved and replaced to an approved location by the Public Works Director or his designee. The relocation cost shall be at the owner and/or developers expense.

- 53.30.03 If the property owner's piping on the premises is so arranged that the Public Works Department is called upon to provide additional water meters, each place of metering shall be considered a separate and individual account.

- 53.30.04 The design of all meter pits shall be approved by the Public Works Director or his designee before installation. The meter pit shall be installed not less than one foot (1') and not more than fifteen feet (15') from the curb stop, and the installation location shall be approved by the Public Works Director or his designee before installation. The location of the water meter is at the discretion of the Public Works Director.

- 53.30.05 The property owner shall furnish and maintain a private shutoff valve on each side of the water meter. The property owner is also responsible to install or have installed the water meter spuds, which will be furnished by the City. The customer shall have a backflow preventer installed before water service can be hooked up. The Public Works Department will install the water meter only after this has been completed.

- 53.30.06 The property owner's piping and apparatus shall be installed and maintained by the property owner, at the owner's expense, in a safe and efficient manner in accordance with applicable codes and regulations. All work performed shall be subject to inspection and approval by the Public Works Department and State Plumbing Inspector.

- 53.30.07 The property owner shall guarantee proper protection of the City's property placed on the property owner's premises and shall always permit access to such property by employees of the Public Works Department.

The property owner shall take any necessary steps to prevent the water meter from freezing, such as heat tape and proper insulation. If proper protection is not given to the water meter, the property owner will be assessed the cost of replacement parts and labor as determined by the Public Works Director.



53.30.08 In the event of loss or damage to the property of the City or any accident or injury to persons or property caused by, or resulting from, the negligence or wrongful act of the property owner, their agents, or employees; the cost of the necessary repairs or replacement shall be paid by the property owner, to the City, and any liability otherwise resulting therefrom shall be assumed by the property owner. The amount of such loss or damage or the cost of repairs shall be added to the property owner and/or customer's bill and, if not paid, the City may discontinue water service.

53.30.09 Water furnished by the City water System shall be used for domestic or commercial consumption. The customer shall not sell water to any other person or permit any other person to use said water. Water shall not be used for Commercial Horticultural/Agricultural irrigation or for other purposes, unless it is determined by the Public Works Director that water is available in sufficient quantity and such use does not interfere with the regular domestic and commercial consumption in the area served. However, the customer shall first obtain written permission from the Public Works Director before beginning such use. Disregard for this rule shall be sufficient cause for refusal or discontinuance of water service.

53.30.10 The property owner's contractor shall be responsible for any damages incurred by the City from the contractor's digging, installing, or maintaining the water service line from the City's water main. Contractors shall obtain a Contractor's License from the City before commencing work.

53.30.11 It shall be the responsibility of all owners of Manufactured Home development to keep in good repair all water distribution pipes inside the park.

If at any time it comes to the attention of the City that excessive or unacceptable water leakage is occurring within the Manufactured Home development, the Public Works Director shall notify the property owner in writing, stating a time for which repairs are to be completed, or services will be discontinued until satisfactory repairs have been completed.

### **53.32 COMPLAINTS AND ADJUSTMENTS:**

53.32.01 If the customer believes his water meter reading to be in error, the customer shall present his claim, in person, at the Administration Office before the bill becomes delinquent.

53.32.02 Such claim, if made after the bill has become delinquent, shall not be effective in preventing discontinuance of service, as heretofore provided. The customer may pay such bill under protest and said payment shall not prejudice his claim.

- 53.32.03 Water meters will be tested at the request of the customer, free of charge by the Public Works Department (5-gallon test). Further testing by the factory will be made at customer request, and customer expense. However, if the water meter is found to over-register beyond three percent (3%) of the correct volume, no charge will be made. A charge for labor and cost will be billed to the customer for removing and replacing water meters over one inch (1"), should the water meter be found to register correctly.
- 53.32.04 In the event that the customer receives an "extraordinarily large" water bill, which such customer cannot reasonably be expected to pay due to "financial hardship", the Finance Office, after consulting with the Legal & Finance Committee, shall have the authority to allow for payment of the amount over a period of up to four (4) months, without interest or any penalties accruing. For the purposes of this Section, an "extraordinarily large" bill is described as a bill that is at least 200% of the customer's average monthly bill for the preceding six (6) months. The customer must have received water service for at least six (6) months.
- 53.32.05 Sewer bills are calculated annually based on the water consumption average for the months of October, November and December. If the water customer had a water leak during the months of October, November and December, the Water Department Billing staff, or other appointed designee, may adjust the annual sewer billing amount to reflect the average water consumption from January through September.
- 53.32.06 Any requested relief from water bills due to a leak not the fault of the City, will not be granted unless good cause is found by the Common Council. Good Cause is defined as an extraordinary event causing a water leak or water line break and there was no negligence on the part of the customer in discovering the water leak. The Legal, Finance and Public Safety Committee of the City Council shall conduct the investigation and make the recommendation to the full City Council if relief is warranted.

### **53.35 CHANGE OR DISCONTINUANCE OF WATER SERVICE**

- 53.35.01 Not less than three (3) days prior notice must be given by the customer or property owner, in person or in writing, at the Administration Office to discontinue water service or to change occupancy.
- 53.35.02 The outgoing customer shall be responsible for all water consumed up to the time of departure.

- 53.35.03 When water service is discontinued, and all account balances paid, the deposit will be refunded to the customer.
- 53.35.04 Upon discontinuance of water service for nonpayment of bills, the deposit will be applied by the Public Works Department toward settlement of the account.
- 53.35.05 Any account surplus will be refunded to the customer, but if the deposit is not sufficient to cover the account balance, the Public Works Department may proceed to collect the balance in the usual way provided by law for the collection of debts.
- 53.35.06 Any water service account discontinued for nonpayment will be restored only after all account balances are paid in full, a deposit made, and a late payment charge of \$100.00 paid for reinstated service.
- 53.35.07 If a water service account is terminated for failure to pay a bill in a timely manner, the service account will not be reinstated on the date the bill is paid unless the payment and request is made before 3:30 p.m. The Public Works Department may agree to restore service after 3:30 p.m. as scheduling allows.
- 53.35.08 The Public Works Department reserves the right to discontinue water service without notice, for the reasons including, but not limited to:
1. Upon a finding of fraud, abuse, or intentional waste of water.
  2. Customer's willful disregard of the Public Works Department's rules and regulations after having received notice at least twenty-four (24) hours in advance of a violation.
  3. Emergency repairs.
  4. Insufficiency of water supply due to circumstances beyond the Public Works Department's control.
  5. Unauthorized tapping into a City water main or turning on water to a water service line that has been previously turned off by the Public Works Department.
  6. At the direction of law enforcement authorities.
  7. Strike, riot, fire, accident, or any unavoidable cause.
- 53.35.09 Fire Departments will have priority of water availability in case of an emergency.
- 53.35.10 Any person willfully using unmetered City water without the prior express written permission of the Public Works Department shall be assessed a minimum penalty and/or administrative citation in the amount of \$100.00 plus the cost of estimated water consumption during the period the water use was unmetered. The unmetered use will be estimated at a minimum, no less than an average monthly charge for service; for each month of violation.

53.35.11 The Public Works Department may, in addition to prosecution by law, permanently refuse water service to any customer who tampers with a water meter or other measuring device.

### 53.36 OUTDOOR WATER USE:

#### 53.36.01 RESTRICTIONS ON OUTDOOR WATER USE:

- A. Outdoor water use shall be restricted from April 1 to October 31 each year for all water service customers of the City, whether in-town users or out-of-town users.
- B. Outdoor water uses during said period of use restriction shall only be allowed between the hours of 6:00 a.m. to 9:00 a.m. and 7:00 p.m. to 10:00 p.m. on odd or even days according to the last number of each properties assigned 9-1-1 address.
- C. Automatic sprinkler systems must be set to operate only within the above restrictions.
- D. Private wells used for outdoor water use shall be posted as such by the property's resident and shall not be subject to the provisions of Section 53.36 of this Ordinance when so posted.
- E. A waiver for additional outdoor water use outside of the restricted dates and times of this Section for watering new sod may be allowed at the discretion of, and with prior written authorization from, the Public Works Department.
- F. No waivers for additional watering shall be issued or honored during a declared water shortage or during a declared water emergency.

#### 53.36.02 RESTRICTIONS DURING A WATER SHORTAGE:

- A. The Public Works Director may declare a water shortage, but shall consult with the Mayor, City Administrator, and the Council before declaring such a shortage.
- B. Once a water shortage has been declared, only outdoor hand watering will be allowed during the normal restriction hours.
- C. The use of non-hand-held sprinklers or automatic sprinkler systems shall not be allowed during a declared water shortage.



D. Any declared water shortage/emergency shall not exceed thirty (30) days in length unless approved by Resolution or Ordinance by the City Council.

**53.37 VIOLATIONS AND PENALTIES**

A violation of any provision of this Ordinance or any amendment thereto, or failure to perform any act required hereunder, is punishable by issuance of an administrative citation, and/or a Class II Misdemeanor. In addition to any penalty assessed herein or any fine or penalty assessed by the court, any violator found guilty shall pay all court costs and expenses involved in the case.

Any plumber, contractor or other person, firm or corporation who violates the above provisions, other than those for which penalties have been provided, shall upon conviction thereof, be subject to revocation of license by the City/Common Council.

BE IT FURTHER ORDAINED by the Common Council of the City of Box Elder that this Ordinance shall become effective in accordance with law.

CITY OF BOX ELDER



\_\_\_\_\_  
Mayor, Larry Larson

ATTEST:

  
\_\_\_\_\_  
Finance Officer, Nicole Schneider

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Second Reading: 3/3/2020  
Published: 3/7/2020  
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