

CHAPTER 1

WATER USE AND SERVICE

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8-1-1: **WATER DEPARTMENT CREATED:** The Water Department of the City is hereby created. It shall administer the operation and maintenance of the water system of the City. (1977 Code § 14-110)

8-1-1B: **DEFINITIONS:** The following terms used in this Chapter shall have the respective meanings hereinafter set forth:

CONNECTION: When the meter is set for a residence, whether or not the service is turned on. The billing for a water connection begins on the day the meter is installed.

DISCONNECTION: When a meter is shut off so no water can pass through the lines. This happens when the customer is delinquent with payment, at the written request of the owner, or at the request of the City Council if infractions of the ordinance occur. A fee is charged for this service, which must be performed by a Public Works employee.

DISCONTINUANCE: The service is discontinued when a resident moves from the City and the services are no longer his responsibility. The service is still on and water is available. The service is not discontinued until an account is set up with new owner or responsible party.

DELINQUENT: An account is considered delinquent if the bill is not paid within 30 days of the due date

RECONNECTION: The act of restoring water service by opening the meter valve to allow water to flow through the meter. A fee is charged for this service, which must be performed by a Public Works employee

TERMINATION: The act of closing an account due, for the most part, to a resident moving. Termination leads to discontinuance of service but not disconnection.

(OM 007-2002 05/14/02)

8-1-2: APPLICATIONS FOR CONNECTION, SERVICE:

- A. Connection: Any person, other than a subdivider or developer seeking multiple connections, who desires or is required to secure a new connection to the City water system, shall file with the Water Department for each such connection a written and signed connection application, which is on file in the office of the Water Department. (1977 Code § 14-113; 1998 Code)
- B. Connection by Subdividers: Whenever a subdivider or developer desires or is required to install water connections and extensions for a subdivision or development, the subdivider or developer shall enter into a written extension agreement which shall constitute an application for permission to make the extensions and connections and an agreement specifying the terms and conditions under which the water extensions and connections shall be made and the payments

that shall be required. (1977 Code § 14-114)

- C. Service: Any person who desires or is required to secure water service for a new residence when such service is available from the City water system, shall file with the Water Department a written application and agreement for the service, which is on file in the office of the Water Department. Any person who purchases a new or existing residence shall apply for service at the City Office. A utility deposit agreement shall be completed and the resident shall pay the required deposit shown on the fee schedule. This deposit is refundable after two (2) years if the resident has established good credit with the City. (OM 007-2002 05/14/02)
- D. Penalty: If any person fails to complete the utility deposit form and/or pay the required deposit within sixty (60) days of the date the person takes occupancy of the home, the City may give the person notice in writing of intent to disconnect service unless the matter is resolved within five (5) days from the date of notice. If the public works director determines it is too cold to disconnect the service, a notice of intent to begin small claims action will be sent in place of the notice to disconnect. If water service is disconnected, the steps for reconnection found in 8-1-5-B will be followed. (OM 007-2002 05/14/02)
- E. Service to Rental Homes: The owner of a home used as a rental is ultimately responsible for the utility bill at that home. The owner can choose to keep his name on the utility billing, or he may choose to have the renter pay the utility deposit and put the utility bill in the renter's name. If the owner chooses the latter option, the bill will be sent to the renter directly. If the renter becomes delinquent, a notice of intent to disconnect service will be sent to both the renter and the landlord. If, for any reason, the renter does not pay his bill or moves from the premises without paying the bill in full, the landlord will be responsible for payment. (OM 007-2002 05/14/02)
- F. Service to Apartments, Townhomes, or PUD units: Utility service is provided to apartments, townhomes, or PUD units based on the size of the water line servicing the buildings. Excess water will be charged during the summer months at the same rate as a single family dwelling. The charges are billed to the Homeowners Association directly. (OM 007-2002 05/14/02)

8-1-3: **FEES:**

- A. Service Rates and Connection Fees: The rates, penalty fee for delinquency in payment, connection fee, reservoir fee, inspection fee and other charges incidental to connection and services from the City water system shall be fixed from time to time by resolution enacted by the City Council. The City Council may from time to time promulgate rules for levying, billing, guaranteeing and collecting charges for water services and all other rules necessary for the management and control of the

water system. Rates for services furnished shall be uniform with respect to each class or classes of service established or that may hereafter be established. (1977 Code § 14-117)

- B. Special Rates: The City Council may from time to time fix by agreement or resolution special rates and conditions for users using exceptionally large amounts of water service or making use of the water system under exceptional circumstances, upon such terms and conditions as they may deem proper. (1977 Code § 14-118)
- C. Complaints; Corrections: The City Council is hereby constituted as a Board of Equalization of water rates to hear complaints and make corrections of any assessments deemed to be illegal, unequal or unjust. They may, if they see fit, rebate all or any part of the water bill of any indigent person. (1977 Code § 14-119; 1998 Code)

8-1-4: **STATEMENT OF CHARGES; DELINQUENCY:**

- A. Statement: The City shall furnish to each user, or mail to, or leave at his place of residence or usual place of business, a written or printed statement stating thereon the amount of water service charges assessed against him once each month or at such other regular interval as the City Council shall direct. The statement shall specify the amount of the bill for the water service and the place of payment and date due. (OM 007-2002 05/14/02)
- B. Failure to Pay: If any person fails to pay the water charges within sixty (60) days of the due date, the City may mail the customer notice in writing of intent to disconnect the service to the customer unless the customer pays the bill in full within seven (7) days from the date of the notice. (OM 001-2006 01/10/06) If the public works director determines it is too cold to disconnect the service, a notice of intent to begin small claims action will be sent in place of the notice to disconnect.
- C. Payment of Delinquent Charges: If the water service is thereafter discontinued for failure to make payment, then before the water service to the premises shall again be provided, all delinquent water charges must have been paid to the City Treasurer or arrangements made for their payment in a manner satisfactory to the City. In the event water is turned off for nonpayment of water charges, then before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent water charges, such extra charge for turning the water on and off as the City Council may have established by resolution. Until such resolution has been adopted, there shall be added an extra charge of twenty five dollars (\$25.00) for turning on the water. Furthermore, in addition to such payments and penalties, a

delinquent customer may be required to make and file a new application and deposit if the previous deposit has theretofore been applied to the payment of delinquent bills. The City Recorder is hereby authorized and empowered to enforce the payment of all delinquent water charges by an action at law in the name of the City. (1977 Code § 14-121; 1998 Code)

- D. Abandoned Property. If the City determines the property has been abandoned and the account is delinquent, the City may begin small claims action.
- E. Billing Disputes: If any person has a dispute over the correctness of a bill, he should call or visit the Utility Billing Clerk. If the dispute is over the number of gallons of water used during a summer month, the City will do the following:
 - 1. If the reading seems extreme based on previous year's billings, a Public Works employee will check the meter reading for accuracy;
 - 2. If the reading is correct, the employee will check for leaks. If there is a leak between the meter and the main line, it is the responsibility of the City to repair it. This leak does not show up on the customers meter or add to his bill. A leak in any other place is the responsibility of the homeowner, including the connection on the bottom of the setter on the homeowners side.
 - 3. If the meter doesn't appear to be leaking, the employee will test the meter to see that it is calibrating correctly,
 - 4. If the reading is correct, there are no apparent leaks, and the meter is calibrating correctly, the reading will stand. If there has been an error in reading, an adjustment will be made to the resident's next utility bill. If there is a leak on the homeowners side of the meter, and they have it repaired within 30 days of the day the leak is detected, the clerk will adjust the billing based on the following method:
 - a. The Clerk will check the previous two years billing of the same month that the leak is detected.
 - b. Based on these figures, the Clerk will assess what an average bill is for that month. If a person has not lived in the City for two years, the Clerk will use the readings of the previous owner at that address, or if it is a newly constructed home, the minimum charge will apply.
 - c. Any excess above the amount figured by the Clerk to be the average bill will be paid half by the resident and half by the City.
 - d. Unless there are special circumstances, a person's bill will only be adjusted for the month when the leak occurred.
 - 5. The test for meter calibration will be done once a year at no charge. If an additional request is made to have the meter checked, the person making the request will be billed for time and materials. (OM 007-2002 05/14/02)

8-1-5: **DISCONTINUANCE OF SERVICE:** (OM 007-2002 05/14/02)

- A: Disconnection of Service: Any customer desiring to disconnect service shall notify the City in writing of such fact at least ten (10) days before the date when such service shall be disconnected. After giving such written notice, the customer shall not be responsible for water bills incurred after the date specified in the notice. A fee of \$25 will be charged for the disconnection of services.
- B. Reconnection of Service: Any customer wishing to reconnect water meter service shall notify the City of such fact at least 24 hours before the date they wish the reconnection to be done. There must be someone at the residence at the time the reconnection is made. A fee of \$25 will be charged for the reconnection of services.
- C. Disconnection by Tenant: A tenant living in a rental unit will not be allowed to request disconnection of water services. This must be done by the homeowner. In the case of a tenant moving, the unit is automatically returned into the name of the landlord. A termination billing is sent to the tenant as well as a copy to the landlord. A tenant must follow the same procedure listed in 8-1-5-B.
- D. Temporary Discontinuation of Service: A person may request that garbage service be discontinued on a temporary basis when he will be away from his residence for a period of at least 30 days. The person will notify the City Office of the time period the service will be discontinued. The utility bill will reflect the changes. Water service cannot be discontinued temporarily without having the meter completely shut off. This can be done by following steps in 8-1-5-A. Sewer service cannot be discontinued.
- E. Discontinuation of Service when Moving: Every person moving from the City must give a forwarding address as well as the name of the person who will assume responsibility for the bill. Without this information, the bill will continue to be sent to the person named on the account. Any credit balance in favor of the customer as a result of an advance payment of bills or a deposit made will be refunded following the payment of the final termination bill.
- F. Foreclosure: If a home is about to be foreclosed on, it is the responsibility of the homeowner to inform the City Office that such action is about to take place. The homeowner shall also give the name of the bank or the most local phone number of a person who is familiar with the account. Any deposit being held by the City will be applied to the debt.
- G. Vacancies: If a home becomes vacant, the owner or responsible party may request in writing that the services be disconnected. Within ten (10) days of the date the

request is made, the Public Works Dept will disconnect the water meter. The garbage can will either be locked in a garage by the owner or the can will be removed by Logan City. Charges for 911 Emergency Service will be discontinued while the home is vacant. The sewer service will not stop, and billing will continue for that service only.

8-1-6: **USE WITHOUT PAYMENT PROHIBITED:** It shall be unlawful for any person by himself, family, servants, or agents to utilize the City water or sewage system without paying therefore, as herein provided or, without authority, to open any fire hydrant, stopcock, valve, or other fixtures attached to the system of water supply unless it is done pursuant to proper application, agreement or resolution. It shall be unlawful to injure, deface, or impair any part or appurtenance of the water or sewer system, or to cast anything into any reservoir or tank belonging to the water system. (1977 Code § 14-120)

8-1-7: **USE WITHOUT AUTHORITY; RESTRICTIONS:**

- A. Turning On Water After Being Turned Off Prohibited: It shall be unlawful for any person, after the water has been turned off from the premises for nonpayment of water charges or other violation of the ordinances, rules, regulations, or resolutions pertaining to the water supply, to turn on or allow the water to be turned on or used without authority from the Public Works Director or City Recorder. (1977 Code § 14-122; 1998 Code)

- B. Separate Connections: It shall be unlawful for two (2) or more families or service users to be supplied from the same service pipe, connection or water meter unless special permission for such combination usage has been granted by the City Council and the premises served are owned by the same owner. In all such cases, a failure on the part of any one of the users to comply with this subsection shall warrant a withholding of a supply of water through the service connections until compliance or payment has been made, and in any event, the property owner shall be primarily liable to the City for all water services utilized on all such premises. Nothing herein shall be deemed to preclude the power of the City to require separate pipes, connections, or meters at a subsequent time. (1977 Code § 14-123)

- C. Unauthorized Users: It shall be unlawful for any water service user to permit any person from other premises or any unauthorized person to use or obtain water services regularly from his premises or water facilities, either outside or inside his premises. (1977 Code § 14-124)

- D. Adjoining Premises: No consumer shall be permitted to conduct water pipes across

lots or buildings to adjoining premises without permission from the Public Works Director and subject to such requirements relating to controls as may be imposed by him. (1977 Code § 14-127B; 1998 Code)

- E. Visitors: Individuals visiting the premises of an authorized user in a recreational vehicle, not including a mobile home, and continuing to live therein during the period of visitation may receive water service from the service pipes or facilities of the host during the visitation period which shall not exceed one month. Continued use thereafter shall be deemed unauthorized and violative of the provisions of this Chapter relating to separate connections and unauthorized use. (1977 Code § 14-125)

8-1-8: INSTALLATION OF WATER LINES:

- A. Permit Required: It shall be unlawful for any person to lay, repair, alter or connect any water line to the City culinary water system without first having received a construction permit from the office of the City Recorder or from the Public Works Director. (1977 Code § 14-137; 1998 Code)
- B. Application: Applications for permits to make water connections or other alteration of for laying or repairing lines connected directly or indirectly to the City water system must be made in writing by a licensed plumber, his authorized agent, or by the owner of the premises who shall describe the nature or the work to be done for which the application is made.
- C. Determination of Approval: The application shall be granted if the Public Works Director determines that:
 - 1. The connection, repair, alteration or installation will cause no damage to the street in which the water main is laid, or that it will not be prejudicial to the interests of persons whose property has been or may thereafter be connected to the water main.
 - 2. The connection conforms to the ordinances, regulations, specifications and standards of materials required by the City.
- D. Line and Grade Designation: All connections, alterations or installations shall be to the line and grade designated by the Public Works Director.
- E. Fees: Fees for permits or for inspection services shall be of such amounts as the City Council shall from time to time determine by resolution. (1977 Code § 14-138; 1998 Code)

- F. Moving or Replacement of Water Lines: In the event that the City in its sole discretion determines that any water line of the City must be moved or replaced, the City shall bear that portion of the cost of such move or replacement which applies to main lines up to the property lines of the customer. The cost of reconnecting such new line or lines from the house of the customer to his property line shall be borne by the customer. (1977 Code § 14-139)
- G. When Permits Shall Not Be Issued: Permission to connect with the City water system shall not be given unless the plumbing in the house or building to be connected meets the provisions of the Building and Plumbing Codes¹ of the City. (1977 Code § 14-140)

8-1-9: **PIPE REQUIREMENTS:**

- A. Good Repair: All users of water services shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No person, except under the direction of the Public Works Director, shall be allowed to dig into the street for the purpose of laying, removing or repairing any service pipe. (1977 Code § 14-126; 1998 Code)
- B. Quality of Service Pipe: All service and other pipe used in conjunction with the water services of the City shall be of such material, quality, and specifications as the City Council may from time to time by resolution provide, and shall be installed at such distances below ground as may be specified by regulations relating to the Water Department. All work, alterations, or extensions affecting water pipes shall be subject to the acceptance of the Public Works Director, and no connections with any water mains shall be made without first obtaining a permit therefore from the City Recorder. (1977 Code § 14-127A; 1998 Code)

8-1-10: **WATER MAINS EXTENDED:**

- A. Petition to City Council: Any person, including any subdivider, who desires to have the water mains extended within the City, and is willing to advance the whole expense of such extension and receive the return of an agreed portion thereof, as hereinafter provided, may make application to the City Council by petition. The petition shall contain a proposed extension, accompanied by a map showing the location of the proposed extension, together with an offer to advance the whole expense thereof, which cost shall be verified by the Public Works Director. The City Council may grant or deny the petition as in its discretion seems best for the welfare of existing water users in the City. (1977 Code § 14-143; 1998 Code)

¹ See Title 9 of this Code.

- B. **Cost Determined:** Upon the receipt of such petition and map and before the petition is granted, the City Council shall obtain from the Public Works Director a certified statement showing the whole cost or expense of making such extension. (1977 Code § 14-144; 1998 Code)
- C. **Amount Deposited:** If the City Council grants the petition, the amount of the cost of making the extension, as certified by the Public Works Director, shall be deposited with the City Recorder before any work shall be done on such extension. The deposit shall be made within thirty (30) days, or such other time as the City Council shall indicate, after the granting thereof. (1977 Code § 14-145; 1998 Code)
- D. **Return of Deposit:** At the time the City Council decides whether or not to grant petition for an extension, it shall also decide whether or not any portion of the costs is to be refunded and the manner and circumstances under which such refund shall be made or credited to the applicant, his successors or representatives. Such determination shall be duly recorded in writing and a copy thereof furnished to the applicant.
- E. **Forfeiture:** In the event any deposit remains unclaimed for a period of five (5) years after the depositor has discontinued water service, the deposit may be forfeited and then transferred to the Water Enterprise Fund. (1977 Code § 14-146; 1998 Code)
- F. **Ownership of Extension:** Any such extension shall be deemed the property of the City. (1977 Code § 14-147)

8-1-11: **SPRINKLING VEHICLES:** Vehicles for sprinkling shall be regulated and controlled by the Water Department through the Public Works Director of the Water Department. (1977 Code § 14-129; 1998 Code)

8-1-12: **ACCESS BY DEPARTMENT:** The Public Works Director and his agents shall at all ordinary hours have free access to any place supplied with water services from the City system for the purpose of examining the apparatus and ascertaining the amount of water service being used and the manner of its use. A minimum of an eighteen inch (18") radius around the water meter lid shall be free from anything that would prohibit or hamper the maintenance or reading of the water meters. (1977 Code § 14-130; 1998 Code)

8-1-13: **MOTORS AND CERTAIN MACHINERY RESTRICTED:** No water shall be supplied from the pipes of the City water system for the purpose of driving motor, syphon, turbine, or other wheels, or any hydraulic engines, or elevators, or for driving or propelling machinery of any kind whatsoever, nor shall any license be granted or issued for any such

purpose, except by special permission of the City Council. (1977 Code § 14-132)

8-1-14: **FIRE HYDRANTS:** Water for fire hydrants will be furnished free of charge by the City. Installation and repairs on such hydrants shall be at the expense of the City and shall be made under the direction of the City. All customers shall grant the City, upon demand, a right of way or easement to install and maintain such hydrants on their premises if the City concludes that hydrants shall be so installed for the protection of the residents of the City. (1977 Code § 14-142)

8-1-15: **SCARCITY OF WATER:** In time of scarcity of water, whenever it shall in the judgment of the Mayor and the City Council be necessary, the Mayor shall by proclamation limit the use of water to such extent as may be necessary. It shall be unlawful for any person, his family, servants, or agents, to violate any proclamation made by the Mayor in pursuance of this Chapter. (1977 Code § 14-134)

8-1-16: **EXCESSIVE USE OF SPRINKLERS:**

- A. Effect on City Water System: It shall be unlawful for any person to use such number of outlets simultaneously or to use such sprinkler or combinations of sprinklers or outlets as will in the opinion of the City Council materially affect the pressure or supply of water in the City water system or any part thereof, and the City Council may from time to time, by resolution, specify combinations or numbers of outlets which may have such effect.
- B. Order to Discontinue: The City Council shall, after determining that such improper use exists, notify the affected water user or the owner of the premises whereon such use occurs of such determination in writing, order such use discontinued and advise that such continued usage constitutes a violation of this Chapter. (1977 Code § 14-133)

8-1-17: **WASTE OF WATER:**

- A. Prohibited Acts: It shall be unlawful for any water user to:
 - 1. Waste water.
 - 2. Allow it to be wasted by stops, taps, valves, leaky joints or pipes, or to allow tanks or watering troughs to leak or overflow.
 - 3. Wastefully run water from hydrants, faucets, or stops or through basins, water closets, urinals, sinks or other apparatus.

4. Use the water for purposes other than for those which he has applied, or to use water in violation of the rules and regulations for controlling the water supply. (1977 Code § 14-128)

- B. Refer to City Council: Users of water from the City water system shall not permit water to continue to run wastefully and without due efforts to conserve water. If, in the judgment of the Public Works Director or of any of the officers of the City, a user of City water engages in practices which result in the needless waste of water and continues to do so after twenty four (24) hours' notice to discontinue wastefulness has been given, the Public Works Director or any officer may refer the matter to the City Council.
- C. Termination of Service; Meeting: The City Council may thereupon consider terminating the right of the individual to use culinary water. If it elects to consider the matter of termination, it shall give notice to the water user of the intention to terminate his water connection at least five (5) days prior to the meeting of the City Council at which termination of water service is to be considered. The notice shall inform him of the time and place of the meeting and the charges which lead to the consideration of the termination.
- D. Appearance by Water User: A water user whose right to utilize City water is being reviewed shall have the opportunity to appear with or without counsel and present the reasons why his water service should not be discontinued.
- E. Determination: After due hearing, the City Council may arrive at a determination. If the determination is to discontinue the wasteful water user's service connection, the City Council shall notify him of the decision and of the period during which the service will remain discontinued. (1977 Code § 14-135; 1998 Code)

8-1-18: WATER METERS:

- A. Number of Meters; Dispute: Except as otherwise expressly permitted by this Chapter, all structures, dwelling units, establishments and persons using water from the City water system must have such number of water meters connected to their water system as are necessary in the judgment of the Public Works Director to adequately measure use and determine water charges to the respective users. Whenever a dispute between the Public Works Director and the property owner arises as to the appropriate number of meters to be installed on any premises, the matter shall be heard and determined by the City Council after due notice in writing to the parties involved.
- B. Meters Furnished by City: Meters will be furnished by the City upon application for a

connection, and upon payment of such connection fees and other costs as may be established by the City Council from time to time by resolution. Meters shall be deemed to be and remain the property of the City.

- C. Meter Readings: The Public Works Director shall cause meter readings to be taken regularly and shall advise the utility billing clerk thereof for the purpose of recording the necessary billings for water service.
- D. Tampering: Meters may be checked, inspected or adjusted at the discretion of the City, and they shall not be adjusted or tampered with by the customer. Meter boxes shall not be opened for the purpose of turning on or off the water, except by an authorized representative of the City, unless special permission is given by the City through its representatives to the customer to do so.
- E. Meter Testing: If a customer submits a written request to the Public Works Director to test his water meter, the City may, if under the circumstances it deems it advisable and in its discretion, order a test of the meter measuring the water delivered to such customer. If such request is made within twelve (12) months after the date of the last previous test, the customer may be required to pay the cost of 8-such test. If the meter is found in such test to record from ninety seven percent (97%) or more than on hundred three percent (103%) of accuracy under methods of testing satisfactory to the City Council, the meter shall be deemed to accurately measure the use of water.
- F. Estimation in Case of Failure: If the City's meters fail to register at any time, the water delivered during the period of failure shall be estimated on the basis of previous consumption during a period which is not questioned. In the event a meter is found to be recording less than ninety seven percent (97%) or more than one hundred three percent (103%) of accuracy, the City shall make such adjustments in the customer's previous bills as are just and fair under the circumstances.
- G. Damage by Customer: All damages or injury to the lines, meters or other materials of the City on or near the customer's premises caused by any act or neglect of the customer shall, in the direction of the City, be repaired by and at the expense of the customer, and the customer shall pay all costs and expenses, including a reasonable attorney fee, which may arise or accrue to the City through its efforts to repair the damage to the lines, meters or to other equipment of the Department or collect such costs from the customer.
- H. Relocation; Changes: If the City deems it necessary to have a water barrel and/or meter moved or the elevation thereof changed or if the homeowner requests such changes, the Public Works Director has the power to negotiate the extent of the financial responsibility to both the City and the homeowner, using the time and material method, and negotiate the time frame in which the changes will be made.

(1977 Code § 14-136; 1998 Code)

8-1-19: SERVICE OUTSIDE CITY:

- A. Scope: The City may furnish water service from its water system to persons outside the City in accordance with the provisions of this Chapter. (1977 Code § 14-151)
- B. Petition for Service: Any person located outside the City limits who desires to be supplied with water services from the City water system and is willing to pay in advance the whole expense of extending the water system to his property, including the cost of extending any water main beyond its present location, may make application to the City Council by petition containing:
 - 1. A description of the proposed extension.
 - 2. A map showing the location thereof.
 - 3. An offer to pay the whole expense incurred by the City in providing such extension and to advance such expense as shall be verified to by the Public Works Director. The City Council and the person seeking such extension may enter into an agreement providing in detail the terms under which the extension may be utilized by others in the future and the terms under which all or any portion of the cost of installing such extension may be refunded.
 - 4. An acknowledgment that the City in granting the petition need supply only such water to the petitioner which from time to time the City Council deems beyond the requirements of water users within the City limits, and that such extension shall be the property of and subject to the control of the City. (1977 Code § 14-152; 1998 Code)
- C. Costs Determined: Upon receipt of such petition and map and before the petition is granted, the City Council shall determine what portion, if any, of the extension of the City water mains to the City limits the City shall construct, and shall obtain from the Public Works Director a verified statement showing the whole cost and expense of making such extension. Such costs and expenses shall include administrative and supervisory expenditures of the Water Department, which shall in no event be deemed to be less than ten percent (10%) of the cost of materials and labor. (1977 Code § 14-154; 1998 Code)
- D. Extensions May Be Master Metered: When an extension supplying more than one house or user outside the City limits is connected to City water mains, the Public Works Director may require a master meter to be installed near the point where the

connection is to be made to the City main. This installation will be at the expense of the persons served by such extension according to the regular rates for meter installation. Responsible parties must agree to pay all bills for water served through the meter at the applicable water rates. (1977 Code § 14-153; 1998 Code)

8-1-20: **NONLIABILITY FOR DAMAGES:** The City shall not be held liable for any damage to a water service user be reason of stoppage or interruption of his or her water supply service caused by fires, scarcity of water, accidents to the water system or its mains, or which occurs as the result of maintenance and extension operations, or from any other unavoidable cause. This Section shall not be construed to extend the liability of the City beyond that provided in the Governmental Immunity Act¹. (1977 Code § 14-131)

8-1-21 Water Availability Requirement.

A. Legislative Intent. The City intends this ordinance to ensure that the City culinary water system continues to serve all water users connected thereto and meets state and federal requirements regarding water usage, water quality, fire protection, and public health and safety. The City also intends through this ordinance to continually plan and prepare for its future water requirements for a period of forty years into the future.

B. The Providence City Water System Master Plan. The City shall undertake to acquire and maintain sufficient water rights, source, and capacity for the present and reasonable future water requirements of the City within the City's projected service area based upon projected population growth or other water-use demand. All developments within the City's actual or projected service area shall therefore adhere to the requirements set forth in the Providence City Water System Master Plan (the "Water Plan").

1. The Water Plan shall incorporate information as to currently available water rights, water source capacity, reserve source capacity, storage capacity, system capacity, the current number of service connections, outstanding letters of commitment, and other system demands, as well as setting forth any surplus capacity and the number of new equivalent residential connections ("ERCs") such surplus can serve.

2. The Water Plan shall be updated at the discretion of the City Council to include any anticipated new ERCs, other system demands, or a capital improvement and financing plan (or a reference to and summary thereof) to meet the anticipated demand. Such an update **(a)** shall be carried out, signed, dated, and stamped by a licensed professional civil engineer or professional geologist, retained or employed by

¹ U.C.A § 63-30-1.

the City, and **(b)** must be approved and adopted by resolution of the City Council prior to taking effect.

C. Culinary Water Authority. The Public Works Director of the City is hereby designated as the Culinary Water Authority (“CWA”) of Providence City.

D. Plat Approval. No final plat shall be valid unless approved on its face by the CWA.

1. The CWA-approval requirement is intended to assure that with either dedication of water or payment-in-lieu, as provided herein, there will be sufficient water rights, water storage, and water capacity to meet the present and future needs of Providence City.

2. The CWA shall not give approval to any final plat until:

a. The developer dedicates to the City water rights or water shares as follows:

i. The amount of culinary water to be dedicated shall be a minimum depletion amount of 0.45 acre-feet per year, approved for municipal use, per year per ERC for indoor use. Culinary water rights dedicated hereunder shall be perpetual in character and readily capable of use by the City.

ii. I/ The general requirement for outdoor water shall be one acre foot of water per one-quarter acre of net irrigated area, defined as **(1)** 64 percent of the total area of a lot up to one-half acre and **(2)** 60 percent of the total acreage of lots over one-half acre in size.

II/ All open space within a development shall generally be considered as irrigated acreage, and one acre-foot of outdoor water per one-quarter acre or any portion thereof shall be required, unless a different plan is proposed by the developer and is approved by the City.

III/ All outdoor water use, pursuant to Utah law, shall be subject to the duty values promulgated by the Division of Water Rights, the necessary water for which shall be in addition to the amounts required above.

iii. For nondomestic and nonirrigation uses, water dedication quantity shall be determined by a development-specific, water-usage

analysis undertaken at the expense of the developer and acceptable to the City.

iv. The water rights or sources dedicated shall be legally and physically sufficient to satisfy the indoor and outdoor use requirements of all of the property in the development according to the requirements set forth in rule R 309-510-7 of the Utah Administrative Code, or any successor provision.

v. A developer may submit an application for dedication of water, together with the necessary filing fee **(I)** prior to or concurrently with submission of a preliminary plat (or, in the case of a minor subdivision, with the sketch plat) for proposed subdivisions or master planned developments, **(II)** prior to or concurrently with submission of an application for a building permit for other developments, or **(III)** after rejection of a preliminary or final plat due to an insufficiency under Subsection D.2.a.

vi. The initial form of the water application form shall be in substantially the following form, although the City Council may, by resolution, amend the form and the filing fee:

<p>Providence City 15 South Main Street Providence, Utah 84332 Phone (435) 752-9441 Fax (435) 753-1586</p>	<p>APPLICATION FOR DEDICATION OF WATER TO PROVIDENCE CITY</p>												
<p>Fee amount paid _____ Date paid _____</p>	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Applicant _____</td> <td style="width: 50%;">Name _____</td> </tr> <tr> <td>Phone _____</td> <td># _____</td> </tr> <tr> <td>Mailing _____</td> <td>Address _____</td> </tr> <tr> <td colspan="2">Subdivision name _____ (if applicable).</td> </tr> <tr> <td colspan="2">Number of ERCs receiving water _____</td> </tr> <tr> <td colspan="2">Irrigable Acres in the development _____</td> </tr> </table>	Applicant _____	Name _____	Phone _____	# _____	Mailing _____	Address _____	Subdivision name _____ (if applicable).		Number of ERCs receiving water _____		Irrigable Acres in the development _____	
Applicant _____	Name _____												
Phone _____	# _____												
Mailing _____	Address _____												
Subdivision name _____ (if applicable).													
Number of ERCs receiving water _____													
Irrigable Acres in the development _____													

NOTE: The following information can be obtained from the Utah Division of Water Rights:

Water Right number for water proposed for dedication _____
 Owner of Water Right _____
 Water Right limits _____ cfs / _____ acre feet.
 Change application number(s) _____. Application(s) status _____
 If a water share is being dedicated: name of water company _____
 Water share certificate number _____
 Current uses of water right or water share _____

Place of use of water right or water shares _____.

Include the following documents with this application:

- † Copy of recorded deed(s) showing ownership of water right.
- † Copy of recorded deed(s) showing ownership of land where water right is used.
- † Copies of completed Division of Water Rights Report of Conveyance forms.
- † Division of Water Rights data printout for water right.
- † Copy of water share certificate (if applicable).

*Signature of Applicant or
Authorized Representative*

vii. Acceptance of any dedication of water hereunder shall be expressly contingent upon final, non-appealable approval by the Utah Division of Water Rights.

I/ Before final acceptance of a dedication, the water right must be subject to a final, non-appealable approval by the Utah Division of Water Rights allowing **(I)** diversion from one or more of the City's sources, or from another source acceptable to the City in its sole discretion, and **(II)** municipal or irrigation use within the City's service area.

II/ Notwithstanding the foregoing (*i.e.*, subsection D.2.a.vii.l), approval shall not be required for shares or rights acceptable to the City held under a properly organized and lawfully operating water company serving lands or property within the City's service area, including the Spring Creek Water Company and the Providence Blacksmith Fork Irrigation Company.

viii. Any developer seeking Division of Water Rights approval as contemplated hereunder shall, upon request of the CWA, yield to the City all power and authority to prosecute the filing, review, and approval process, which shall be filed in the City's name. The developer shall be responsible to pay all of the fees, costs, and expenses associated with the filing, review, and approval process.

ix. Within 20 business days after an application has received final non-appealable approvals from the Utah Division of Water Rights, the City shall notify the developer of the fact. The developer may then proceed to final dedication of the water rights or water shares.

I/ For water rights, dedication shall be by a Water Right Deed of the form approved by the City, but which shall include a warranty of title and water title insurance at the expense of the developer.

II/ For water shares of a water company, the dedication shall be by the transfer of the shares to city by issuance of a share certification by the water company showing the City as the owner of the shares dedicated.

x. If an application is denied by the Utah Division of Water Rights or by a court of competent jurisdiction, the City shall have no obligation to accept the water rights as satisfaction of the dedication requirement of this section.

xi. Final dedication of the water right or water shares must be completed prior to the recording of the final plat on the land being developed, or prior to issuance of a building permit for nonsubdivision Developments.

xii. Notwithstanding any other provision of this Code, the City shall be under no obligation to approve or to accept any dedication if the CWA determines that acceptance of the water rights or water shares being offered for dedication is not in the best interest of the City. Any appeal of the determination by the CWA not to accept the dedication particular water rights or water shares may be appealed to the City Council; or

b. Upon recommendation of the CWA, the City Council determines that the City has sufficient water rights or water shares to meet its reasonable future water requirements of the public within the service area of the city adopts a Resolution stating that, in lieu of dedication, the City will accept cash or other property equivalent in value to the market value of the water rights and/or shares the dedication of which would otherwise be required under subsection D.2.a. The value of the hypothetical water rights or shares shall be based upon the most recent information available of similar water sales as determined by the CWA;

c. Exceptions:

i. In lieu of providing actual water rights to the City, good-faith amendments to existing platted subdivisions that require only up to a total of two acre-feet or less of additional indoor water and/or only up to a total of eight acre-feet or less of additional outdoor water for full development, may, at the time each building permit is issued for each lot, pay any applicable indoor and outdoor water rights acquisition impact fees specified by the City Code.

ii. Minor Subdivisions and small Planned Unit Developments which have a projected indoor and outdoor water usage of less than eight acre-feet may be exempt from the foregoing requirement to provide indoor and outdoor water, upon a finding and waiver by the CWA and the City Council.

I/ The necessary finding shall include, without limitation, a finding that the development for which the exception is sought is in fact a Minor Subdivision or small Planned Unit Development, as those terms are defined by this Code, and is not simply a portion or phase of a larger development being presented as a Minor Subdivision or small Planned Unit Development for the purpose of circumventing the provisions of this Section.

II/ If such a finding and waiver is granted, a water acquisition impact fee will be charged pursuant to the provisions of the City Code.

d. If the City's authorized impact fees contain a component for the acquisition or dedication of new water rights, developers who pay such impact fees on properties developed or to be developed pursuant to this Section shall be (i) credited for the amount of that water acquisition component, or (ii) reimbursed from subsequent hookup fees paid by owners within such a development. The amount, receipt, or payment of the credit or reimbursement shall be set forth in a Development Agreement between the developer and the City.

3. CWA Approval of a subdivision shall be sufficient for any approved lot within that subdivision. Such approval, however, shall expire if a final plat for such subdivision is not approved with a one year period after the approval is given.

E. No Alteration of Other Requirements. Nothing in this Section shall alter or change any other requirement of the City Ordinances relating to any building lot, subdivision approval, or other land-use application, but shall be in addition to any such requirements. CWA approval of a plat does not vest any rights in a developer, owner, or applicant; such approval serves only as a preliminary indication that sufficient water pursuant to the requirements of the City appears to be available. It does not constitute a determination by the Land Use Authority that a concept plan, a preliminary plat, or a final plat complies with all the requirements relating to water infrastructure, sewer, ditches, or other items relating to water delivery, usage, quality, and safety.