

ORDINANCE NO. 88-O-432

AN ORDINANCE AMENDING ORDINANCE 190; REPEALING ORDINANCE NO. 243, 264, 302, 322, 377, 399; PRESCRIBING REGULATIONS FOR THE CONDUCT AND OPERATION OF THE WATER SYSTEM OF THE CITY OF BROOKINGS AND CONNECTIONS THEREWITH; REGULATING AND GOVERNING THE USE OF WATER FROM SAID SYSTEM; PRESCRIBING PENALTIES; DECLARING AN EMERGENCY.

The City of Brookings ordains as follows:

**Section 1. Repeal of ordinances, contracts and agreements.** Ordinances 243, 264, 302, 322, 377 and 399 are hereby repealed in their entirety. This Ordinance No. 88-O-432 also vacates, rescinds, abrogates and annuls any and all dedications, acceptances, agreements, contracts, representations or commitments of the city, its officers or agents, which at the time made were in violation of any or all adopted ordinances, agreements, or other legal obligations of the city.

**Section 2. Definitions.**

A. Applicant. The word “applicant” shall mean the person or persons, firm, or corporation making application for water service from the city under the terms of these regulations.

B. City. The word “city” shall mean the legally constituted municipal government of the city of Brookings, Curry County, Oregon, acting through the city manager or his authorized designee.

C. City Council. The term “city council” shall mean the legally elected group of members composing the city council, including the mayor, of the city of Brookings.

D. Consumer, customer or user. The words “consumer”, “customer” or “user” shall mean and include any person, firm, corporation, or association using or receiving or applying for the right to use water and/or water service from the municipal water system of the city of Brookings whether a tenant or property owner of property to which service is granted by the city.

E. Customer service line. The “customer service line” shall be that part of the piping on the customer’s property that connects the service to the customer’s distribution system.

F. Service connection or service line. The “service connection” or “service line” shall be that part of the water distribution system which connects the meter to the main and shall normally consist of corporation stop, service pipe, curb stop and box, meter, meter yoke, and meter box.

G. Water main. The term “water main” shall mean a pipe usually four inches or larger in diameter, laid in the street or alley and approximately parallel to the street lines, for the distribution of water to consumers through service lines.

**Section 3. Water System Established.**

A. Authorization. Pursuant to the city charter, the city of Brookings is hereby

authorized and empowered by and through its city council, and in the name of the city, to purchase or build, construct, maintain, extend and repair one or more municipal water systems, either within or without, or partially within and partially without, the corporate limits of the city, and to do all necessary things in connection therewith.

B. Scope. The city and all customers receiving services from the water system, whether inside or outside the city limits, are bound by these ordinances, resolutions, and applicable rules and regulations.

**Section 4. Council to make rules.** The ordinances, resolutions, and applicable rules and regulations governing consumers of water from said municipal water system, the rates to be charged such consumer, and the policy and manner of operating, managing and maintaining such municipal water system, shall be fixed, formulated and adopted by the city council.

**Section 5. Water service.** Water service may be extended to properties only when those properties have frontage on a public water main which has been built to current city standards to serve the requesting property and which is so constructed and extended as to provide service to adjacent property and which has been dedicated to and accepted by the city, together with necessary easements and rights of way therefore, all in conformance with the requirements of this and other relevant ordinances of the city. Such service may be extended only after duly authorized by the city council after proper application, as described herein.

**Section 6. Prohibition of service.** When, in the judgment of the city, the water lines and appurtenances of the city are of insufficient capacity or size or the reservoirs of the city are of insufficient capacity or size or cannot reasonably be expected to provide a safe and dependable supply of water for domestic use and for fire protection, or other reasonable justification exists relating to the health, safety and welfare of the customers and citizens of the city of Brookings, then applications for additional water service may be refused. The city council may, from time to time, designate sections of the city or area served by the water system in which additional water services will be prohibited until such time as the conditions described in this section have been corrected.

**Section 7. Description of service.** Services shall be residential, commercial, standby fire, and contract, as follows:

A. Inside city limits.

1. Residential service. Residential service shall consist of all services for domestic purposes, single-family dwellings, multi-family dwellings, mobile homes, and municipal purposes.
2. Commercial service. Commercial services shall consist of those services where water is used for commercial services, such as businesses, restaurants and recreational vehicle parks.
3. Standby fire. Standby fire services shall consist of those services where water is available or used for fire protection only.

4. Contract service. Contract services shall consist of those services for industrial or independent water district purposes under contracts authorized by the city council.

B. Outside city limits.

1. Residential service. Residential service shall consist of all services for domestic purposes, single-family dwellings, multi-family dwellings, mobile homes, and municipal purposes.
2. Commercial service. Commercial services shall consist of those services where water is used for commercial services, such as businesses, restaurants and recreational vehicle parks.
3. Standby fire. Standby fire services shall consist of those services where water is available or used for fire protection only.
4. Contract service. Contract services shall consist of those services for subdivisions, developments, industrial or independent water district purposes under contracts authorized by the city council.

C. Special contracts. When the applicant's requirements for water are unusual or large, such as an independent water district, or necessitates considerable special or reserve equipment or capacity such as a subdivision or other development, the city council reserves the right to make special contract, the provisions of which are different from and have exceptions to the regularly published water rates, rules, and regulations. This special contract shall be in writing, signed by the applicant and approved by the city council and city attorney, and signed by the mayor and city recorder of the city of Brookings.

D. Resale of water. Resale of water shall be permitted only under special contract in writing between the city council and the persons, parties, or corporation selling the water.

E. Section 7 Subpart E repealed by Ordinance No. 02-O-553, effective date 9-29-02.

**Section 8. Water main extensions.**

A. Any person or persons desiring a city water line to be extended to their property for connection thereto shall be responsible for the costs of said construction and for the construction of the same according to the requirements hereof and to standard specifications and drawings submitted to and approved by the city.

B. All such water main line extensions, exclusive of service lines, shall become the property of the city upon completion of the same by the owner or contractor and inspection and acceptance by the city. The person or person constructing said water system shall provide and dedicate to the city an easement of a width and length required by the city for maintenance and operation of said water system prior to acceptance of the same by the city.

C. If the water line, as extended, provides water service or is capable of providing water service to other property in the city not previously connected with the city water system, then the person or persons constructing the water line shall file a verified statement of the total cost of construction of the water main line with the city. The city manager, after verifying said statement of costs, shall compute the proportionate cost of construction of said line per lot for each lot capable of being served by said line, said costs to be determined according to the proportionate number of square feet in each of said lots. Corner lots already served by existing water main shall be exempted from the calculation.

D. After computation of the proportionate costs attributable to each lot by the city manager, the city manager shall file with the city clerk a statement showing the costs of construction attributable to each lot. The city clerk shall then maintain a certified list of the costs attributable to each lot owner who did not share in the cost of construction of the water main in the first instance.

E. Any person or persons owning a lot who did not share in the initial cost of construction of the water main line who desires to connect to the water main line shall first pay to the city clerk the proportionate amount as computed by the city manager to be the cost per lot together with interest at the rate of 8% per annum before said person or persons shall be allowed to connect to the water main line or before a building permit for construction of said lot shall be issued by the city. Upon receipt of the same, the city clerk shall file a statement, duly certified, showing that payment of water main line construction charges attributable to said lot have been paid.

F. Upon receipt of the proportionate share of monies attributable to that lot desiring to connect to the constructed water main line together with interest accrued thereon, the city clerk shall place said funds in a trust fund for the benefit of the person or persons who initially constructed the water main line or their successors in interest. As said monies are paid into the trust fund, the city clerk shall apportion the same together with interest accrued thereon, to the person or persons originally paying for the water main line in the amounts to which said person or persons are respectively entitled; provided, however, that in the event said person or persons originally paying for the water main line shall have transferred said property to a third party, the city clerk shall pay such proportionate share together with interest accrued thereon, to the owner of record at the time such payment is made; and provided further, that the city clerk shall pay such proportionate share together with interest accrued thereon, to a purchaser under contract of sale, if in such contract of sale the seller authorizes such payment to be made to the purchaser. Said trust fund shall continue for a period of ten years, after which time the city clerk shall cause the trust fund to be closed and any proceeds remaining in the fund to be transferred to the person or persons constructing the water main line or their successors in interest. After the period of ten years has expired, the city shall not longer require any person or persons desiring to connect to said water main line to pay the proportionate costs of construction as set forth in this section, nor shall the city be responsible for collection of the same.

**Section 9. Service pipe extension.** The installation of service pipes extending from the main to the nearest property line abutting the main in the direction of the applicant's premises, including a meter, and the necessary labor and materials for such construction shall be made or approved by the city. If said service pipes are constructed by the city, the property owner and applicant shall pay the costs of said construction to include time expended, labor, equipment and materials, together with administrative overhead. Costs shall be assessed against the property or owner. All water connections to the main line shall be assessed a charge or charges as prescribed from time to time by resolution of the city council. In the case of multiple-family dwellings, such as apartment buildings, duplexes, and other multiple-family dwellings, and motels and hotels, each unit using said connection shall be assessed a charge or charges as prescribed from time to time by resolution of the city council for said connection. Any applicant or property owner failing to pay said costs of construction or connection fee shall be subject to the provisions as set forth by resolution of the city council.

**Section 10. Water outside city limits.**

A. The city of Brookings may furnish water, and extend water service to consumers both within and without the city limits. All outside-the-city service shall be held at all times liable to disconnection in the event of shortage of water supply within the city. Pressure and other conditions in all outside-the-city service are to be at the risk of the consumer without guarantee by the city.

B. In order to assure required control by the city of connections and water use in perpetuity, all persons initiating or renewing request for water service outside the corporate limits of the city shall execute an agreement by and between the requesting property owner and the city to annex to the city at such future time as all legal requirements for annexation have otherwise been met and at the discretion of the city. The said agreement shall be and become a covenant to run with the land so served.

C. In order to insure compatibility of utility systems and improvements within the Urban Growth Area of the city, water service extensions may be permitted outside the city from properties which are in all respects developed in accordance with adopted city development standards and regulations and with the charter and ordinance of the city.

**Section 11. Application for service.**

A. Application form. Each applicant for water service shall sign an application form provided by the city giving the date of application, location of premises to be served, the date applicants desire service to begin, purpose for which service is to be used, the address for mailing of the billings, the class and the size of the meter service, and such other information as the city may reasonably require. In signing the application, the customer agrees to abide by the ordinances, resolutions, and applicable rules and regulations of the city. The application is merely a written request for service and does not bind the city to serve. In the event the request for water service is approved by the city, the application shall be and become a binding contract between the consumer or property owner or both and the city, as provided in Section 10., A., hereof.

B. Deposits and establishment of credit. At the time application for service is made, the

applicant shall establish his credit with the city.

1. Establishment of credit. The credit of the applicant will be deemed established when the applicant makes a cash deposit with the city to secure the payment of bills for service. The deposit amount shall be set from time to time by resolution of the city council.

2. Deposits. At the time the deposit is given to the city, 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 excess of the closing bill will be refunded. The city will not pay interest on any deposit.

C. Application amendments. Customers desiring a material change in the size, character, or extent of equipment or operation which would result in a material change in the amount of water used shall give the city written notice of such change prior to the change and the application for service shall be amended and the amendment subject to approval of the city.

### **Section 12. Location and ownership of lines.**

A. Locations of extensions. The city will make water main extensions only on rights-of-way, easements, or publicly owned property. Easements or permits secured for main extensions shall either be obtained in the name of the city of Brookings or transferred to the city of Brookings, along with all rights and title to the main at the time the service is provided to the customers paying for this extension.

B. Every property owner shall install his own pipe line from his property line onto his premises and shall install his own valve in his own pipe line for the control of water service to his premises. The city shall be the owner of all service lines and mains located inside or outside the city limits, whether original installations or extensions or enlargements and whether paid for by the city or paid for by the consumer, and the city shall maintain, repair and replace the service lines, mains and meters within the city at the city's expense. The city shall be the owner of all meters.

C. Outside the city limits. Water mains outside the city limits shall be extended only at the expense of the customers served. The main extensions shall become the property of the city at the time installed. The city council shall determine the size of the main extensions and all extensions shall be of a suitable material approved by the city council. Extensions outside the city limits shall be installed by the city or by contractors approved by the city. The installation procedures and materials used shall be in accordance with the city and the state of Oregon standards.

D. Service lines, mains, meters, pumps, tanks and all appurtenances located outside the city shall be maintained by the city at the sole cost and expense of the customers served thereby and at no cost or expense to the city.

### **Section 13. Contracts.**

A. In case the premises of the applicant for water service are connected for water service as a result of his application being accepted, the application given in writing shall be considered as a binding contract in which the applicant agrees to abide by such rates, ordinances, resolutions, and applicable rules and regulations as are in effect at the time of signing the application, or as may be adopted or modified thereafter by the city, and to pay all bills promptly.

B. The city reserves the right to make special contracts, the provisions and conditions of which are different from or have exceptions to the regular published schedules. When the consumer's requirements for water are unusual or large, or necessitate considerable special or reserve equipment, or capacity or special rates, the city may also require the consumer to furnish security satisfactory to the city to protect the city against loss and to guarantee the performance of the provisions of the contracts. Special contracts shall be in writing and signed by the proper consumer and the mayor, after a resolution authorizing such contract shall have been passed by a majority vote of the city council; provided however, that temporary contracts may be entered into by the city subject to the approval of the city council at its next council meeting.

C. Except for special contracts which specify the length of time to which the contract rate shall be extended, all rates, ordinances, resolutions, and applicable rules and regulations are subject to change or modification by the city without notice.

#### **Section 14. Responsibility and service preferences.**

A. The city shall not be liable for any loss or damage of any nature whatsoever caused by any defect in the consumer's lines, plumbing or equipment, and the city may, without further notice, discontinue service to any consumer when a defective condition of plumbing or equipment upon the premises of the consumer results, or is likely to cause contamination of the water. The city does not assume the duty of inspecting the consumer's line, plumbing and equipment, and shall not be responsible therefore, and will not be liable for failure of consumer to receive service on account of defective plumbing or apparatus on the consumer's premises, or for excessive consumption.

B. The city, whenever it shall find it necessary for the purpose of making repairs or improvements to its system shall have the right to suspend temporarily the delivery of water.

C. The city will exercise reasonable diligence and care to furnish and deliver a continuous and sufficient supply of pure water to the consumer, and to avoid any shortage or interruption of delivery of same. The city will not be liable for high or low pressure conditions, chemical or bacteriological conditions, interruption or shortage or insufficiency of supply, or any loss or damage occasioned thereby. The use of water upon the premises of the consumer is at the risk of the consumer, and the responsibility of the city shall cease at the point of delivery of water. Unless otherwise specified in agreement, the point of delivery shall be the point where the city's service line attaches to the consumer's line.

#### **Section 15. Services.**

A. Ownership, installation, and maintenance. The city shall own, install, and maintain all services and installation and maintenance shall only be performed by authorized employees or contractors approved by the city. The customer shall own, install, and maintain the customer service line.

B. Service connection charge. At the time the applicant files for service where no service previously existed, or if he is filing for a change in service size or location, he shall submit with his application the service connection charge. This charge is to cover the actual cost to the city to install the service from the main to and including the meter and the meter housing. The service connection charge shall be as determined by the city in the current published water rate schedule.

C. Size of service. The city will furnish and install a service of such size and at such locations as the applicant requests, provided such requests are reasonable and that the size requested is one that is listed by the city. The minimum size of service shall be three-fourths inch. The city may refuse to install a service line which is undersized or oversized as determined by the city.

D. Changes in service size. Permanent changes in the size of the service line requested by the customer shall be paid by the customer on the basis of actual cost to the city for making the change.

E. Length of service lines. Where the main is in a public right-of-way, the meter will be placed at the right-of-way line nearest the property to be served for the standard connection fee, provided the length of service line does not exceed the width of the right-of-way.

Where the main is on an easement or publicly owned property other than designated rights-of-way, the services shall be installed to the boundary of the easement or public property by the city, provided the length of service does not exceed 30 feet.

If, in either case cited above, the length of service line to the meter location exceeds the maximum stated, the applicant shall pay the extra cost of the line on the basis of actual cost to the city for labor, materials, and equipment plus 15 percent for administration and overhead.

F. Joint service connections. The city may, at its option, serve two or more premises with one connection. On new service connections, the inside diameter of such joint lines shall be sufficient to provide a carrying capacity not less than the combined capacity of individual service lines of the same size as the meters installed.

Service extensions from an existing service to occupancies or ownerships other than that for which the existing service was intended shall not be permitted nor shall separate residences be permitted to receive service through one meter except under special considerations approved by the city council.

G. Number of service connections on premises. The owner of a single parcel of property properly zoned for multi-family residential purposes may apply for and receive as many services as he or his tenants may be entitled to, provided his application or applications meet the requirements of the polices, ordinances, resolutions, and applicable rules and regulations and the development regulations of the city.

H. Standby fire protection service connections.

1. Purpose. Standby fire protection service connections of two-inch size and larger will be installed only if adequate provisions are made to prevent the use of water

from such services for purposes other than fire extinguishing. Sealed fire sprinkler systems with water-operated alarms shall be considered as having such provisions. The city may require a suitable detector check meter be installed in the standby fire protection service connections, to which hose lines or hydrants are connected. All piping on the customer's premises shall be installed in accordance with the plumbing code of the state of Oregon.

2. Charges for service. Charges for standby fire protection service will be stated in the published water rate schedule. No charge will be made for water used in the standby fire protection services for routine testing of the fire protection system. The customers shall pay the full cost of the standby fire protection service connection, any required detector check meters, together with any required special water meter installed for the service to the standby connections.

3. Violations of regulations. If water is used from a standby pipe connection service in violation of these regulations, an estimate of the amount used will be computed by the city. The customer shall pay for the water used at the regular rates, including the minimum charge based on the size of the service connection and subsequent bills rendered on the basis of the regular water rates.

J. Fire service connections other than standby. A service having fire protection facilities on the premises and water for other purposes flowing through the same service connections shall be considered as an ordinary service and metered as such. All water used through that service, regardless of its use, will be charged at the regular rates.

K. Temporary service connections. Temporary service connections shall be made at the discretion of the city and according to the following terms and conditions:

1. Time limit. Temporary service connections shall be disconnected and terminated within six months after installation unless an extension of time is granted in writing by the city.

2. Charge for water served. Charges for water furnished through a temporary service connection shall be at the established rates set forth in the current water rate schedule.

3. Installation charge and deposits. The applicant for temporary service will be required:

(a) To pay the city, in advance, the estimated cost of installing and removing all facilities necessary to furnish each service.

(b) To deposit an amount sufficient to cover bills for water during the entire period such temporary service may be used, or to otherwise establish credit approved by the city; and

(c) To deposit with the city an amount equal to the value of any equipment loaned by the city to such applicant under the terms of Section 7 of this ordinance.

4. Responsibility for meters and installation. The customer shall use all possible care to prevent damage to the meter or to any other loaned facilities of the city. If the meter or other facilities are damaged, the cost of making repairs shall be deducted from the deposit refund. If the loaned materials are returned in satisfactory condition and all bills paid, the full amount of the equipment deposit will be returned to the temporary customer at the termination of service.

L. Customer's plumbing.

1. Plumbing Code. The customer's plumbing, which shall include the customer's service line and all plumbing, piping, fixtures, and other appurtenances carrying or intended to carry water, sewer, or drainage, shall comply with the plumbing code of the state of Oregon.

2. Control valves. Customers shall install a suitable control valve in the customer service line as close to the meter as possible, the operation of which will control the entire water supply to the premises served. In the event a customer's service is discontinued for any reason, a control valve must be installed, if none exists, as provided by this section. It shall be a violation of these ordinances, resolutions, and applicable rules and regulations for the customer to operate, cause, or permit unauthorized operation of the meter stop or any appurtenances on the service connection.

**Section 16. Meters.**

A. Each separate house, mobile home, apartment house, store, business building, commercial building, factory, mill, recreational vehicle park, campground, hotel or motel (hereinafter referred to as "building") which uses (or will be serviced by) water from the municipal water system shall be provided with a separate water meter for each such building; and two or more buildings, even though upon the same premises or owned by the same person, shall not be serviced by the same meter. The city shall install a meter or meters at each such building, and such meter or meters shall be installed before any water is furnished to such building. This subsection applies both to buildings already constructed or under construction and to buildings hereafter constructed. The legal owner (and, if any, contract purchaser) of a premises already serviced which requires any additional meter for any additional building shall make application for such meter and pay a fee which shall from time to time be designated by the city for such additional meter at said premises.

B. The city shall determine the size of the meter, and the size and kind of pipe in connection with each extension. The city shall determine the location of the tap to the main and also the meter location.

C. Subsections A, B, and C of this section shall not apply to real property located outside the city limits of Brookings. A prospective customer desiring service to a premises outside the city limits shall make application to the city council therefore; the application shall be accompanied by an application fee which shall from time to time be designated by the city (to be paid in addition to the deposit required by Section 7 hereof, and in addition to the cost of such extension as hereinafter mentioned). The city council may, at

its option, reject such application for reason of insufficient supply or pressure or for inability of the system to provide fire protection. If the application is granted, the city shall construct any portion of such extension which is located inside the city limits and the prospective consumer shall pay the actual cost of said portion of such extension (said payment to be made before any water is furnished) and the prospective consumer shall build and maintain all water lines located outside the city limits. The city shall install a meter for each consumer before water is furnished, but the city may permit more than one building outside the city limits to be serviced by the same meter.

D. Ownership. The city will own and maintain all water meters. The city will no pay rent or any other charge for a meter or other water facilities, including house and connections on a customer's premises.

E. Installation. Installation of water meters shall be preformed only by authorized employees of the city. All meters shall be sealed by the city at the time of installation, and no seal shall be altered or broken except by one of its authorized employees.

F. The size and type of meter. Applicant may request and receive any size meter regularly stocked or furnished by the city, provided the request is reasonable and further provided that the meter is not greatly oversized or undersized, as determined by the city. The city reserves the right to determine the type of meter to be installed.

G. Location of meters. Meters shall normally be placed at the curb or property lines; the meter will be installed wherever the applicant desires within reason, but the location must be approved by the city. The meters will not be located in driveways or other locations where damage to the meter or its regulated parts may occur.

H. Joint use of meters. The joining of several customers to take advantage of the single minimum charges and large quantity shall be prohibited.

I. Changes in size or location. If, for any reason, a change in the size of a meter and service is required, the installation will be accomplished on the basis of a new connection, and the customer's application shall be amended. Meters or services moved for the convenience of the customer will be relocated only at the customer's expense.

J. Meter Accuracy. All meters will be tested prior to installation. No meter will be placed in service or allowed to remain in service which is suspected or known to have an error in registration in excess of two percent under conditions of normal operation.

K. Meter test.

1. Standard test. Meter tests will be conducted in accordance with standards of practice established by the American Water Works Association.

2. On customer request. A customer may, giving not less that seven days' notice, request the city to test the meter serving his premises. The city will

require the customer to deposit a testing fee. This fee shall be in the amount adopted or as amended from time to time by resolution of the city council. The deposit shall be returned to the customer if the test reveals the meter to over-register more than two percent under conditions of normal operation. If the meter is operating satisfactorily or if the meter under-registers more than two percent under the standard test conditions, the deposit shall be retained by the city. Customers may, at their option, witness any meter tests which they request.

3. On city request. If, upon comparison of past water usage, it appears that a meter is not registering properly, the city may, at its option, test the meter and adjust the charges accordingly if the meter either over-registers or under-registers. No charge for meter testing will be made to the customer for the meter test under these conditions.

L. Adjustment of bills for meter error.

1. No credits or debits will be borne by the city or the customer should the tested meter show variance high or low from the accuracy defined in Section 16, subsection K-2.

2. Nonregistering meters. The city will bill the customer for water consumed while the meter was not registering. The bill will be computed upon an estimate of consumption based either upon the customer's prior use during the same season of the year, or upon a reasonable comparison with the use of other customers receiving the same class service during the same season and under similar circumstances and conditions.

**Section 17. Water Rates.** The rates, fees, and other charges to be charged by the city of Brookings to the users of any of its water supply services or facilities shall be as adopted or as amended from time to time by resolution of the city council.

**Section 18. Notices.**

A. Notices to customers. Notices from the city to the customer will normally be given in writing and either mailed or delivered to him as his last known address. Where conditions warrant and in emergencies, the city may notify either by telephone or by messenger.

B. Notices from customers. Notices from the customer to the city may be given by the customer or his authorized representative orally or in writing city hall or to an agent of the city duly authorized to receive notices or complaints.

C. Notice to shut off water. Each consumer about to vacate any premises or who desires water service discontinued for any other reason, shall give written notice of his desire, specifying the date service is to be discontinued; otherwise, he will be held responsible for the payment for all water supplied to such premises until the city shall have notice of such discontinuance.

**Section 19. Billing and Payment.**

A. Liability for payment. All bills for water service shall be charged against the premises where supplied and to the owner thereof and/or to the applicant for water service. The premises shall be held liable for the payment of such service, together with such fines and penalties as may accrue against the same by reason of any of the provisions of this ordinance, and no change of ownership, business or occupancy or manner of billing for water service shall affect the application of this section.

B. Meter readings. Meters will be read and customers billed on the basis of the meter reading to the nearest cubic foot.

The city will keep an accurate account on its books of all readings of meters and such account, so kept, shall be offered at all times, places, and courts as prima facie evidence of the use of water service by the customer.

C. Rendering of bills.

1. Billing period. All meters shall be read and bills rendered therefore monthly.

2. Bills for other than normal billing period. Opening or closing bills, or bills that for any other reason cover a period containing 10 percent more days or 10 percent less days than in the normal billing period, shall be prorated.

3. Bills for more than one meter. All meters supplying a customer's premises shall be billed separately, except that where the city has, for operating purposes, installed two or more meters in place of one, the reading may be combined for billing.

D. Disputed bills. When a customer disputes the correctness of a bill, he shall deposit the amount of the disputed bill at the time the complaint is lodged, to preclude discontinuance of service pending final settlement of the bill or bills. Subsequent bills shall be paid or placed on deposit in a similar manner. Failure of the customer to make such a deposit shall warrant discontinuance of service, as provided under Section 11, subsection F., of these ordinances, resolutions, and applicable rules and regulations.

E. Failure to read meters. In the event that it shall be impossible or impractical to read a meter on the regular reading date, the water consumption shall be prorated on the basis of 30 days per month and the total water consumption for billing purposes for that period shall be estimated.

F. Payment of bills. Each bill rendered shall contain the final date of which payment is due. If the bill is not paid by that date, the account shall be considered delinquent unless other arrangements have been made with the city in writing that specify another due date.

G. Delinquent accounts.

1. Delinquent notice. A reminder of account delinquency may be sent, at the discretion of the city recorder, to each delinquent account on or about 20 days after the account becomes delinquent.

2. Turn-off notice. On or about 30 days after an account becomes delinquent, a turn-off notice shall be sent to the customer. Said notice shall state a date on which water will be turned off if delinquent account is not paid in full prior thereto.

3. Service turn-off. On the turn-off date, the meter reader or other agent of the city of Brookings shall deliver a written notice to the customer stating that the water service is being turned off until all delinquent amounts have been paid. The meter reader or other agent of the city shall immediately thereafter turn off the service. A delivery to the premises served by the meter shall be considered a delivery to the customer.

4. Service charge. In all instances where water has been turned off because of delinquent accounts, a service charge shall be made for the restoration of services and replacement of the cash deposit, as stated in Section 11, subsection B., paragraphs 2 and 3, herein. The service charge will be an amount as adopted or as amended from time to time by the city council.

H. Installment payment of delinquent accounts. In cases of extreme hardship, the city recorder shall have the discretion of renewing service to a delinquent account upon receipt of a satisfactory installment plan for the payment of the overdue amount, installment period not to exceed the period of time the account was delinquent. Failure to meet installment payments as agreed shall result in immediate termination of service without additional notice.

J. Nonpayment of bills. A customer's water service may be discontinued if the water bill is not paid in accordance with the procedures listed in this section of these ordinances, resolutions, and applicable rules and regulations.

**Section 20. Charges—Appeal procedures.**

A. All rates and charges for water service shall be due and payable by the recipient thereof and/or the owner of the property to which the same is supplied within ten days after the first day of each month, and if not paid within 20 days after the first day of each month, water services to the premises shall be disconnected.

B. Any person or persons who contest any charge as being excessive or complain of being charged for services not rendered or seek to protest a refusal of water service or a proposed termination of water services as being unjustified shall have the right, after paying the contested bill or charge in full, to request in writing an informal hearing before the city manager or his designee any time within 15 days after the first day of the

month when the billing becomes due. The city manager shall, upon receipt of the request for hearing, immediately schedule an informal hearing to be held at the city hall, at which time the person protesting shall be given the opportunity to present evidence in support of his position. The city manager shall take evidence from the city clerk or his/her designee as to the reasonableness, fairness, and validity of the charges and shall render his decision within 24-hours after closing the hearing and shall notify the complainant of his decision.

C. If the person so protesting feels aggrieved by the decision of the city manager, he/she may appeal that decision to the city council so long as said appeal is filed, in writing, with the city clerk within 15 days after the decision is rendered by the city manager. After an appeal has been filed, the city council shall notify the complainant of the time and place that it shall consider the appeal, and the complainant shall have the right to be present at the appeal. The city council shall give full consideration to the evidence presented by the complainant and by the city and shall render its decision after discussion of the same and shall notify the complainant of its decision.

D. No water services shall be terminated during the course of the hearing or appeal procedure described in subsections A through C of this section.

E. Once water service is disconnected, the person or person desiring resumption of water services shall pay all amounts due and owing the city, and a reconnection fee as prescribed by resolution of the city council, together with all arrearages due and owing the city, before service shall be resumed.

### **Section 21. Discontinuance of service.**

A. On customer request. Each customer about to vacate any premises supplied with water service by the city shall give the city written notice of his intentions at least two days prior thereto, specifying the date service is to be discontinued; otherwise, he will be responsible for all water supplied to such premises until the city shall receive notice of such removal.

At the time specified by the customer that he expects to vacate the premises where service is supplied or that he desires service to be discontinued, the meter will be read and a bill rendered which is payable immediately. In no case will the bill be less than the monthly base rate.

B. Nonpayment of sewer and water service charges. If the sewer service charges provided for in Ordinance No. 431 are not paid when due by any such person, firm, or corporation whose premises are served or who are subject to the charges herein provided, water service provided to that customer by the city may be discontinued because of the default in the payment of the sewer service charges. As an additional alternative method of collection, if such rates and charges are not paid when due by any such person, firm, or corporation, the amounts so unpaid may be certified by the city recorder to the county assessor of Curry County, Oregon, and shall be by him assessed against the premises served as provided by law and shall be collected and paid over to the city in the same manner as other taxes are assessed, collected, and paid over, with interest. Interest on unpaid bills shall run from the due date thereof at the rate adopted by resolution of the city council. Such

unpaid charges may also be recovered in an action at law in the name of the city, with interest as aforesaid.

C. Improper customer facilities.

1. Unsafe facilities. The city may refuse to furnish water and may discontinue services to any premises without prior notice where plumbing facilities, appliances, or equipment using water are dangerous, unsafe, or not in conformity with the plumbing code of the state of Oregon.

2. Cross connections. A cross connection is defined as any physical connection between the city system and another source.

3. The Oregon State Board of Health and the U.S. Public Health Service prohibit cross connections. The requirements of Oregon Administrative Rules, Section 333-61-070 are hereby adopted by this reference and included as if set out herein.

4. The city will not permit any cross connection and will discontinue service to any premises where a cross connection or a potential cross connection exists. Service will not be restored until the cross connection or potential cross connection is eliminated. Customers using water from one or more sources in addition to receiving water from the city on the same premises shall maintain separate systems for each; and the city's water supply facilities shall be separated from any and all other systems by an air gap or approved backflow prevention device as provided by OAR 333-61-070.

D. Water Waste. Where water is wastefully or negligently used on a customer's premises, seriously affecting the general service, the city may discontinue service if such conditions are not corrected after due notice by the city.

E. Service detrimental to others. The city may refuse to furnish water and may discontinue service to any premises where excessive demands by one customer will result in inadequate service to others.

F. Fraud or abuse. The city will refuse or discontinue service to any premises where it is deemed necessary to protect the city from fraud or abuse. Discontinuance of service from one or both of these causes will be made immediately upon receipt of knowledge by the city that the condition or conditions exist.

G. Unauthorized turn-on. Where water service has been discontinued for any reason and the water is turned on by the customer or other unauthorized person, the water may then be shut off at the main or the meter removed. The charges for shutting off the water at the main or removing the meter shall be computed at actual cost to the city plus 15 percent overhead, but not less than \$50.00. These charges shall be billed to the offending customer and water shall not be furnished to the premises or customer until such charges are paid and the city has reasonable assurance that the violation will not reoccur.

H. Noncompliance with regulations. The city may, without notice, discontinue service to a customer's premises for failure to comply with any of the provisions of this ordinance, the city's resolutions, and regulations of the city where such failure to comply constitutes a threat to public health, safety or general welfare.

**Section 22. Restoration of service.** Restoration of service after discontinuance for nonpayment of bills shall be made after payment of current and past due charges plus a restoration charge established by the city council and posting a deposit as hereinbefore provided.

Restoration of service after discontinuance of service for unsafe facilities, water waste, fraud, abuse, or for noncompliance with any of the policies, rules, or regulations will only be made after the irregularity has been corrected and the city has been assured that the irregularity will not reoccur. The restoration charge shall be in addition to all other charges due or past due that the city may have incurred to correct the irregularity.

**Section 23. Unusual demands.** When an abnormally large quantity of water is desired for filling a swimming pool, construction, fire suppression, log pond, or for other purposes, arrangements must be made with the city prior to taking such water.

Permission to take water in unusual quantities will be given only if the city facilities and other consumers are not inconvenienced.

**Section 24. Access to property.** All duly appointed employees of the city, under the direction of the city manager, shall have free access at all reasonable hours of the day to any and all parts of structures and premises in which water is or may be delivered or used for the purposes of inspecting connections, the conditions of conduits, appliances and fixtures, and the manner and extent in which the water is being used. The city does not, however, assume the duty of inspecting the customer's line, plumbing, and equipment, and shall not be responsible therefore.

**Section 25. Responsibility for equipment.**

A. Responsibility for customer equipment. The city shall not be liable for any loss or damage of any nature whatsoever caused by any defect in the customer's line, plumbing, equipment, or appliances, nor shall the city be liable for loss or damage due to interruption of service or temporary changes in pressure. The customer shall be responsible for valves on his premises being turned off when the water service is reconnected and turned on.

B. Responsibility for city equipment. City equipment on the customer's premises remains the property of the city and may be repaired, replaced, or removed by the city employees at any time without consent of the customer. No payment will be made to the property owner for the right to install, maintain, replace, or remove city equipment on his premises. The property owner must keep vicious dogs or other animals secured or confined to avoid interference with the utility operation and maintenance.

C. **Damage to city equipment.** The customer shall be liable for any damage to equipment owned by the city which is caused by an act of the customer, his tenants, agents, employees, contractors, licensees, or permittees. Damage to equipment shall include but not be limited to breaking of seals and locks, tampering with meters, injury to meters, including but not limited to damages by hot water or steam, and damaged meter boxes, curb stops, meter stops, and other service appurtenances.

**Section 26. Fire Hydrants.**

A. **Operation.** No person or persons other than those designated and authorized by the city shall open any fire hydrant belonging to the city, attempt to draw water from it, or in any manner damage or tamper with it. Any violation of this regulation will be prosecuted according to law. No tool other than special hydrant wrenches shall be used to operate a hydrant valve. In cases where a temporary service has been granted and receives water through a fire hydrant, an auxiliary external valve will be provided to control the flow of water.

B. **Moving a fire hydrant.** When a fire hydrant has been installed in the locations specified by the proper authority, the city has fulfilled its obligation. If a property owner or other party desires to change the size, type, or location of the hydrant, he shall bear all costs of such changes. Any change in the location of a fire hydrant must be approved by the city and the fire department.

**Section 27. Water Curtailment.** It is the policy of the City of Brookings to provide clean, healthful, and plentiful water to its residents. To address the impact of a potential water shortage on the City's residents and the ability of the Chetco River to serve as a viable habitat to important fishery resources, the following rules shall apply.

A. **Implementation**

In order to limit water withdrawal from the Chetco River to a daily average of 5.1 cfs whenever the three-day average flow of the river is below 80 cfs the following guideline for Levels of Curtailment may be implemented. The City may implement Levels of Curtailment at other time as determined necessary:

Grade 1: River flow is below 100 cfs & water withdrawal is above 4.5 cfs

Grade 2: River flow is below 80 cfs& water withdrawal is above 4.5 cfs

Grade 3: River flow is below 80 cfs& water withdrawal is above 4.7 cfs

Grade 4: River flow is below 80 cfs& water withdrawal is above 5.0 cfs

- (1) River flows shall be a three-day average using a USGS approved method of measurement conducted by a trained person and measured at a location approved by Oregon Water Resources.
- (2) Water withdrawal shall be a 24-hour average. Water withdrawal shall be metered and data shall be available to the public.

B. Levels of Water Curtailment.

(1) Grade 1: Voluntary Curtailment

- (a) Press release shall be sent to local media encouraging water conservation

(2) Grade 2 Limited Water Restrictions The following activities or actions are restricted or prohibited under a Grade 2 Water Restriction:

- (a) Watering, sprinkling or irrigating lawn, grass or turf during the odd days of the month except:
  - i. New lawn, grass or turf that has been seeded or sodded 90 days prior to declaration of a water shortage may be watered as necessary until established; and
  - ii. High-use athletic fields that are used for organized play;
- (b) Watering, sprinkling or irrigating flowers, plants shrubbery, groundcover, crops, vegetation, or trees except from 6:00 p.m. to 10:00 a.m.;
- (c) Washing, wetting down, or sweeping with water, sidewalks, walkways, driveways, parking lots, open ground or other hard surfaced areas except:
  - i. Where there is a demonstrable need in order to meet public health or safety requirements, such as (1) to alleviate immediate fire or sanitation hazards, (2) for dust control to meet air quality requirements mandated by the Oregon Department of Environmental Quality;

- ii. Power washing of buildings, roofs and homes prior to painting, repair, remodeling or reconstruction, and not solely for aesthetic purposes;
  - (d) Washing trucks, cars, trailers, tractors or other land vehicles or boats or other water-borne vehicles, except by commercial establishments or fleet washing facilities which recycle or reuse the water in their washing processes, or by bucket and hose with shut-off mechanisms except:
    - i. Where the health, safety and welfare of the public is contingent upon frequent vehicle cleaning, such as (1) clean garbage trucks, (2) vehicles that transport food and other perishables, or (3) otherwise required by law. Owners/operators of these vehicles are encouraged to utilize establishments which recycle or reuse the water in their washing process;
  - (e) Cleaning, filling or maintaining decorative water features, natural or manmade, including but not limited to: fountains, lakes, ponds and streams, unless the water is recirculated through the decorative water feature. Water features which do not include continuous or constant in-flowing water are not included;
  - (f) Wasting water by leaving unattended hoses running;
  - (g) Supplying water for above or in-ground swimming pools; and
  - (h) Other actions deemed necessary by the City Manager.
- (3) Grade 3 Moderate Water Restrictions
- (a) Where not otherwise restricted under a Grade 2 Water Restriction, all Grade 1 Water Restrictions apply;
  - (b) Watering of any lawn, grass or turf, regardless of age or usage;

- (c) Watering, sprinkling or irrigating flowers, plants, shrubbery, groundcover, crops, vegetation, or trees;
  - (d) Washing of vehicles other than in establishments which recycle their water; and
  - (e) Power washing of buildings, regardless of purpose.
- (4) Grade 4 Severe Water Restrictions
- (a) Where not otherwise restricted under Grade 3 Water Restrictions, Grade 1 and 2 Water Restrictions apply;
  - (b) A maximum daily allotment of water per residential water user set by the City Manager.
  - (c) Any restriction, which is identified by the Fire Chief.

C. Variances.

Customers not capable of immediate water restrictions shall submit a written request for a variance. The written request will be granted at the discretion of the City Manager. The following information must be provided to the City in requesting a variance:

- (1) Name and address;
- (2) Purpose of water use;
- (3) Specific provision from which the petitioner is requesting relief;
- (4) Description of the relief desired;
- (5) Period of time for which the variance is sought;
- (6) Economic value of the water use;
- (7) Damage or harm to the petitioners or others if petitioner complies with the water restrictions;
- (8) Restrictions with which the petitioner can comply;
- (9) Steps petitioner is taking to achieve full compliance; and
- (10) Any other pertinent information.

**D. Notification.**

Upon declaration of any Grade of Water Restriction, the City Manager or designee shall:

- (1) Mail the appropriate written notice to each service address inside and outside the city limits declaring the Grade of Water Restriction, findings of fact and conclusions supporting the declaration, and the effective dates of the Water Restriction;
- (2) Publish the same notice in at least one local newspaper of general circulation;
- (3) Notify other area newspapers, radio and television stations by a press release;
- (4) Post the declaration at City Hall, Library, Post Office, Fire Hall and at least one other place in the City where citizens might be expected to congregate;
- (5) If available, place a notice on the Fire Department Reader Board;
- (6) Failure of any water user to receive actual notice of the declaration of a water restriction or emergency or the actions deemed necessary by the City Manager or City Council to address the water shortage shall not relieve the use of obeying the restrictions.

**E. Enforcement**

- (1) **Warning.** Each violation shall receive a warning. The letter of warning shall be in writing, shall specify the violation, may require compliance measures, and shall be served upon the resident either personally, by office or substitute service, or by certified or registered mail, return receipt requested.
- (2) **Citation.** After the resident has received a warning letter, any subsequent violation shall be treated as a civil violation pursuant to Section \_\_\_\_ of the Brookings Municipal Code.

**F. Penalties**

- (1) **First Violation—warning letter.**

- (2) Second Violation—Class C Violation, subject to a fine of up to \$100 per day.
- (3) Third Violation—Class B Violation, subject to a fine of up to \$250 per day.

**[Section 27 as added by Ordinance No. 02-O-553, effective date 9-29-2002]**

**Section 28. Suspension of rules.** No employee of the city is authorized to suspend or alter any of the policies, rules, and regulations cited herein without specific approval or direction of the city council, except in cases of emergency involving and imminent threat of the loss of life or property or which would place the water system operation in jeopardy.

**Section 29. Penalties.**

A. It shall be a violation of these ordinances, resolutions, and applicable rules and regulations for any person or persons to make connections with the city water mains or service lines; or to make alterations in any conduit pipe, meters or other fixtures connected therewith; or to connect pipes, or to reconnect pipes when they have been disconnected; or to turn water off or on to any premises without first obtaining the written consent of the city.

B. It shall be a violation of these ordinances, resolutions, and applicable rules and regulations for any person or persons to use or tamper with any valve, curb stop, hydrant, meter or other portion of the municipal water system.

C. Upon any violation of any of the provisions of this ordinance by any owner or consumer, and in addition to any other penalties, the water supply to any such owner or consumer may be shut off by the city without notice until any damage suffered by the city on account of such violation shall have been paid for and until such time as the city shall be satisfied that such violations will not continue, or unless the city council shall order such water supply to be turned on.

D. Each and every violation of any of the provisions of this ordinance is hereby declared an unlawful act. Any person, firm, or corporation who shall violate, disobey or shall neglect or refuse to comply with, or shall resist or oppose the execution of any of the provisions of this ordinance, shall upon conviction thereof before the municipal court, be fined not to exceed \$300.00 or be imprisoned in jail for not to exceed 30 days, or may be both fined and imprisoned not to exceed the amount and the time above prescribed. Such fine and/or imprisonment may be in addition to the penalty provided in subsection (C) hereof.

**Section 30. Severability.** If any provision, part or parts of this ordinance shall be held to be unconstitutional, invalid, or otherwise inoperative, such invalidity shall not affect other provisions hereof which can be given effect without the invalid provision, the remainder hereof shall remain in full force and effect as a valid and subsisting ordinance until repealed, and to this end the provisions of this ordinance are declared to be severable.

**Section 31. Emergency clause.** The matters contained herein concern the peace, health, safety and welfare of the people of the city of Brookings and therefore an emergency is hereby declared to exist and this ordinance shall become immediately effective upon its final passage by the council and approval by the mayor.

**[Sections 27 through 30 renumbered as Sections 28 through 31 by Ordinance No. 02-O-553, effective date 9-29-2002]**

First Reading: December 12, 1988

Second Reading: December 12, 1988

Passage: December 12, 1988

Signed by me in authentication of its passage this 12<sup>th</sup> day of December, 1988.

Original signed by Bob Kerr  
Mayor

ATTEST:

Original attested by Beverly S. Shields  
Beverly S. Shields  
City Recorder