

Drafted dated 3/18/2016
ORDINANCE NUMBER _____

An ordinance of the City of Missoula, Missoula County, Montana, amending Title 13, Missoula Municipal Code; repealing Chapters 13.11 and 13.12, and establishing Chapter 13.30 entitled “Municipal Water Utility,” in order to establish a municipal water system and related rules and regulations, to establish and collect service charges and provide water service, to provide for other matters properly relating thereto.

WHEREAS, the City of Missoula, Missoula County, Montana (the “City”), is a municipality duly organized and existing under and by virtue of the Constitution and the laws of the State of Montana (the “State”) now in force;

WHEREAS, MCA § 7-13-4402 provides that the City Council of the City (the “Council”) has the power to adopt, enter into and carry out the means for securing a supply of water for the use of the City or its inhabitants; and

WHEREAS, Sections 7-13-4301 through 7-4314 of the Montana Code Annotated provides authority for the City to establish, build construct, reconstruct, or extend a water supply or distribution system; to operate and maintain such system for public use; to furnish water services to the inhabitants of the City or to any person, factory, industry, or producer of farm or other products located outside the corporate limits of the City; and to fix rates and charge for the services, facilities and benefits directly or indirectly afforded by the system.

NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOULA, that Title 13 Missoula Municipal Code, Chapters 13.11 and 13.12 are hereby repealed; that Chapter 13.30 is hereby established; and Title 3, Chapters 16, 18 and 19 are hereby amended as follows:

Title 13.11

WATER DEVELOPMENT FEES (Repealed)

[Codifier’s note: In 2016, Chapter 13.11 was repealed]

Sections:

~~[13.11.010 Repealed Water System Background.](#)~~

~~[13.11.020 Repealed Water Development Fees.](#)~~

~~**13.11.010 Repealed Water System Background.** The City of Missoula owns the water system that serves the area north of Mullan Road adjacent to North Reserve Street and Grant Creek Road. The water system is managed and operated by the Missoula Water Works, and the system was constructed under Special Improvement District (SID) 459. (Ord. 3044, 1997)~~

~~**13.11.020 Repealed Water Development Fees.**~~

~~A. No connection shall be made to the City owned water system until the Public Works Department issues a written permit, and applicable water development fees have been paid to the City of Missoula.~~

~~For property owners that request a connection to the City owned system, and their property was not assessed for water improvements in SID 459, the water development fee shall include a fee which shall be the same as properties were charged in SID 459.~~

~~Exception: Residential properties shall be assessed at a rate proportional to the area of the property. The area of assessment for residential properties will not exceed one half acre per residential unit.~~

~~B. Use of Fee: All funds received in payment of the water development fee shall be deposited in a segregated account. Funds shall be expended for public water system planning, design and construction for general benefit water facilities for the City owned water system. General benefit water facilities are defined as public water wells and pumping facilities, water storage and treatment facilities, public water distribution systems that provide extra-system capacity, and all related appurtenances. Funds shall not be used for operation and maintenance of any public water system. Expenditures of these funds shall be set forth by the City Council in it's capital improvements program and/or annual budget.~~

~~C. Credit for Increased Capacity: When an applicant for water service from the City owned water system is required to pay for water improvements that are extra capacity general benefit facilities, the applicant may request that the cost for the extra capacity paid by the applicant become a credit against the water development fee for properties of the applicant connected to installed water improvements. The City Engineer is to determine the amount of credit based upon the cost of the approved extra capacity general benefit facilities.~~

~~Implementation Instructions: It is the direction of the City Council that on the date this ordinance becomes effective that the existing emergency ordinance number 3041 shall be replaced by this ordinance. (Ord. 3044, 1997)~~

Title 13.12

PROTECTION OF WATER MAINS (Repealed)

Sections:

[13.12.010](#) ~~Repealed Protection of water mains or service lines against corrosion.~~

[13.12.020](#) ~~Repealed Inspection of water service lines.~~

13.12.010 Repealed Protection of water mains or service lines against corrosion.

~~A. ——— All buried metallic water mains or service lines located in areas described in this section shall be protected against corrosion:~~

~~1. ——— All areas within the city limits, south of a line beginning at the intersection of Highway 93 with the Bitterroot River at Buckhouse Bridge; thence easterly along Highway 93 to 39th Street; thence east along 39th street to Stephens Avenue; thence north along Stephens Avenue to Pattee Creek Drive; thence east along Pattee Creek Drive to Bancroft Street; thence north along Bancroft Street to South Avenue; thence east along South Avenue to Higgins Avenue; thence south along Higgins Avenue to Pattee Creek Drive; thence east along an extension of Pattee Creek Drive to Mount Sentinel.~~

~~2. ——— In addition, such protection against corrosion may be required by the city engineer or the city building inspector in any area in the city limits not included in subdivision 1 of this subsection, when in their opinion such protection will be beneficial.~~

~~B. — Such protection against corrosion shall be provided by one of the following methods:~~

~~1. ——— Installing the water main or service line within plastic pipe conduit. Plastic pipe shall be polyethylene, PE 2306, ASTM D 2239 or polyvinyl chloride ASTM D 2241. Plastic pipe shall be class 80 or heavier. All joints shall be sealed as recommended by the pipe manufacturer. All valves and connections shall be protected as stated in subdivisions 2 and 3 of this subsection.~~

~~2. ——— Wrapping the water main or service line within polyethylene sheeting. The water pipe shall be installed with a minimum of one wrap of 8-mil sheeting or two wraps of 6-mil sheeting. All sheeting joints and edges shall be taped with a tape as recommended by the sheeting manufacturer. All valves and connections shall be wrapped and taped, or coated with bitumastic material.~~

~~3. Other methods or materials, if approved by the city engineer or city building inspector prior to installation.~~

~~-(Ord. 3492, 2013; Prior code §24-56).~~

13.12.020 Repealed Inspection of water service lines.

~~A. All water service lines within the city limits must be inspected at the time of installation or repair of water service lines. This provision is intended to apply to all water service lines no matter where located, including, but not limited to lines across private property, streets, alleys and easements.~~

~~B. Excavation--Inspection. Permits shall be obtained prior to commencing any installation or repair work.~~

~~C. All permit fees shall be accordance with the permit rate schedule adopted by the city council.~~

~~D. Permits may be obtained only by contractors that are currently and properly licensed, insured and bonded to work within the city.~~

~~E. All water service line installations and repairs shall be performed in accordance with and comply with all city ordinances, codes and requirements.~~

~~F. All water service line work shall be inspected prior to commencement of backfilling. The permittee shall give the city a two-hour notice before commencing backfill operations.~~

~~G. City officials shall inspect all new water service line installations from the point of connection at the water line main to a point two feet outside the building proper.~~

~~H. During that period of time that the city offices are closed, emergency water line repairs may be performed before obtaining a permit, if the repair work is of such a nature that it may cause undue damage. Upon completion of the repair work the contractor shall at the earliest point in time, not to exceed seventy-two hours, obtain the proper permit for this repair work.~~

~~I. The city shall not be liable in any way for any defective or improper materials or workmanship of the contractor. City inspections are not a guarantee or warranty that the contractor has, or will properly perform the work. The city assumes no liability for damage that may arise or be occasioned or caused by the permittee's workmanship. (Ord. 2256 §1, 1982).~~

**CHAPTER 13.30
MUNICIPAL WATER UTILITY**

Articles:

Article I	General Provisions
Article II	Municipal Water Regulations
Article III	Water Charges and Fees
Article IV	Main Extensions and Material Specifications

Article I General provisions

Sections:

13.30.100	Definitions
13.30.110	Purpose and Intent

- 13.30.120 Missoula Water Division Established – Powers
- 13.30.130 Schedule of Rates
- 13.30.140 Billing and Notification of Water Service Charges
- 13.30.150 Rates, Charges or Classifications
- 13.30.160 Rules of Operation
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- 13.30.180 Waiver of Regulations – Conditions
- 13.30.190 Violation – Penalty
- 13.30.195 Penalties for Violation – Jurisdiction

13.30.100 Definitions. For the purpose of this chapter, the following terms shall have the following meaning:

“City” means the City of Missoula, Missoula County, State of Montana.

“Court” means the Municipal Court of the City.

“Consumer” means any Person receiving municipal water service either directly or indirectly from the Municipal Water Utility.

“City Council” means the City Council of the City.

“Domestic water” or “domestic water use” means potable water which is used for drinking, cooking and other household purposes, and includes water which is provided by the Municipal Water Utility or from a well.

“Domestic water well” means a source or supply of potable water consisting of a pipe sunk in the ground, either drilled or augured by a licensed well driller. The water must be pumped to the surface with a submersible pump.

“Irrigating” or “irrigation” means the supply of water by artificial means.

“Main” means a pipe or conduit carrying water for domestic, fire suppression, and other similar uses.

“Meter” means the instrument, including any auxiliary equipment, vault or pit or other structure and remote reading equipment, which is used to measure the amount of water delivered to a consumer from the Municipal Water Utility.

“Meter readers” mean the meter readers within the Public Works Department.

“Owner” means the owner of record of real property, including structures, which is served with water service by the Municipal Water Utility.

“Parcel” means a contiguous area of land described in a single description and held in one ownership.

“Person” means any firm, company, partnership, public or private corporation, association, group or society, governmental agency or other entity as well as a natural person.

“Point of delivery” means the point at which the Municipal Water Utility connects physically to an owner’s water service lines. The point of delivery shall be located at and shall include the owner’s corporation cock, which, in turn, is normally attached to the public water main located in the right-of-way that abuts and fronts the property to be served.

“Potable water” means a water source that meets chemical, biological, physical and radiological requirements for human consumption.

“Public Works Department” means the public works department of the City.

“Public Works Director” means the Director of Public Works Department, and includes his or her authorized designees.

“Service line” means a pipe or conduit owned by the owner which carries water from the point of delivery to the owner’s curb cock within the public right-of-way and from the curb cock to the owner’s property.

“Sprinkling” means the use of water for the purpose of irrigating an owner’s lawn, trees, shrubs, garden or other vegetation and is limited to residential use.

“Sprinkling water well” means a well which is a source of water for sprinkling only, and water from a sprinkling water well may not be used as domestic water.

“Tenant” means a person who has the use and occupation of real property owned by an owner, which property is served with water service by the Municipal Water Utility.

“Transmission line” means the system of pipes or conduits used for supplying water from a reservoir, river or stream to the Municipal Water Utility, and is not included within the term “water main.”

“Water bill” means the monthly charge, based upon either flat rates or metered rates in effect at the time of delivery of water to a consumer.

“Municipal Water Utility” (which may also be referred to as the “water system”) means the municipal water system established pursuant to MCA Title 69, Chapter 7 Parts 1 and 2, MCA § 7-13-4301 and includes water rights, devices, facilities, structures, equipment, land or works controlled by the City, and operated by the Missoula Water Division of the Public Works Department for the purpose of the processing, treatment, transmission, storage, distribution, pumping and measurement of water supplied to a consumer.

“Water Division Inspector” means the Missoula Water Division Inspectors within the Public Works Department.

“Water main” means the main directly controlled by the City and laid in the street or other right-of-way for the direct distribution of water to owners’ water service lines.

“Water rates” means the charges and conditions for a particular class or type of water service.

“Water service line” means a water supply pipe extending from the point of delivery at the water main to the owner’s property.

“Well” means a source or supply of water consisting of a pipe sunk in the ground. For the purposes of Chapters 13.29, 13.30, 13.31 or 13.32 of this Code a Well shall be classified as either “Domestic Water Well” or “Sprinkling Water Well.”

13.30.110 Purpose and intent. It is the purpose and intent of this chapter to establish and operate a municipal water utility and such utility is hereby established in accordance with Title 69, Chapter 7, Parts 1 and 2, and Title 7, Chapter 13, Part 43 of the Montana Code Annotated.

13.30.120 Missoula Water Division Established – Powers. There is established a division within the Public Works Department to be known as the “Missoula Water Division.” This Division of the Public Works Department is given all authority necessary to operate the Municipal Water Utility, which shall consist of managing all assets and equipment of the Municipal Water Utility and collecting all service charges due, all in accordance with the provisions of Title 7, Chapter 13, Part 43 Montana Code Annotated (the operation of municipal water systems) and under the authority of the City Charter and self-governing powers provided by State law.

13.30.130 Rate Schedule. A copy of the schedule of rates, service charges and fees and special rules modelled upon the current rate schedules and special rules for the Municipal Water Utility is hereby adopted, copies of which are available in the City Clerk's Office. Future rate schedules will be adopted by City Council resolution (see 13.30.150.) If any provision of the rate schedule and special rules is inconsistent with any provision of this chapter, the provisions of this chapter shall prevail.

13.30.140 Billing and Notification of Water Service Charges. Customers served by the Municipal Water Utility shall be billed monthly, based on the rates of charge designated in the rate schedule. Billing statements shall indicate the total service charge and shall set forth any special charges, all in accordance with the provisions of this chapter.

13.30.150 Rates, Charges, or Classifications. The City Council shall adopt, establish, or change the rates, charges, or classifications imposed on the customers of the Municipal Water Utility in the manner of and pursuant to the procedures imposed upon and allowed to municipal water system services by the laws of the State. Any action of the City Council to adopt, establish, or change the rates, charges, or classifications shall be made by resolution duly adopted and approved by the City Council and filed with the City Clerk.

13.30.160 Rules of Operation. The City Council shall adopt, establish, or change rules for the operation of the Municipal Water Utility. The rules shall be adopted, established, or changed in the manner of and pursuant to the procedures imposed upon and allowed to a municipal water system by the laws of the State. Any action of the City Council to adopt, establish, or change such rules shall be made by resolution duly adopted and approved by the City Council and filed with the City Clerk. Any failure to follow or carry out rules and procedures adopted pursuant to this section is unlawful conduct and is subject to the violations and penalties in 13.30.190 and 13.30.195.

13.30.170 Availability of Rules and Schedule of Rates, Charges, and Classifications. A schedule of rates, charges or classifications imposed upon the customers of the Municipal Water Utility and a copy of the rules established for the operation of the Municipal Water Utility shall be kept and maintained in the office of the City Clerk and shall be made available for public inspection at any time during regular office hours.

13.30.180 Waiver of Regulations; Conditions. In any case where compliance with any of these rules or regulations would introduce a conflict with a preexisting rule or regulation, upon application by the affected customer or agency, the Mayor has the authority to waive one of the least restrictive rules or regulations creating the conflict. An owner may appeal the Mayor's decision to the City Council.

13.30.190 Violation – Penalty. Any person convicted of violating any of the provisions of this chapter, is guilty of a misdemeanor. Every day a violation continues shall constitute a separate offense.

13.30.195 Penalties for Violation – Jurisdiction. Any person violating any of the provisions of this chapter is subject to one or more of the following:

- A. A maximum penalty of \$200.00 per day for each violation for each day it continues;
- B. Suspension and/or revocation of any permit previously issued;
- C. Shut-off of water service and assessment of disconnect and reconnect charges and fees;
- D. Injunction against continued operation;
- E. May be ordered to pay restitution for and damage to the water system.

Article II. Municipal Water Utility Regulations

Sections:

- 13.30.200 Mandatory Connection Requirements – Exceptions – Use of Wells – Enforcement
- 13.30.210 Transmission Line Connection – Standards
- 13.30.220 Water Main Location

- 13.30.230 Water Service Line Location
- 13.30.240 Waster Service Line Installation and Maintenance
- 13.30.250 Service Tap - Restrictions
- 13.30.260 Minimum Depth of Water Service Line
- 13.30.270 Interruption of Service by the Missoula Water Division – No Liability
- 13.30.280 Responsibility for Boilers
- 13.30.290 No Water Bill Adjustment for a Missoula Water Division Service Interruption
- 13.30.300 Use of Water Restricted
- 13.30.310 Separate Water Service Required
- 13.30.320 Multiple Connections - conditions
- 13.30.330 Curb Cock – Curb Box Requirements
- 13.30.340 Duty to Maintain Curb Cock and Curb Box
- 13.30.350 Duty to Maintain and Protect Fixtures
- 13.30.360 Service Shut-Off Inside Building
- 13.30.370 Waste of Water Prohibited – Notice – Shut-Off
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- 13.30.470 Street Closure – Barricades or Signs
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- 13.30.500 Prohibited Use of Water – Disconnection of Services.
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- 13.30.550 Two or More Buildings not to be Supplied Through One Connection - Exception
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13.30.200 Mandatory Connection Requirements – Exceptions – Use of Wells – Enforcement.

- A. The owner of any new house, building or other property which is used for human occupancy, employment or recreation, which property abuts on any street, alley, or other public right-of-way in which there is or may be located a water main, is required at the owner's expense to install suitable water service facilities therein, and to connect such facilities directly to the water main provided that a water main is located in the right-of-way within a distance of 200 feet from the owner's property line. (See also 13.26.090 MMC)
 - 1. The distance shall be measured in a straight line perpendicular from the owner's property line to the water main if a water main is located in the right-of-way in front of the owner's property.
 - 2. If a water main is not located in the right-of-way in front of the owner's property, the distance shall be measured in a straight line perpendicular from the owner's property line to that point where it intersects with the center line of the fronting right-of-way, and shall then be added to the distance from that intersecting point to the nearest water main, all as measured in a straight line and within the right-of-way.
- B. Except as provided in subsection (D), the occupants of property connected to the Municipal Water Utility may not use water provided by wells for any purpose other than sprinkling or irrigation.
- C. No well may be used to furnish sprinkling water to more than one parcel of property; provided, however, that contiguous parcels with the same ownership may use sprinkling water from a well

located on only one of the parcels if such use is approved by the Public Works Director. When considering a request to allow sprinkling from a well on an adjoining parcel held in the same ownership, the Public Works Director shall consider, but not be limited to, the following criteria: (i) whether the adjoining parcels are identifiable as a single area and enclosed by a fence, trees, shrubbery or similar method defining the boundary of the area; (ii) whether the adjoining parcel is being sprinkled for a commercial or residential purpose; (iii) the size of the adjoining parcel; and (iv) the possibility of contaminating the aquifer.

D. Exception to Mandatory Connection, Replacement Wells and Disconnection from Municipal Water Utility:

1. The mandatory Municipal Water Utility service connection provisions of this section shall not apply to any parcel of property which was exclusively served with domestic water provided by a well prior to **DATE**, 2016.
2. If a well meeting the conditions of subsection (D)(1) fails to operate after **DATE**, 2016, a replacement well may be installed and the residents of the property may continue to use a well for domestic water supply, subject to those provisions set out in subsection (D)(4).
3. The date of exclusive domestic water service from a well shall be the date when the well was put into service as shown on the Montana Department of Natural Resources and Conservation (DNRC) historical water right document files.
4. After **DATE**, 2016, no parcel of property may be disconnected from the Municipal Water Utility and served with domestic water provided by a well.
5. Failure to comply with this section will subject the owner to penalties as provided for under Chapter 1.20 of the Missoula Municipal Code [MLR1](#).

13.30.210 Transmission Line Connection – Standards.

No person shall be allowed to connect to a transmission line of the Municipal Water Utility without specific approval of the Public Works Director. When considering an application to connect to a transmission line, the Public Works Director shall consider, but not be limited to, the following criteria:

- A. Does the prospective owner intend to use the water as potable water;
- B. Whether chlorine contact time (CT) is proven adequate;
- C. Whether adequate water supplies are available to satisfy the prospective owner's demands; and
- D. Whether the prospective use will comply with all federal, state and local regulations.

13.30.220 Water Main Location. All water mains shall be installed within the public right-of-way. However, if it is proven to be impractical to do so, and if approval of the Public Works Director is first obtained, water mains may be installed within utility easements granted to the City by the owners of the property involved. In-depth rules for main extensions and other regulations have been modelled upon the current rules of operation for the Municipal Water Utility, which is hereby adopted with this ordinance (see Section 13.30.160), copies of which are available in the City Clerk's Office.

13.30.230 Water Service Line Location. All water service lines shall be connected to water mains located in streets, alleys or other public rights-of-way, except as provided in this chapter. Each service line shall be placed, to the extent practical, perpendicular to the water mains or public right-of-way.

13.30.240 Service Line Installation and Maintenance. The City shall install and maintain the water mains and facilities on its side of the point of delivery at the corporation cock, but the City shall not be required to install or maintain any water service lines or facilities, except meters, on the owner's side of the point of delivery.

13.30.250 Service Tap – Restrictions. Only Missoula Water Division employees may tap into a water main.

13.30.260 Minimum Depth of Service Line. All water service lines installed for owners of municipal water services must be placed at a minimum depth from the surface of the ground as provided for in the Missoula Water Division's standard specifications.

13.30.270 Interruption of Service by the Missoula Water Division – No Liability. When it is necessary for the Missoula Water Division to make repairs or to change its water collection, storage, transmission or distribution system, its meters or other property, the Missoula Water Division may, without incurring any liability to the City, interrupt service for such periods as may be reasonably necessary and in such a manner as to minimize the inconvenience to its consumers.

13.30.280 Responsibility for Boilers. All consumers having boilers on their premises which depend on connected pressure with the Municipal Water Utility are cautioned against collapse of their boilers when water service is interrupted by the Missoula Water Division. As soon as the water service is turned off, the consumer is responsible for making certain that a hot water faucet be opened and left open until the water service is again turned on. A check valve must always be placed between the boiler and the water main to prevent the boiler from draining and/or collapsing. Consumers are advised never to leave the premises with any faucets open when the water service has been turned off at the main.

13.30.290 No Water Bill Adjustment for a Missoula Water Division Service Interruption. Interruptions of service by action of the Missoula Water Division or interruptions of service caused by frozen or broken pipes or fixtures of the consumer/owner shall not render the City responsible for any adjustments in the water bill.

13.30.300 Use of Water Restricted. No consumer supplied with water from a water main will be entitled to use it for any other purposes than those stated in the application, or supply water in any way to any other parcel of property or separate tenancy, except as provided in Section 13.30.320.

13.30.310 Separate Water Service Required. Hereinafter, the service lines must be so arranged that the water supply to each separate house or premises will be provided by a separate service line and controlled by a separate curb cock, which curb cock shall be placed near the line of the street curb. The curb cock shall be placed within a visible and accessible curb box of approved pattern at a point designated by the Missoula Water Division, as set out in this chapter.

13.30.320 Multiple Connections – Conditions. Where water service is now supplied through one service line to more than one parcel of property or separate tenancy, the Public Works Director may in his discretion either decline to furnish water service until separate service lines are provided, or may continue the water service on the condition that one person shall pay for all on the same service line.

13.30.330 Curb Cock – Curb Box Requirements. A curb cock of approved pattern with a cast-iron curb box must be installed and maintained by the owner on every service line as follows:

- A. Where sidewalks with integral curb are already in place, the curb box must be placed just inside the curb, regardless of the width of the street or sidewalk.
- B. Where sidewalks are already in place and there are boulevards and no curb, or the curb is located further out in the street, the curb box must be placed 6 inches inside the outer edge of such sidewalk.
- C. Where there is no sidewalk in place on a street when the service line is installed, the owner should confer with Development Services about the placement of the curb box at the time the permit is issued.
- D. Where service lines run down an alley, the curb box must be placed in the public right-of-way exactly one foot outside of the lot line or property line.
- E. In case of narrow or crooked streets, or when, for any reason, the owner or his agent is in doubt as to the proper location of the curb box, the owner should consult the Missoula Water Division Inspector before the work is started to prevent the tearing out and resetting of the curb box and cock.

13.30.340 Duty to Maintain Curb Cock and Curb Box. When the owner fails to properly maintain the curb cock and box and it becomes necessary for the Missoula Water Division to shut off the water service at the water main, the entire cost of time and materials will be charged to the owner as provided in

this chapter. This charge must be paid and the curb cock and box repaired before the water service will be restored.

13.30.350 Duty to Maintain and Protect Fixtures. The City shall not be responsible for damage to the owner's pipes and fixtures. All owners, at their own expense, must keep their curb cock and curb box, service lines and all their fixtures in good working order and properly protected from frost or other dangers. No claims shall be made against the City on account of the breaking of any curb cock or curb box, service lines or fixtures, or for accidental disruption in the supply of water.

13.30.360 Service Shut-Off Inside Building. A stop and waste cock must be placed at a convenient point inside of the owner's building and located where it cannot freeze, and where water service to the building can be readily shut off, and the water pipes drained to permit repairs and prevent freezing of the pipes or fixtures.

13.30.370 Waste of Water Prohibited – Notice – Shut-Off. Waste of water is prohibited, and owners must keep their fixtures and service pipes in good working order at their own expense, and keep all waterways closed when not in use. Leaky fixtures must be repaired at once without waiting for notice from the Water Division. If 5 days' notice is given by the Missoula Water Division and the repair is not made, the water will be shut off by the Missoula Water Division without further notice. The City reserves the right to install a meter on any service when the Missoula Water Division determines that a consumer is using water in an unusual or wasteful manner.

13.30.380 Sprinkling Restrictions. The City reserves the right to forbid or suspend the use of water for irrigation or sprinkling, and the City Council may in its discretion at any time make such orders forbidding, suspending or limiting use as it deems necessary.

13.30.390 Mapping of Service Lines. All persons performing installation of or repair work on a water service line from the point of delivery to the property line, must contact the Missoula Water Division for inspection and mapping of the service line before the excavation is filled and before water service will be turned on.

13.30.400 Water Service Workers. All persons failing to perform their water service work according to the established rules and regulations of the Municipal Water Utility, or executing it unskillfully, or to the damage of the Municipal Water Utility property, may be prohibited from performing further service line installation or repair work in the right-of-way by order of the Public Works Director.

13.30.410 Missoula Water Division Access to Buildings. Employees of the Water Division may have free access at proper hours of the day to all parts of buildings in which water is delivered from the water mains, for the purpose of inspecting the condition of the pipes and fixtures and the manner in which the water is used.

13.30.420 Meters – Ownership – Testing. All meters are the property of the Municipal Water Utility and when a meter is installed at the request of an owner, its installation is to be permanent. When a meter fails to register for any period, for any reasons beyond the reasonable control of the Missoula Water Division, the Missoula Water Division may estimate the charge for service during such period, such estimate to be based upon the best available data. When usable data is unavailable, the Missoula Water Division may utilize the flat-rate method to bill for services until the meter can be restored to operation. In the event a consumer notifies the Missoula Water Division that the meter is not registering accurately, the Missoula Water Division tests to determine the accuracy of the meter shall be conclusive.

13.30.430 Size of Meter. The Missoula Water Division reserves the right to determine the size of meters to be installed on owner water service lines.

13.30.440 Fire Service Lines.

- A. Fire service lines must be equipped with an approved backflow prevention valve as outlined in the “Cross-Connection Control Program and Plan of Operation” portion of the Municipal Water Utility Rules and Regulations on file in the City Clerk’s Office.
- B. The entire cost of installation of the service line for an inside fire suppression system shall be paid by the owner.

13.30.450 Permanent Disconnection of Service Line. Upon abandonment of use of a water service line, the water service line owner is required to permanently disconnect the service line at the point of delivery. The disconnection must be made in a method acceptable to the Public Works Director. Should the owner fail to satisfactorily disconnect such service line, the Missoula Water Division may make such permanent disconnection and charge the owner the actual cost of such work.

13.30.460 Compliance With Excavation Regulations. All excavations shall be made in compliance with Chapter 13.16 of Missoula Municipal Code. Trenches for water pipes must be excavated to give the pipe an even bed of solid earth, and no water pipe shall be placed in a sewer trench. All excavations shall meet United States Department of Labor Occupational Health and Safety Administration (OSHA) regulations and City safety standards. Utility separations shall meet requirements of the Montana Department of Health and Environmental Sciences (MDHES).

13.30.470 Street Closure – Barricades or Signs. Excavations in public streets, alleys or other public ways shall impede travel as little as possible. When it is necessary to excavate entirely across the street to repair a service line, fire, law enforcement and other affected agencies shall be notified and barricades or distinctly legible signs shall be placed at each end of the block per MUTCD (Manual of Uniform Traffic Control Devices) and Public Works Department standards.

13.30.480 Lighting Hours for Barricades or Signs. The person performing the street excavation is responsible for placing MUTCD approved barricades or signs around excavations at all times, and for maintaining reflective or lighted barricades or signs at the excavation site from dark until sunrise until the trench is refilled.

13.30.490 Refilling of Trench. Trenches shall be backfilled to meet 95 percent of maximum dry density as determined by American Association of State Highway and Transportation Officials (AASHTO) T-99 Specifications. All materials, pavement and adjacent improvements shall be restored and replaced in kind. The trench shall be guaranteed against settlement for two (2) years by permittee.

13.30.500 Prohibited Use of Water – Disconnection of Service.

- A. No consumer/owner of the Municipal Water Utility may engage in the following conduct:
 - 1. Use the Municipal Water Utility’s water or permit it to be used for any other purpose than that for which the consumer pays a water bill;
 - 2. Permit water pipes or fixtures to remain in a leaky condition;
 - 3. Allow water fixtures to be run when not in use for the purpose intended.
- B. If any consumer/owner of the Municipal Water Utility engages in any of the above-described conduct, or allows such conduct to continue, then the Missoula Water Division may disconnect water service to the premises where such conduct occurred after notice as provided herein. All charges applicable to shut the water service off and turn the water service on shall be applied as provided in this chapter.

13.30.510 Unlawful Use of Municipal Water Utility Property.

- A. It is unlawful for any person to purposely or knowingly engage in any of the following acts:
 - 1. To open, close, turn, or interfere with, or to attach to or connect with, any fire hydrant or stop valve belonging to the Municipal Water Utility, without having first obtained written permission from the Public Works Director;

2. To interfere with or disturb any pipe, machinery, tools, meters, remote readers or other property of the Municipal Water Utility without having first obtained written permission from the Public Works Director;
 3. To throw any deleterious matter into any stream, river or reservoir which is a source of supply for the Municipal Water Utility;
 4. To deface or injure any buildings or other improvements of the Municipal Water Utility;
 5. To trespass upon any watershed belonging to or leased by the Municipal Water Utility;
 6. To disturb or injure any watershed, lawn, grass plot, flowers, vines, bushes or trees belonging to the Municipal Water Utility.
- B. Any person who commits any of the above-described acts shall be guilty of a misdemeanor and subject to those penalties set out in this chapter.

13.30.520 Illegal Connection to the Municipal Water Utility.

- A. It is unlawful for any person to make connection with any water main or transmission line or other fixture of the Municipal Water Utility or to reconnect service lines when they have been disconnected, or to bypass a meter, or to turn water off or on at the curb box for any premises without having first obtained the written permission of the Public Works Director.
- B. In addition to any fees or charges which might be assessed for turning such illegal water service off or on as set forth in this chapter, any person engaging in such conduct prohibited by subsection (1) above shall be guilty of a misdemeanor.
- C. If any property of the Municipal Water Utility is damaged as a result of illegal conduct, costs will be assessed as set out in this chapter.

13.30.530 Repairs and Meter Reading. The Missoula Water Division may shut off water at any time to make repairs without liability for damage. Employees of the Missoula Water Division shall have access to all premises during daylight hours for the purpose of inspection and reading meters.

13.30.540 Water Meters – Misdemeanors. Every person who, with intent to injure or defraud, shall:

- A. Break or deface the seal on any meter; or
- B. Obstruct, alter, injure or prevent the action of any meter or other instrument used to measure or register the quantity of water supplied to a consumer thereof; or
- C. Make any connection by means of a pipe, or otherwise, with any main or pipe used for delivery of water to a consumer thereof, in such manner as to take water from the main or pipe without its passage through the meter or other instrument provided for registering the amount or quantity consumed, or use any water so obtained; or
- D. Make any connection or reconnection with such main or pipe or turn off or on, or in any manner interfere with any valve, stopcock or other appliance connected therewith; or
- E. Prevent by the erection of any device or construction, or by any other means, free access to any meter or other instrument for registering or monitoring the amount of water consumed, or to interfere with, obstruct or prevent by any means the reading or inspection of such meter or instrument by any of the employees of the Missoula Water Division shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in this chapter.

13.30.550 Two or More Buildings Not to be Supplied Through One Connection – Exception. It is unlawful for any owner, agent or tenant to supply, or permit to be supplied, any water to two or more buildings through one connection except on special contract with the Municipal Water Utility.

13.30.560 Water Pipes – Interference With Prohibited. No person shall alter, change, molest, connect with or in any manner interfere with any water pipe placed in position for conducting water, or through which water is conducted or held, without written consent having been previously obtained from the Municipal Water Utility.

13.30.570 Water – Misappropriation. It is unlawful for any person wrongfully or unlawfully to take or in any manner appropriate any water from any water pipe.

Article III. Water Charges and Fees

Sections:

13.30.700	Water Rates
13.30.710	Applications for Service and Deposit
13.30.720	Past Balance – Refusal of Service
13.30.730	Reconnection – Non Payment
13.30.740	Water Bill – When Payment Due
13.30.750	Delinquent Water Bill - Notice
13.30.760	Rates Charged Against Property
13.30.780	Meter Read Adjustment
13.30.790	Owner Responsible – Collection From Tenants
13.30.800	Flat Rate – Rooms – Charges
13.30.810	Vacancies – Reduction in Charges
13.30.820	Discontinuance of Branch Pipes
13.30.830	Elimination of Sprinkling Charge
13.30.840	Cost of time and Material - Liability
13.30.850	Temporary Disconnect - Fee
13.30.860	Fee for Illegally Turning on Water
13.30.870	Failure to Comply with Rules – Service Disconnection - Fee
13.30.880	Applications for New Service – Meter Installation

13.30.700 Water Rates. On and after the effective date of this ordinance, any change or alteration in the water rates and charges set by the Municipal Water Utility shall be established by resolution passed by the City Council after conducting a public hearing.

13.30.710 Applications for Service and Deposit.

- A. All applications for the use of water must be made by a prospective consumer at the office of the Missoula Water Division on the application form provided for that purpose. Each application must include the purposes for which the water is required. Upon approval of the application, the consumer agrees to conform to the rules outlined in this chapter as a condition of use of water.

13.30.720 Past Balance – Refusal of Service. The Municipal Water Utility may refuse service to any delinquent consumer or owner owing the Missoula Water Division for service at either the present location or at a previous location, until such past balance has been paid or satisfactory arrangements have been made by the delinquent consumer for payment of the balance owed to the Missoula Water Division. These same provisions shall apply and the Municipal Water Utility may refuse service to any other member of the same household or firm when application by this member, in the opinion of the Missoula Water Division, may be a means of evading payment of the delinquent water bill. The consumer may appeal the decision of the Missoula Water Division to the City Council.

13.30.730 Reconnection – Non Payment. If service has been disconnected for non-payment, a reconnection fee will be charged prior to a reconnection of services as provided in the rate schedule.

13.30.740 Water Bill -- When Payment Due.

- A. When flat rates are used for estimating the amount of water used by consumers, the water bill shall be due and payable in advance each month.
- B. When meters are in use for determining the amount of water used by consumers, the water bill shall be due and payable for water delivered during the previous month.
- C. Annual seasonal sprinkling charges shall be assessed in the May billing for water service. Consumers may choose to pay the annual sprinkling charge in its entirety along with payment for water service for the month of May or may choose to pay the annual sprinkling charge in six

equal installments during the months of May, June, July, August, and September, or may use the Budget Billing Plan as provided for in the rates. Nonpayment of any monthly installment of the sprinkling charge, when due, shall constitute a delinquent payment subject to the service disconnection provisions set forth in the rate schedule.

13.30.750 Delinquent Water Bill -- Notice. Whenever the water bill of a consumer has been delinquent for 30 days in any sum or amount, the Missoula Water Division shall at once notify the consumer and owner by such means and at such address as seems most likely to give the consumer and owner actual notice of the fact of such delinquency and shall advise the consumer and owner that unless such delinquent bill, is paid in full within 10 days from the date of mailing such notice, the water service will be disconnected immediately, and will not be turned on again until such default is collected, including disconnect charges, to cover the cost of turning the water service off and on. In the absence of the use of any other reasonable means of notice, a notice given by certified mail, deposited in the United States first-class mail, postage prepaid, addressed to the consumer and owner at the address of record in the Missoula Water Division, shall be deemed reasonable notice.

13.30.760 Rates Charged Against Property. The water rates shall be charged against the property to which water service is furnished. No change of ownership shall affect the application of this section.

13.30.770 Meter Read Adjustment. When meters are in use, no adjustment shall be made on estimated water bills on the estimated cycle. Rather, any such adjustment will be made only on the regular reading cycle after the meter is read by a meter reader.

13.30.780 Owner Responsible – Collection From Tenants. In situations where more than one household is being provided with water from a single service line, with a single shut-off device controlling the water flow, and if any one or more of the households either will not sign up for service or will not pay for that service, then the property owner is responsible for payment of the future water charges until such time as the piping configuration has been modified to provide an individual shut-off valve for each household in order to prevent the service from being disconnected for non-signup or non-payment by a single household.

13.30.790 Flat Rate – Rooms – Charges. When water service is provided at the flat rate basis, and the charge is based on the number of rooms in the premises as described in this chapter any room utilized for sleeping will be considered a room.

13.30.800 Vacancies – Reduction in Charges.

- A. In multi-family houses or apartments where there are separate water service lines and curb cocks for each tenancy, no reduction in the monthly water bill will be made for vacancies until the owner has instructed the Missoula Water Division, in writing, to shut off the water service at the curb cock. A fee will be assessed for turning the water back on as provided in the rate schedule.
- B. Reduction in the monthly water bill for vacant tenancies in multi-family houses or apartments without separate service lines will be allowed only after the consumer or owner has reported the vacancy in writing to the Missoula Water Division, but if it is determined by the Missoula Water Division that the consumer or owner has incorrectly reported a vacancy then reductions in the monthly water bill for vacant tenancies will not be allowed for those premises without approval by the Public Works Director.

13.30.810 Discontinuance of Branch Pipes. If the property owner wants to discontinue the use of water service for any special purpose, whether for bathtubs, toilets or other fixtures, the faucet must be removed and the branch pipe plugged or a meter must be installed before any reduction of rates will be made.

13.30.820 Elimination of Sprinkling Charge. The charge for outside sprinkling water use shall be continued until a meter is purchased and installed. The charge for outside sprinkling will be prorated to the date of meter installation.

13.30.830 Cost of Time and Material – Liability. If any property of the Municipal Water Utility is damaged as a result of connection or repair of a water service line or if it becomes necessary for the Missoula Water Division to shut off water service at the water main because the owner has failed to properly maintain the curb cock and box, the owner must pay the replacement cost for all the Municipal Water Utility property which was damaged and the cost of all labor involved in either repairing the Municipal Water Utility property or turning the water service off at the water main.

13.30.840 Temporary Disconnect—Fee. When the premises is unoccupied or if repairs are needed, the owner may request that the water service be temporarily disconnected at the curb cock, with no monthly charge billed. To restore service after a disconnection of 8-months or less, a reconnection fee shall be charged as provided in the rate schedule.

13.30.850 Fee for Illegally Turning on Water. Should the consumer make connection with any water main or transmission line without having first obtained a permit from the Public Works Director or turn on the water service or cause it to be turned on after it has been turned off or disconnected at the curb cock, it will be turned off and a fee will be assessed for the expense of turning it off and on as provided in the rate schedule and all monthly charges, including sprinkling shall be recharged, retroactive to the date of original disconnection according to the Missoula Water Division records, and all fees and charges paid before the service is turned on.

13.30.860 Failure to Comply With Rules – Service Disconnection – Fee. For failure to comply with the rules and regulations established as a condition to the use of water, or for failure to pay the water bill, or any charge or penalty imposed in the time and manner herein provided, the water service may be disconnected until payment of the amount due is made, with - added expense of turning the water service on or off as provided in the rate schedule.

13.30.870 Applications for New Service – Meter Installation.

- A. A property owner who wants to install a new water service line may apply for a permit, provide any necessary easements and pay the cost of installation as provided in the rate schedule.
- B. Meter Pits – Required
 - 1. All new owners of water service from the Municipal Water Utility are required to install meter pits for all new residential and commercial services with the exception in (B)(2) below. Costs are the responsibility of the customer or developer. It is the responsibility of the contractor installing the service line to install the pit. Missoula Water Division personnel will inspect the pit installation for conformance to requirements and will install the water meter.
 - 2. Any apartment or apartment complex that will need a 1-1/2” or larger meter must have the meter installed in a readily accessible location inside the building. Meters for commercial buildings will be installed inside the building regardless of size and must be in an accessible location. Meters cannot be installed in a crawl space. Bypass will be required on any 1-1/2” and larger meter. If the meter can’t be installed in a readily accessible location inside, it must be installed in a Missoula Water Division approved meter pit. A bypass will be required in this pit also.

Article IV Main Extensions and Material Specifications

Sections:

- 13.30.1000 Material Specifications Adopted
- 13.30.1010 Water Main Extension – Code Adopted

13.32.1000 Material Specifications – Adopted. The Public Works Director is authorized to adopt minimum standards for the protection of health, safety and welfare concerning construction, alteration, installation, addition, repair or replacement of water mains, water service lines and fire lines, including pipes, fittings and appurtenant materials. A copy of the specifications must be on file in the office of the City Clerk and available on the City website.

13.32.1010 Water Main Extension – Code Adopted. All water main extensions shall be made in accordance with the provisions of that certain water main extension code known as the “2016 Edition of the Missoula Water Division Standard Specifications,” as published by the Missoula Water Division, which is hereby adopted with this ordinance, copies of which are available in the City Clerk’s Office.”

RATIFICATION

All actions not inconsistent with the provisions of this ordinance heretofore taken by the Council and the City’s officers, employees and agents in connection with the passage of this ordinance and the establishment of the Municipal Water Utility by the City are hereby and in all respects ratified, approved and confirmed.

NO PERSONAL RECOURSE

No recourse shall be had for any claim based on this ordinance against any City Council member or the City, nor any officer or employee, past, present or future, of the City or of any successor body as such, either directly or through the City or any such successor body, under any constitutional provision, statute or rule of law or by the enforcement of any assessment or penalty or otherwise.

EFFECTIVE DATE

This ordinance shall be in full force and effect from and after 30 days after its date of passage.

Severability

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

First reading and preliminary adoption on the _____ day of _____, 2016, by a vote of _____
_ayes, ___ nays, _ abstentions and _ absent.

Second and final reading and adoption on the _____ day of _____, 2016, by a vote of _____
_ayes, ___ nays, _ abstentions and _ absent.

ATTEST:

APPROVED:

Martha L. Rehbein, CMC
City Clerk

John Engen
Mayor

CERTIFICATE AS TO ORDINANCE AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Missoula, Missoula County, Montana (the "City"), hereby certify that the attached ordinance is a true copy of an ordinance entitled: **"An ordinance of the City of Missoula, Missoula County, Montana, amending Title 13, Missoula Municipal Code; repealing Chapters 13.11 and 13.12, and establishing Chapter 13.30 entitled "Municipal Water Utility," in order to establish a municipal water system and related rules and regulations, to establish and collect service charges and provide water service, to provide for other matters properly relating thereto;** (the "Ordinance"), on file in the original records of the City in my legal custody; that the Ordinance was duly adopted by the City Council of the City at a meeting on **MONTH DAY**, 2016, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Ordinance has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Ordinance at such meeting, the Ordinance was adopted by the following vote:

AYES, and in favor thereof:

NAYS:

ABSENT:

ABSTAIN:

WITNESS my hand officially this **DATE** day of **MONTH**, 2016.

Martha L. Rehbein, CMC
City Clerk

(S E A L)

Attachment—Rates and Charges

Attachment Rules and Regulations

Attachment Standard Specifications