

ORDINANCE NO. 2789**AN ORDINANCE REGULATING AND CONTROLLING OPERATION OF THE CITY'S WATER UTILITY SYSTEM AND PROVISION OF SERVICE TO ITS CUSTOMERS, INCLUDING THE SETTING OF RATES, AND REPEALING ORDINANCES 2136, 2497, AND 2723, AND DECLARING AN EMERGENCY.**

BE IT ORDAINED BY THE CITY OF BAKER:

ARTICLE 1: DEFINITIONS.

- 1) Applicant or Person: Any natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government or any group acting as a unit either by themselves, jointly, or through a servant, agent or employee.
- 2) City Manager: The Manager of the City of Baker or his designee.
- 3) Premises: A building or group of buildings occupied by a family unit or business entity and used for residential business or commercial purposes and/or any parcel of land.

ARTICLE 2: SERVICE AND OPERATION.**Section 2.010. Rates:**

- 1a) Rates by Meter: All water supply for domestic, commercial or industrial purposes by the City of Baker City shall be supplied through an appropriate sized meter. Charges will be based on an availability charge, plus a commodity charge, and will be set by the City Council from time to time by resolution. The availability charge is based on the actual cost of construction and maintenance of the city water production and distribution system. This charge will not be imposed for any period of time during which the water user has requested that the meter be turned off. For purposes of this ordinance, a "unit of water" is defined as 100 cubic feet. (As amended by Ord. 3015, 6-11-91 and Ord. 3255, 6-27-06)

The rates for water supplied by the City of Baker City shall be listed for a one calendar month period; however, actual billing may be made on a bi-monthly basis at the option of the City Manager. (As amended by Ord. 3255, 6-27-06)

1b) **Adult Foster Care Homes:** For the purposes of this ordinance, adult foster care homes, as defined by state law, shall be deemed as a residential use, provided the owner of the home actually uses the dwelling as his primary residence. If the owner resides elsewhere, the home shall be deemed a commercial use. (As amended by Ord. 3002, 6-26-90 and Ord. 3255, 6-27-06)

2a) **Charges:** Availability charges shall be as set by the City Council from time to time by resolution. (As amended by Ord. No. 3255, 6-27-06)

b) All availability charges will be prorated on a daily basis for all periods less than one month. (As amended by Ord. No. 3255, 6-27-06)

3) All water used in excess of three (3) units through residential meters shall be charged a commodity rate as set by the City Council from time to time by resolution. (As amended by Ord. No. 3255, 6-27-06)

4) **Fire Protection Service**

a) Services for fire protection must be fitted with such fixtures as are needed only for fire protection and entirely disconnected from those used for other purposes. Premises having such services connected with the City of Baker City water mains to supply all fire protection devices shall pay monthly charges as may be set by the City Council from time to time by resolution. (As amended by Ord. No. 3255, 6-27-06)

b) It shall be unlawful to use any fire line for any other purpose than fire protection. Any unlawful use of a fire line shall subject the violator to the penalties prescribed in Section 5.030 of this ordinance.

6) **Special Construction.**

Whenever water is requested by an applicant for construction purposes and regular metered consumption is impractical, the City may supply said water through the most convenient hydrant, measuring the amount used by the installation of a temporary hydrant meter. There shall be a refundable deposit in the amount of \$250.00 to insure the value of said meter and an installation charge of \$25.00 which is non-refundable. Consumption shall be charged at a rate the same as for a 2" meter.

7) **Adjustment for Leakage.**

When leakage is detected a customer will receive a consumption credit and not be charged for an amount of water representing 2/3 of the difference between

the current usage and the same period the year previous upon satisfactory proof made to the water department that the leak has been repaired. This will be allowed only during the winter base rate billing cycle.

8) Service Outside City Limits.

Rates for water service outside the city limits shall be double the rates established for the same such service inside the city limits.

9) Water users who meet the eligibility requirements of ORS 284.220 for qualified business firms within an enterprise zone shall be entitled to a twenty five percent (25%) reduction in the water rate charges established by subsections (2), (4) and (5) of this section. Such reduction shall continue in effect for so long as said water user remains eligible for property tax exemption under ORS 284.210.

(As amended by Ord. No. 293, 3-13-86.)

SECTION 2.020 Services:

(1) Meter Testing: If a consumer requests inspection and testing of a meter, a testing fee in such amount as may be set by the City Council from time to time by resolution shall be paid. If upon such examination and test conducted in the presence of the consumer or his representative the meter is found to be inaccurate according to the standards of the American Water Works Association, a meter will be substituted, the testing fee shall be refunded and the water bill for the preceding billing period shall be adjusted. (As amended by Ord. No. 3255, 6-27-06)

(2) Connection/Disconnections. Fees for all water connections, convenience disconnections, disconnections for non payment or other violation, new accounts, or transfers of accounts which are accomplished during normal business hours, and also fees for water service connections or convenience disconnections accomplished during non business hours shall be set from time-to-time by resolution of the City Council. No charge will be made for final readings for water disconnections during normal working hours. No charge will be made for emergency disconnections at any time. (As amended by Ord. 3066, 2-8-94)

SECTION 2.030 Operational Policies:

(1) Furnishing Water to Additional Premises - Penalty:

It shall be unlawful for any person whose premises are supplied with water to furnish water to additional premises unless he shall first make application in writing to do so at the office of the City Manager. Said application shall be granted only in case of emergency and shall be of limited duration.

When additional premises are connected without said application and approval such premises may be charged at double the rate for the time they are in use, and the

service may be shut off by the City Manager. Regular turn on and turn off fees shall be applicable.

(2) Reconnection After Removal of Meter:

When the meter has been removed from any premises upon the application of the owner or otherwise, or water service disconnected for nonpayment of charges, or for any other cause, it shall be unlawful for any person to again connect said premises with the water mains of the city until all charges for water or otherwise against said premises have been paid in full, and all other causes for removing the meter corrected to the satisfaction of the City Manager, and application for reinstallation of meter or service made as provided.

(3) If any water charges become delinquent and unpaid for a period of thirty (30) days, the City may, at its discretion, cause the water to be shut off to any or all premises for which water service is provided in the name of the delinquent water user until said charges are paid. No such disconnection shall be made unless and until the water user has been given written notice of the delinquency and the City's intention to discontinue service. Such notice shall also inform the water user that he or she has the opportunity to challenge any disputed bill through consultation with the City Recorder. (As amended by Ord. No. 3089, 4-11-95)

(4) Unauthorized Turn-On - No Rate Remission:

When water has been shut off by the city for any cause, and is turned on again or allowed or caused to be turned on by the owner without the consent of the City Manager no remission of rates will be made on account of its having been shut off, and the City Manager may then turn off the water at the main, or remove a portion of the service connection in the street and shall charge the actual cost of cutting out and reinstating the water supply to the premises.

(5) Right to Shut Off Water - Liability:

The city reserves the right at any time, without notice, to shut off the water for reasonable cause including repairs, extensions, and emergencies, and after written notification to the customer for non-payment of rates or violation of any other provision of this ordinance; (for purposes of this item, notice shall be deemed to have been given upon first class mailing of same and non-receipt by owner or occupant shall not serve to invalidate such notice;) and the city shall not be responsible for any damage, such as bursting of boilers supplied by direct pressure, the breaking of any pipes or fixtures, stoppage or interruption of water supply or any other damage resulting from the shutting off of the water.

(6) Change of Service:

(a) When a customer requests relocation or change of service or meter, a new service shall be installed only upon the owner making application and paying for

the cost of said changeover as herein provided.

(b) When re-alignment of mains and/or services becomes necessary in order to provide better water service or accommodate other projects, then the customer shall within 45 days after notification by the city, reconnect at the new location at his expense. If this is not accomplished within the time allowed, the city may disconnect the premises from the water system and provide no water until the changeover has been made by the customer.

(7) Service Abandonment or Deterioration:

When a service is unused for any period of time resulting in any portion of the service, including meter, not functioning properly, then the city shall charge the cost of making any necessary repairs or replacements, prior to providing water service to the customer.

(8) Emergency Powers:

Upon the declaration by the City Council that a water emergency situation exists, the City Manager shall have the authority to take such steps as he shall deem necessary to preserve and protect the city water supply and system facilities. Any action taken by the City Manager pursuant to powers granted him in this section shall be subject to the approval of the City Council.

ARTICLE 3: NEW CUSTOMER SERVICE

The procedures and policies of this Article shall be adhered to in all cases except when application of the rule would work a severe and unfair burden on a particular applicant that can be clearly demonstrated is peculiar to his particular situation. Such cases may be granted modification or waiver of a particular policy upon specific written approval of the City Manager. The city is not obligated herein to undertake any project, or meet any time deadline or in any way obligate itself to providing service for any premises.

SECTION 3.010 Installation Location and Timing

(1) Location of Premises:

a) All extensions shall be within the urban growth boundary as designated in the city's Comprehensive Plan, with the possible exception of certain industrial uses. (See Urbanization Section of Plan)

b) An applicant for new service shall own or control the land at the terminus of the main extension.

(2) Main Installation and Location:

a) City at its own discretion shall determine what party shall be responsible for installation of all mains and appurtenances. Generally the city shall be the installer except in those instances where all land being served is under the ownership and/or control of the applicant (i.e., new subdivision).

b) Physical location of mains and all other appurtenances shall be the decision of the City Manager.

(3) Service Lines Installation:

a) Generally service lines will be installed at the same time as the main only when a new connection or paving is imminent or if specifically requested by an applicant. In these cases the regular connection fee may be appropriately charged a developer at the same time as the main charge.

SECTION 3.020 General Policies for Charges and Fees

(1) Main Charge and Connection Fee:

a) Both these cost items are generally applicable to obtaining water service, but are determined separately and independent of one another. The main charge is based on the city's average construction cost of a 6" main including intersections, fire hydrants, engineering, inspection and other related expenses.

The connection fee is based on the city's cost of installing a service line and meter from the main to the curb line.

b) When a main suitable for serving the applicant's premises is in place at the time of request for service, then the main charge shall be computed by multiplying the front footage of the parcel to be served where bypassed by the main by a factor of 50% the current per foot construction cost of a 6" main. Tax lot divisions will be determinate as to the footage involved in computing main charges. Both the main charge and connection fee shall be payable at the time application for service is made.

When a main must be extended to serve the applicant's premises, the main charge is to be assessed on the total front footage of all parcels bypassed and is not limited only to the applicant's property or land to be immediately served.

(i) When such front footage amounts to less than 50 feet, the main charge for that service will be computed as if there were 50 feet of frontage.

(ii) When property has mains by-passing two or more sides, the main charge shall be based on an average of the lot frontage so served.

(iii) When a main serves property, but does not completely bypass the parcel's frontage, if in the City's judgement it is a reasonable expectation that the City will at some time be required to extend the main further, then the main charge for service to that property shall be assessable on the total front footage, as if the main bypassed the entire parcel.

(iv) When a main serves property, but does not completely bypass the parcel's frontage and it is the City's determination there is no reasonable expectation that

the City will be required to extend the main further, then the main charge shall be based on the actual front footage of main installed (regardless of size) but in no case shall be less than a 50 foot assessment.

c) Connections to properties that connect to the water main installed on Pocahontas Road from 520 feet east of its intersection with the Union Pacific Railroad, then west to 23rd Street, then south along 23rd Street 1104 feet, shall be charged a main charge equal to 50 percent of the main charge as would otherwise be set by this ordinance. (As amended by Ord. No. 3131, 6-9-98)

(2) Conversion from Private Line to Standard Main:

Customers converting over from a private line to a standard main shall pay regular main charges and connection fees when the main has been extended at their request; in other instances no charges or fees will be assessed. This privilege of changing over to a standard service at no cost applies only to the connections which exist at the time the main is extended. Any new connection or service, even if to the same parcel of land, will be assessed regular charges and fees.

(3) Reimbursement Contract:

A person having paid a main charge on property other than his own, may enter into a contract with the city to have main charges as collected by the city returned to him on a proportional basis when new services connect to the extension; collection and reimbursement is to be made at the rate current at the time of connection. The term of this contract shall be limited to 10 years when the amount of the contract is less than \$5,000 and may when the contract is in excess of that amount be extended, at the discretion of the council, for a period up to 20 years. The person entering into such an agreement with the city shall be responsible for any escrow or related fees incurred during the term of the contract.

(4) City Contract Option:

Though the city budget be sufficient, if the city is unable to undertake the project at a given point in time due to lack of cash on hand, manpower, equipment, commitment to other projects or for any other cause the city deems reasonable, then the city may at its discretion contract for the work to be done. In this instance the normal charges and fees would apply plus an additional fee may be imposed to cover any cost overage between the regular charges and fees and the actual cost of construction (inclusive of all related costs) of that specific job.

(5) Main Charge Assessed Once:

Any property having paid a main charge after the date of this ordinance shall not be so assessed again at a later date. In instances such as a new subdivision where the city would generally have had no financial involvement in serving the premises therein; the city would make no charge, but rather the cost of the water facilities installed would be reflected

in the purchase price of a lot.

(6) Dollar Assessments by Resolution:

Actual dollar amounts for main charges and connection fees shall be set from time to time by Resolution. A yearly revision is required each January 1.

(7) Other Financing Allowed.

There is no intent by these regulations to preclude the L.I.D. (Local Improvement District) option or any private arrangements made between any individuals.

SECTION 3.030 Other Charge Considerations

(1) Systems Development Charge:

A systems development charge may be imposed whenever requirements for water are evidenced by request of a metered service 2 inches in size or over. The City Manager in consultation with the Superintendent of Public Works and the developer shall make a determination on a case by case basis as to a reasonable amount to be approved by the City Council.

(2) Over Size Mains:

When the need for an over-size main is principally attributable to a specific development, then the developer shall pay the actual cost of the difference between standard 6" and the main installed.

(3) Excavating Existing Paved Surface:

An applicant requesting any main or service line extension or installation which involves cutting, excavating and/or replacement of any paved surface shall be charged the actual cost of such cutting and repair in addition to other applicable charges and fees.

(4) Special Situations:

Financing extensions of mains which cross through or by land which has no reasonable expectation of being served by the extension or which is already served off another main or private lines, and installation of any additional facilities needed to develop particular areas of land are the responsibility of the developer. The developer may request in writing that the city participate in the financing of those portions of such projects through waiver of certain main charges or other appropriate methods. The city council shall review any such requests in light of the availability of funds, the size of the project, over-all system needs, the extent of benefit to surrounding property, policies as set forth in this ordinance and other pertinent factors. The council may grant the request as presented or for any lesser amount of assistance, but in no way shall be obligated to honor any such request.

Whether or not city funds are involved in the initial financing of any project, the city council may, where appropriate, establish geographic areas of benefit and impose a utility service charge to be collected at the time of connection to the water system which would be over

and above the normal main charge and connection fee as set herein. Such charges would serve to offset the initial cost of making water available to certain areas of the city, and would be used under a reimbursement contract to repay proportionally the developer and/or city.

SECTION 3.040 Application for Service:

(1) Required Information and Format:

a) Each applicant for water service shall sign an application form provided by the Water Department giving the following information:

- (i) Date of application
- (ii) Location of premises to be served
- (iii) Date service is to begin
- (iv) Purpose for which service is to be used
- (v) Address to which billings are to be mailed
- (vi) Class and size of the meter service
- (vii) Such other information as the Water Department may reasonably require

b) The application shall contain a statement that all water charges shall be liens against the property served from and after the date of billing and entry on the ledger or other records of the city pertaining to its municipal water and sewage system. In signing the application the applicant agrees to abide by the rules and regulations of the Water Department.

c) The application shall also contain a signature line for the owner of the property if different from the applicant.

(2) Deposits and Establishment of Credit:

a) At the time application for service is made, the applicant shall establish his credit with the Water Department. The credit of the applicant will be deemed established if the applicant makes a cash deposit with the Water Department to secure the payment of bills for service. The amount of the deposit shall be set from time to time by the City Recorder. (Amended by Ord. 3015 adopted 6-11-91)

b) At the time the deposit is given to the Water Department the applicant will be given a receipt for the same. The deposit is not to be considered as a payment on account. In the event the service is discontinued, the deposit will be applied to the closing bill and any amount in the excess of closing bill will be refunded.

If an account becomes delinquent and it is necessary to turn off the service, such service will not be restored to those premises until all outstanding bills due to the Water Department have been paid.

c) If the applicant makes timely payment of all the water bills for a period of one year from the date of application, the deposit shall be refunded at that time.

(3) Contractual Obligation:

The application provided for in item (1) above shall contain a contract on the part of the person making the application, to pay for the water applied for at the rate and in the manner specified in such contract. It shall reserve to the city the right to charge and collect the rates and enforce the penalties provided for in this ordinance, in the manner herein provided. The application shall also reserve to the city the right to change the rates at any time by ordinance, to temporarily discontinue the service without notice to the consumer, and shall specify that said contract is subject to all the provisions of any ordinance or resolution of the city relating to this subject, and shall further provide that the city shall not be held responsible for any damage from water or other cause resulting from defective plumbing or appliances on the premises supplied with water, by the owner or occupant of said premises, and that the fact that the agents of the city have inspected the plumbing and appliances shall not be pleaded as a basis of recovery in case of damage to the premise, and shall provide that in case the supply of water shall be interrupted or fail for reason of accident or any other cause whatsoever, the city shall not be liable for damages for such interruption or failure, nor shall failures or interruptions for any reasonable period of time be held or constitute a breach of contract on the part of the city or in any way relieve the consumer from performing the obligations of this contract. All contracts shall take effect from the day they are signed and rates shall be charged from the day premises are connected with the city's water supply and the meter installed and turned on to such time as the city is notified that service is no longer desired and the water turned off at the meter.

ARTICLE 4 CONSTRUCTION AND CONTROL STANDARDS

SECTION 4.010 General Liability

The city shall be responsible for the repair and maintenance of the water distribution system including mains, service lines between mains and meters and the meters themselves. Property owners shall be responsible for all installation, maintenance and repair of any system facilities between the meter and points of delivery, regardless of the meter's location.

SECTION 4.020 Service Line Regulations:

(1) Technical Conformity:

Before the water will be turned on to any premises connected with the city mains, the service pipes on such premises must be made to conform to the following regulations:

The service pipes must be so located that the supply for each separate house or premises shall be controlled by separate stop and waste cocks of the highest standard make approved by the City Manger, with extension handle, properly protected from the frost and conveniently located and so placed within the premises that all service pipes and fixtures may be thoroughly drained during freezing weather.

(2) Connection by Union:

All connections between the city's pipes at the property line and the service pipes on the premises must be made with a union. Every existing service or branch service not already equipped as required in this section must be so equipped at the owner's expense as soon as the defect is noted. No service connection less than 3/4 inch in size shall be installed.

(3) Service Line Location:

a) Service lines shall generally extend at right angles from the main to a point immediately inside the curb line, or where no curb exists to a point designated by the City Manager in accordance with accepted standards on street width. (Note also City of Baker, Dept. of Public Works, Standard Drawings and Specifications.)

b) A service line crossing private property shall not be allowed unless special circumstances warrant and approval of the City Manager is obtained.

c) A meter shall not be installed in a driveway area, nor shall a driveway be constructed over an existing meter.

(4) Pipe Standard:

All persons connecting to city services or laying their own private pipe line, shall be required to use only pipe which meets all applicable standards of the Oregon Plumbing Code, and all pipes shall be laid not less than four feet below the ground.

(5) Storage Adjacent to Meter:

It shall be unlawful for any person to store, maintain, or keep any goods, merchandise, material, or refuse within a distance of six feet from any water meter, gate valve, or other appliance in use on any water connection of the city.

(6) Lawn Sprinkling System:

Whenever pipes connecting with a city service connection are to be used as part of a lawn and shrubbery sprinkling system exclusively, such pipes may, at the option of the property owner, be laid less than four feet below the surface of the ground. The property owner shall be required to install a control valve on each branch pipe which may lead from regular domestic supply pipes to the lawn and shrubbery sprinkling system.

Sprinkling systems of this nature shall be constructed in such a manner that all pipes and fittings connected therewith can be thoroughly drained when their seasonal use has been discontinued.

SECTION 4.030 Other Provisions:

(1) Fire Protection Service:

a) Services for fire protection must be fitted with such fixture only as are needed for fire protection and entirely disconnected from those used for other purposes. Premises having such services, connected with the city's water mains, supply hydrants, standpipes or automatic sprinklers for private fire protection shall pay those rates as set forth in Article 2.

b) It shall be unlawful to use such fire line for any other purpose than fire protection. Violation of this section shall cause the installation of a meter upon said line, with the cost of installation to be charged to the owner of the premises at the regular rate.

In special circumstances the City Manager has the right to negotiate a contract to be approved by the City Council, the provisions and conditions of which are different from or have exceptions to the regular public schedule of rates for fire protection.

(2) Maintenance Requirements in Preventing Waste:

a) No person shall willfully allow water to be wasted or use the water for purposes other than those for which his contract provides.

b) The service pipes, connections and other apparatus within any private premises must be kept in good repair; failure of the customer to do so is grounds for the city to not provide water service.

(3) Inspection of Premises:

The City Manager shall have free access at all reasonable times to all parts of buildings or premises supplied by water from The City's mains, for the purpose of ascertaining the quantity of water used, shutting off or turning on of water through the service connection, checking for cross connections, checking compliance with codes and for any other reasonable cause and it shall be unlawful for any person to hinder, obstruct, or unnecessarily delay such actions.

ARTICLE 5 ENFORCEMENT AND ADOPTION

SECTION 5.010 Repeal:

All ordinances of the City of Baker heretofore passed and covering and regulating any of the matters provided for in this ordinance and all ordinances in conflict with this heretofore passed by the City of Baker are hereby repealed.

SECTION 5.020 Severability.

If any part or section of this ordinance is decided by the Courts to be unconstitutional, in violation of any of the provisions of the Charter of the City of Baker, Oregon, in violation of any state law of the State of Oregon or invalid for any other reason, such declaration shall not affect the validity of any other portion or section of this ordinance.

SECTION 5.030 Penalties:

Any person violating any of the provisions of this ordinance shall upon conviction thereof be punished by imprisonment of not to exceed 180 days or by fine of not to exceed \$500.00 or both such fine and imprisonment.

SECTION 5.040 Emergency Clause:

It is hereby determined and found that it is in the best interest and the welfare of the people of the City of Baker that new regulations relating to water services and rates be established and clarified. By virtue of the foregoing reason, an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately upon and after its passage by the City Council and approval by the Mayor of the City of Baker, Oregon except for that portion of this ordinance repealing current water rates and instituting a new rate schedule (Sec. 2.010 Items 1, 2, & 3). The effective date for such repeal and institution shall be July 1, 1979.

PASSED by the City Council of the City of Baker, Oregon, and
APPROVED by the Mayor of the City of Baker, Oregon, this 26th day of June, 1979.