

CITY OF BAY CITY

ORDINANCE NO. 643

**AN ORDINANCE ESTABLISHING RULES AND REGULATIONS
FOR OPERATION OF THE CITY WATER SYSTEM;
REQUIRING APPLICATION PERMITS AND FEES THEREFOR;
PROVIDING FOR PENALTIES, REPEALING ORDINANCE 535
AND DECLARING AN EMERGENCY.**

THE CITY OF BAY CITY ORDAINS AS FOLLOWS:

Section 1. Repeal. Bay City Ordinance 535, which repealed Bay City Ordinance 503, codified as Bay City Ordinance 3-3 and Bay City Ordinance No. 504, codified as Bay City Ordinance 3-5, are all hereby repealed in their entireties. Furthermore, all resolutions and motions setting rates, fees, charges or procedures pertaining to the City water system are hereby repealed except Resolution: Setting Fees and Charges Relating to Water Service, which shall remain in full force and effect.

Section 2. Required Connection. All structures which utilize water for consumption by humans located within the City limits shall be required to connect to the City water system and pay all required fees therefore.

Section 3. Application for Connection

3.1 Application for water connection shall be made in writing in the form prescribed. The water connection application form shall be filed with the City simultaneously with the application for a building permit. No application for water connection shall be accepted by the City without simultaneous application of a building permit, except new water connections to existing residences located outside the City limits, but not served by a water district. Applicant shall be required to provide sufficient information for the City to identify the type of water usage that will be necessary as well as sufficient information for billing and notification purposes. If the application is approved and all required fees paid, including but not limited to, all Systems Development Charges, all connection fees and all application fees, as required, the City shall issue a water connection permit, specifying the location where said connection shall be made. In the event that Applicant fails to connect to the City water system within one year of the date the application is approved, then Applicant shall reapply for the water connection. At the time of reapplication the Applicant shall pay the difference between the fees already paid and the fees in effect at the time Applicant physically connects to the system. No credit shall be

given for any interest accrued on funds paid by Applicant if Applicant fails to connect to the sewer system within one year.

- 3.2 Applicants for water service outside the City limits, but not within a water district, will be required to sign an agreement with the City agreeing to be bound by the applicable City Ordinances regarding water service, water system development charges and water rates and fees. Further, in the event of a water shortage, water users outside the City limits may have water service discontinued for the duration of shortage.
- 3.3 If within one year of the time of connection the City finds that Applicant's usage of the system is different that what was identified at the time of application, then the City shall adjust the required fees to reflect the actual use retroactive to the date of connection. Applicant shall have 60 days to pay the adjusted fees.

Section 4. Installation of Service. Upon payment of any applicable Systems Development Charge, connection fees and application fees, the City shall install a service pipe from the main to the curb or to the property line of the street in which the main is located. All costs to the City, including labor and materials used by the City for connection by the City shall be paid by the consumer, in addition to any connection fee, any Systems Development Charges, and any application fee, if applicable. The City shall own, operate and maintain the service connection between the main and the curblin. The consumer shall install and bear the expense of pipes from the curb service connection to the facilities on the premises, subject always to building, plumbing, sanitation codes and applicable City ordinances and required inspection of the City.

The consumer shall have the option of obtaining a contractor to install the service pipe from the main to the curb or to the property line of the street in which the main is located. If the consumer exercises this option, all connections shall be made in accordance with City specifications. Consumer shall not cover said line until the City Public Works Superintendent or his designee has inspected and approved the installation. All costs associated with the contractor shall be the responsibility of the consumer.

Section 5. Water Use by Applicant. No person supplied with water from the City system shall use the water for any purpose other than that stated in the application or supply the water to other persons without an application and permit to do so.

Section 6. Separate Control of Service. A separate service direct to that tap in the main is required for each residence or business that is supplied with water. Service pipes must be so placed that the supply to each consumer may

be controlled by a separate stopcock placed within and near the line of the street curb or public right-of-way.

Section 7. Water User Charges

- 7.1 Monthly Water. User charges shall be levied on all users of the City water system. Such charges shall cover the cost of operation and maintenance, replacement, administrative costs and bonding costs of such water system. The charges shall reflect the consumers' water usage.
- 7.2 Water Charged to Premises. All monthly water charges shall be billed in the name of the Applicant. In extending water service to any premises, the consumer must make proper application for such service with the City unless the City is otherwise notified, the Applicant is the consumer of water.
- 7.3 Fees, Charges and Monthly Water Rates. All fees and charges and monthly water rates shall be set by the City by way of separate resolution after a public hearing. The proposed rate schedule shall be available at City Hall at least seven (7) days prior to the public hearing.

Section 8. New Service Deposit

- 8.1 Deposit. All new water service shall be required to pay a new service deposit as set by resolution of the Council, except as otherwise provided in Section 8.2 herein. Said deposit shall be credited to the consumer's account after the consumer has established 12 consecutive months of good credit for all consumer's accounts with the City. No new service deposit shall be required if consumer has established good credit with the City as defined in Section 8.2 herein.
- 8.2 Credit Establishment. For purposes of determining whether or not the consumer has established good credit with City, good credit shall be defined as: no late payments received by City and no late notices sent by City on any account in consumer's name in the previous 12 consecutive months prior to the application.
- 8.3 Deposit Utilization. If at any time water service is terminated or otherwise discontinued, then said deposit, if existing, shall be used to pay any charges owing to the City and the remainder, if any, shall be paid to the consumer.
- 8.4 Reconnection. If the consumer desires reconnection to the system after disconnection for nonpayment, the consumer shall be required

to pay a new service deposit, bring all consumer's arrearages current and pay the reconnection fee.

- 8.5 Change of Account Names. A new service deposit shall be required any time a change in the name of the consumer account is requested unless the new consumer has previously established good credit with the City on all accounts in consumer's name for the previous 12 consecutive months as per Section 8.2 above.

Section 9. Billing.

- 9.1 Flat rates are payable in advance on or before the 10th day of each month.
- 9.2 Metered rates are payable on or before the 10th day of each month. Meters will be read on or about the 25th day of each month and consumers of City water shall be billed on or about the last day of each month for water used during the preceding month.
- 9.3 All charges shall be deemed delinquent if not paid by the 10th day of the month in which it is billed.
- 9.4 If such charges are not paid by the 25th day of the month in which it is billed, the City, at its option and after due notice to the consumer, pursuant to Section 32, may discontinue water service to the premise served.
- 9.5 If such charges are not paid by the 25th day of the month in which it is billed, an additional charge of 5 percent of the unpaid balance per month shall be added to the bill.
- 9.6 Advance annual payments shall be allowed for both flat and metered service. Such payments shall be made prior to July 1 of each year and shall be credited from July 1 to June 30 of the succeeding year. Such annual payments shall be subject to a 5 percent discount. In the event that actual meter readings indicate water usage in excess of the base flat rate, then all excess metered amounts must be paid in full no later than the 20th day of July of each year for the previous year's water usage. In such excess amounts are so paid, the owner shall be allowed to prepay the next year's usage and shall receive the 5 percent discount.

Section 10. Collection of Fees/Charges. The City may use such means for collecting of water charges, Systems Development Charges or other fees, as are provided by the laws of the State of Oregon or are authorized by the charter and ordinances of the City. When the consumer is the owner of the property

being serviced, any delinquencies in payment thereof may be certified to the Assessor for Tillamook County, Oregon, in accordance with the Oregon Revised Statutes. If the consumer is not the property owner of the serviced property, then City may proceed by any action by law or statute to recover said fees and charges. Any overdue water charge or fee further may be collected, at the option of the City, by an action at law in the name of the City.

Section 11. Lien Docket. Nothing contained herein shall be construed to limit the City from using any available remedies available to it. The City of Bay City, shall maintain a lien docket relative to the operation of the water system. Said docket shall contain:

- (a) The date of the entry of the lien.
- (b) The number or letter of each lot assessed and the number or letter of the block of which it is a part.
- (c) The description of each unplatted tract or parcel of land.
- (d) The sum assessed upon each lot or parcel thereof or tract of land.
- (e) The name of the owner or that the owner is unknown. However, failure to enter the name of owner or mistake in name of the owner, or entry of a name other than that of the true owner shall not render void any assessment or in any way affect the lien of the City of the property described in the document.

Section 12. New Construction. All new single family and multi-family dwelling units newly constructed within the City shall have each dwelling unit separately metered for water service.

All new construction shall be metered for water service as required by the City.

Section 13. Meters. The City shall be the owner of all meters served by the City water. The consumer shall be responsible for maintaining and keeping all water meter boxes free and clear of all debris, growth or other obstacles and protected from damage.

The City shall replace inoperable or malfunctioning meters at no cost to the consumer provided, however, that such malfunctioning is not due to any negligent or intentional conduct by the consumer, in which case the consumer shall be responsible for the replacement cost of the meter.

Section 14. Temporary Disconnection. Water service may be disconnected temporarily upon written request to the City. During the period of disconnection, monthly water service charges shall cease, but that account shall

be charged for the turn-off. Upon written request, water services shall be resumed but only after full payment of all outstanding charges against the account, including the cost of the turn-off and turn-on. In the event a new consumer applies to have the water service restored, that consumer shall only be responsible for the reconnection fee and all monthly water service fees thereafter.

Section 15. Shutoff for Repairs. If at any time the water is shut off from the mains without notice for repairs or other purposes, the City will not be responsible for any consequent damages to boilers, other equipment or appliances or for any other inconvenience or damage. However, when possible, the City shall give notice of the time and reason for the shutoff which is reasonably calculated to give actual notice to the consumers whose water is to be shut off.

Section 16. Liability for Leakage and Damage. Consumers shall keep all pipes and fixtures on their premises in repair at their own expense and shall be liable for any leakage or damage which results from their failure to do so.

Section 17. Leaking Fixtures. Water on flat rates will not be furnished where there are defective or leaking faucets, toilets, or other fixtures, or where there are toilets or urinals without self-closing valves, or tanks without self-acting float valves.

Section 18. Waste. Water must not be allowed to run to waste in order to prevent freezing, or kept running at any time longer than necessary for its proper use. No reduction will be made in charges for water for want or supply or wastage caused by freezing or leakage.

Section 19. Unauthorized Connection. No person shall make connections with the mains, make alterations in any conduit, line or other fixture connected with the mains, connect lines when they have been disconnected, or turn off or on water for any premises without permission from the City.

Section 20. Access to Premises. Consent of the consumer is necessary before agents of the City may have access to the premises to which water may be delivered from the mains for the purposes of inspection of pipes and fixtures and to determine the manner in which water is used. However, in cases of emergency, agents of the City may have free access without such consent.

The City shall have access to all premises served with water by the City, without notice, for the purpose of inspecting and reading all water meters.

Section 21. Main Extensions.

21.1 The City may extend its water distribution mains to new consumers upon receipt of the connection fee and payment in advance of the total estimated cost of completion for the proposed extension, including but not limited to materials, labor and engineering fees.

21.2 Before an extension will be authorized, the applicant shall submit to the City those plans and specifications required by the City for the approval of the Council or its authorized representative. Such plans and specifications shall be prepared by an engineer duly authorized and licensed to practice in this state, and shall specify size, type and location of pipes and appurtenances, plus other details as required. Applicant shall be solely responsible for hiring a licensed and bonded contractor to perform such installations. All installation shall be in conformance with City standards. No part of the installation shall be covered until the line has been inspected and approved by the Public Works Superintendent. Any plans for the extension of water mains shall conform to an overall plan for water service to all residents of Bay City. All main extensions shall become the sole property of the City upon completion and upon approval of the Public Works Superintendent.

21.3 Extensions of water mains shall be made only along City streets, county roads, or other satisfactory rights-of-way. Extensions shall only be approved where the City has an adequate water supply for the new customers, and where the City can provide and maintain adequate pressure to such customers without detriment to existing water customers.

21.4 No extension of a water main shall be authorized until the applicant files with the City any necessary permits, licenses, or approvals required by any other governmental agency.

21.5 Any plans, blueprints, specifications, etc., filed with the City shall become City property and remain on file at City Hall as public documents.

Section 22. Service Outside the City. Water service outside the City limits may be furnished by the City upon approval of the Council and subject to whatever conditions the Council deems appropriate. New connections outside the City shall be approved only after a determination is made that the City can provide and maintain adequate water pressure to such customers without detriment to existing water users.

Section 23. Sprinkling and Irrigation. Water from the City system may be used for sprinkling and irrigation only through a nozzle or a sprat stand in the form of a spray. At its discretion the City may refuse water for sprinkling and irrigation or limit the hours during which it may be so used.

Section 24. Outside Connections. No faucet is allowed on the outside of any building except hose connections, which must be controlled by a separate

stop. No faucet is allowed on sidewalks or at the curbline where it is accessible to the public.

Section 25. Leaking Services. The public works department shall repair free of charge and leaks between the main and the curbline, unless the leak is in a unused or non-revenue producing service. In such case the public works department shall shut off the service at the main. Where a water service pipe has been disconnected from the main, the consumer residing on or using such property must pay for a new service connection when water service is desired.

Section 26. Sale of Water Prohibited. The sale of water within the City in competition with the City system is prohibited.

Section 27. Dual Water Supply. A person who desires to use both a City water supply and a private supply may obtain City water only so long as there is no physical connection, direct or indirect, between the City water supply and the private water supply. In case of disconnection for a violation of this provision, service shall not be resumed until satisfactory proof is furnished that the cross-connection has been completely and permanently severed, and until a new water service connection fee has been paid.

Section 28. Tampering with Valves, Hydrants and Meters. No person shall, without authority from the City, remove, injure, open, close or in any way tamper with any water pipe, water main, shut-off valve or water meter belonging to the City.

Section 29. Broken Meter Rates. Whenever a water meter is found by the meter reader to be inoperative, an amount equal to the average billing of the three preceding months shall be billed to the water user for that month.

Section 30. Inspecting, Testing, Repairing and Re-locating Meters.

30.1 Upon request by a consumer, the public works department shall reread the consumer's meter and inspect the service for leaks. The cost of the reread and inspection shall be charged to the consumers account.

30.2 Should the consumer desire that the meter be tested or changed, such test or change shall be made by the public works department and the cost charged to the account of the consumer. However, should the test of the meter show a registration in excess of three percent (3 percent) in favor of the City, the amount charged for the test shall be cancelled or credited to the consumer's account, and the bill adjusted accordingly. The excess registration for not more than the three months preceding shall be credited to the account.

30.3 When any consumer being served by the City requests a relocation or an alteration of the service meter, a determination of the advisability of such relocation or alteration shall be made by the public works superintendent who shall prevail subject to the order of the Council. In no event shall the meter or service be relocated onto private property beyond the property line, except by order of the Council. The cost of such relocation or alteration shall be charged to the account of the consumer.

Section 31. Turning on Water without Authority. After the water has been shut off at the curb stopcock, if it is turned on without authority from the City, the public works department may shut off the service at the main. The water shall not be turned on again until all arrears and penalties, the cost of cutting and replacing the street, and the charge for shutting off and turning on the water are paid.

Section 32. Procedure for Disconnection for Non-Payment or Other Violation. If payment of the water rates is delinquent or if the rules and regulations established as a condition for the use of City water are not being followed, the consumer's water may be shut off. The City Recorder shall send a notice of the possible shutoff to the consumer which allows the consumer 15 days to pay the delinquent bill or to make arrangements for payment. If the delinquent bill is not paid or arrangements for payment are not made within that period, the water service shall be disconnected.

Section 33. Reconnection for Non-payment or Other Violation. Before water service may be reconnected to any property where there has been a discontinuance or service because of a failure to pay rates or charges or because of a failure to comply with the rules and regulations of the City, the consumer must pay all delinquent bills and other charges plus a delinquency fee as set forth in the duly adopted rate schedule established by the City. The delinquency fee shall be paid even though no physical disconnection is made, when such exception to the physical disconnection is made by reason of promise or payment by the consumer.

Section 34. Voluntary Disconnect/Reconnect. When a consumer voluntarily requests that the City either disconnect or reconnect water service to any property, the consumer must first pay all outstanding amounts due the City for water service, if any, and pay the disconnect or reconnect fee, whichever applies, said fees as are established as set forth in the duly adopted rate schedule established by the City.

Section 35. Penalty. Violation of this ordinance is a Class B misdemeanor. This penalty shall be in addition to and unaffected by any remedial action taken by the City.

Section 36. Separate Violations.

36.1 Each day's violation of a provision of this ordinance constitutes a separate offense.

36.2 As an additional remedy, the City may impose a fine of the greater of \$100.00 per day per violation or the cost of any expense, loss, cost of repair, or damage occasioned by the City, whichever is greater, including the cost of the City's attorney's fees.

36.3 The City shall have all other remedies available to it by law.

Section 37. Severability. If any provision, section, sentence or phrase of this ordinance shall for any reason be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment or decision shall not affect the validity of the remaining portions of this ordinance.

Section 38. Emergency. The City of Bay City deems an emergency to exist to effectuate a timely and efficient transition in the water rate changes and therefore this ordinance shall be in full force and effect upon passage by the Council and upon signature by the Mayor.

PASSED and ADOPTED by the City Council this 14th day of October, 2008 and approved by the Mayor this 15th day of October, 2008.

By: /s/ Shaena E. Peterson
Shaena E. Peterson, Mayor

ATTEST:

By: /s/ Linda M. Dvorak
Linda M. Dvorak, City Recorder

First Reading: October 14, 2008

Second Reading: October 14, 2008

Adoption:

Ayes: 6

Nays: 0

Abstentions: 0