

## **ORDINANCE #2018-\_\_02\_\_**

### **TOWN OF BUFFALO GAP UTILITY ORDINANCE**

#### **BE IT ORDAINED BY THE TOWN OF BUFFALO GAP, COUNTY OF CUSTER, STATE OF SOUTH DAKOTA**

#### **CHAPTER 1 – WATER PROVISIONS**

##### **WATER DEPARTMENT SUPERVISION AND JOB DESCRIPTION**

The Water Department shall be under the supervision of the Town Council of Buffalo Gap.

The Water Department shall consist of Maintenance Worker(s) and operator(s). The water operator(s) shall maintain a current state certification and have passed State Water Board Exam. They shall be responsible for the management and operation of the water and wells of the Town of Buffalo Gap. He (she) shall read or supervise the reading of meters, over-see all state required testing, connecting and disconnecting water service, and shall perform such other duties as may be assigned to him by the Town Council. Meters shall be read by the 5<sup>th</sup> of each month.

##### **EMERGENCY WATER LIMITATIONS**

The use of city water for street, lawn or garden sprinkling is subordinate to domestic use or fire protection and may be restricted by the Town at any time by resolution of the Town Council; no sprinkling shall be done during a fire. The Town Council may limit or prohibit temporarily the use of the city water for any purpose, except domestic purposes within the consumer's dwelling, during an emergency. This emergency water limitations section does not apply to the use of privately owned water wells.

##### **APPLICATION FOR WATER SERVICE**

- a) Written application for utility service shall be made to the City Finance Office by the owner or tenant of the property with a one hundred dollar (\$100.00) security deposit and a twenty-five dollar (\$25.00) connection fee, as established by resolution. The deposit is to be made by the person responsible for the utility bill. Said security deposit must be paid in full to the Finance Officer prior to any utility service being connected and/or turned on. Such deposit shall be recorded by the Finance Officer and a receipt issued to the applicant.
- b) Upon discontinuance of the service, the applicant shall be entitled to a refund of such deposit once the utility account is paid in full.

- c) After twelve (12) consecutive monthly payments without a delinquency notice, deposit will be refunded. A new security deposit will be charged to the customer's account if customer has received a minimum of three (3) late fees within one (1) year after having the previous deposit returned.
- d) All city utility customers that do not currently hold a security deposit, shall continue to receive utility services, but in all other respects will comply fully with the requirements of this ordinance. A security deposit of one hundred dollars (\$100.00) will be charged to the customer's account if customer receives a minimum of three (3) late fees within one (1) year.
- e) The Town of Buffalo Gap does not accept credit letters from previous utilities.
- f) If a current utility customer moves to a new location within Town of Buffalo Gap water utilities, a new deposit will not be charged if the customer has maintained at least a year of credit history. A new connection fee of twenty-five dollars (\$25) will be charged.

#### **UNAVAILABILITY OF SERVICE**

The city may decline utility service to any person if:

- a) The applicant fails to provide all application information;
- b) The applicant fails to pay the required deposit and connection fee;
- c) The applicant is indebted to the Town for any reason;
- d) The utility service to the proposed premises does not fully meet all Town and other lawful standards; or
- e) The premises have an unpaid prior bill from the same or former occupant.

#### **TAP AND CONNECTION**

Where there is no existing tap to the city water mains, or an additional or different tap is to be made, application shall be made in writing to the Town Financial Officer by the owner or agent of the property to be served.

The application shall designate the legal description of the property, the nature of the water use and if residential use, specify the number of families or residences to be served thereby, and shall be accompanied by a fee of one-thousand three hundred dollars (\$1,300.00).

No person shall be permitted connection to the water system until all past water accounts are fully paid.

#### **WATER METERS ARE REQUIRED**

All meter pit equipment is property of Town of Buffalo Gap.

All dwellings or places supplied with water from the Town system shall be metered by the Town.

A suitable place for meter pit, preferably on city right of way and accessible for examination shall be chosen by the Town of Buffalo Gap at the expense of the owner or occupant. In any case where the neglect, refusal to repair, or refusal to pay expenses thereof the water supply may be turned off and not turned on until such costs and a fee are paid. If pit or post is harmed they shall be repaired at the owner's expense.

No person shall tamper with a meter or turn on the supply of water to a service pipe from which the supply has been turned off by the Town on account of the nonpayment of a water bill or for any other reason. Anyone violating this provision shall be guilty of a violation and upon conviction thereof by a court of competent jurisdiction shall pay a minimum fine in the amount of two hundred dollars (\$200.00) which does not include reimbursement or restitution. (SDCL § 9-19-3)

The property owner shall be responsible for payment of all water bills incurred on his property whether incurred by property owner, tenant, or any other person with or without the permission of the property owner.

#### **NOTICE OF DISCONTINUANCE REQUIRED**

- a) Owners or consumers desiring to discontinue the use of the Town Utility Services shall be required to give notice thereof to the Town Financial Officer, and regular rates shall be charged and billed until such notice is given.
- b) Owners and/or tenants of rental properties must give notice of change of tenants if the utilities are being billed to the tenant.
- c) A disconnection and reconnection is required between tenants and/or owners in order to secure a customer deposit with the Town Financial Officer and to ensure all accounts are paid in full.
- d) A disconnection fee of twenty-five dollars (\$25.00) and/or reconnection fee of twenty-five dollars (\$25.00) will be charged each time the Town is required to turn off or on utility services, including transfer of service.
- e) If the Town becomes aware of the change in occupancy before the proper notification is given to the Financial Officer; the Town reserves the right to immediately disconnect Town Utility Services provided to the place of business and/or residency being serviced.

## **TERMINATION OF SERVICES**

The Town shall have the right to terminate utility service to any customer or refuse reconnection to any customer for any of the following reasons:

- a) Discovery by the Town of material misinformation in the customer's original application for services that may prejudice the Town in continuing service to the customer;
- b) Nonpayment of any utility bill for more than three (3) billing periods or for more than one hundred fifty dollars (\$150.00);
- c) Deterioration of the service system to the customer's premises to such an extent that water would be wasted or leaking if service continues;
- d) Harm the meter pit or remote reader without contacting town, or failure to reimburse town for repairs of any meter and/or meter equipment, including pit and remote reader;
- e) Tampering with the water meter or any part of the system;
- f) Reselling or diverting any utility service without proper approval therefore; or
- g) Vacancy of the premises.

## **LANDLORDS RESPONSIBILITIES FOR TOWN UTILITIES**

An owner of rental property, whether commercial or residential, is hereby held responsible for payment of any delinquent water charges, which are not promptly paid by the owner's tenant or tenants.

This applies to all rental property, whether commercial; single family residential, apartment complexes, mobile home courts, or other rental property. The owner shall be furnished with a copy of the notice of delinquency that is served upon the tenant.

## **MORE THAN ONE CUSTOMER FROM ONE SERVICE**

Owners who lease or subdivide shall be responsible for water used in said premises. If more than one meter is placed on a service pipe, the meters shall be set so that no one of them shall measure water which has passed through another meter.

In those situations where both residential and commercial activities are taking place on the same water hookup that then, and in that event the owner or user of said property shall be required to pay two (2) water minimums. (One for the residential use and one for the commercial use) And further, where more than one commercial enterprise is operating off of

the same water meter, but have separate facilities, the owner or user of said property shall be required to pay two (2) water minimums.

## **WATER RATES**

- a) For the purposes of this section, “users of water” shall mean the owner or occupant of each individual residential or commercial premise, including, but not limited to, the owner or occupant of each apartment in a multiple family dwelling, each mobile home in a mobile home park and hotel and motel facilities.
- b) All users of water within the Town of Buffalo Gap shall pay to the Town of Buffalo Gap for water used by them as follows:
  - 1) A monthly maintenance fee of twenty-five dollars (\$25.00) per water pit.
  - 2) A minimum of nine dollars (\$9.00) which entitles the user to 3,000 gallons of water per month.
  - 3) All water used over 3,000 gallons per month shall be paid for at a rate of three dollars (\$3.00) per additional 1,000 gallons of water used or fraction thereof.
- c) All non-water users with meters servicing within the Town of Buffalo Gap shall pay to the Town of Buffalo Gap the following:
  - 1) A monthly maintenance fee of twenty-five dollars (\$25.00) per water pit; and
  - 2) The minimum of nine-dollar (\$9.00) fee set forth in (b)(2) above; however, the nine dollar (9.00) fee may be suspended by a signed contract between the user and the Buffalo Gap Financial Officer setting forth an agreement that the user may not use any city water for a minimum period of three (3) months.
- d) All users/non-users shall pay a late fee of ten dollars (\$10.00) if payment is received after the fifth (5<sup>th</sup>) day of the next month.
  - 1) Any payment after that time is considered delinquent. The Financial officer will send a water bill stating: a) the total amount due plus the late fee; b) the date by which to pay the utility bill or the utility service will be disconnected; and c) notification that a written financial hardship request may be made to the Financial Officer any time prior to the disconnection date.
  - 2) Any person unable to fully pay any utility bill, on account of financial or economic hardship may make a timely, written request to the Financial Officer to have any bill or bills or part thereof set up on a written and signed payment arrangement plan of so much per week or month as the Financial Officer shall allow. So long as the applicant abides by the written payment plan, The Town shall not consider termination of service. Any violation of the

written payment plan shall subject the users/non-users to immediate disconnection.

- 3) The Financial Officer's denial of a request for a financial or economic hardship may be appealed in writing to the Town Board within five (5) business days or any hearing before the Town Board will be deemed irrevocably waived. The Town Board shall hear the appeal at the next regular or special meeting of the Town Board. The hearing shall be informal; however, allowing each side sufficient time to present evidence. A decision may be made by Motion or Resolution.
- 4) If water service is terminated (disconnected), the Town will restore the water service only after the account and fees are paid in full to the Financial Officer.
- e) If after six (6) months non-payment of water fees has occurred, a lien shall be taken out against the property in Custer County.
- f) All users/non-users shall pay a fee of forty dollars (\$40.00) for any returned checks.

In cases where meters fail to register the amount of water used, charges shall be based upon the average used during two or more preceding periods of similar length and during a similar time of year.

Water rates shall be reviewed annually and changed by resolution from time to time as needed by the Town Council.

#### **SLEEP/VACATION WATER RATES**

- a) Requirements include a minimum of three (3) months absence from the household.
- b) A disconnection/reconnection fee of twenty-five dollars (\$25.00) each must be paid.
- c) A monthly maintenance fee of twenty-five dollars (\$25.00) shall be paid.
- d) The water department will continue to read the meter monthly and any water consumed over the 3,000 gallon minimum will be charged to the customer's account.
- e) During this time, the Town is not liable for any frozen water lines or water breaks from the meter pit to the residence.
- f) The customer is held responsible to notify the Financial Officer of their return in order to have regular water fees resumed.

## **CHAPTER 2 – SANITATION**

### **SANITATION**

All property owners shall be given a container for trash. Additional trash containers may be available, depending on supply, for an additional monthly fee that will be set by resolution of the Town Board.

Any and all persons to whom water service is furnished by the City will be charged for garbage

collection.

All property owners shall pay a monthly fee, set by resolution of the Town Board; however, the monthly fee may not be less than twenty dollars (\$20.00). The monthly fee shall be charged regardless of users use of service.

Sanitation charges shall be billed and be due and payable simultaneously with monthly water bills.

Monthly fees are determined by the Town Council of Buffalo Gap and rate changes shall be done by resolution from time to time as needed.

### **CHAPTER 3 – GENERAL PROVISIONS**

#### **IMPLIED CONTRACT BETWEEN TOWN, USER, AND PROPERTY OWNER**

The rules, regulations and water and sanitation rates in this ordinance provided or as elsewhere set out in this code or future ordinances and resolutions of the governing body shall be considered a part of the contract of every person applying for water and sanitation service from the Town of Buffalo Gap, and every owner of property for which such application is made, and every such person by taking water, or by virtue of their ownership of the land for which application is made, shall be considered to express his assent to be bound. This ordinance shall supersede all other utility ordinances from the past.

#### **CUMULATIVE EFFECT OF ORDINANCE**

The provisions of this ordinance shall be cumulative to other ordinances not in conflict with it and shall not operate to repeal any such other ordinances.

**REPEAL OF CONFLICTING ORDINANCES**

All ordinances and parts of ordinances in conflict with this ordinance are repealed.

**SEVERABILITY OF INVALID PROVISIONS**

If any provision of this ordinance shall be held invalid, its invalidity shall not affect any other provision of this ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this ordinance are declared to be severable.

Dated at Buffalo Gap, Custer County, South Dakota this      day of      , 2018.

**APPROVED:**

\_\_\_\_\_  
Trustee

\_\_\_\_\_  
Trustee

\_\_\_\_\_  
Trustee

**ATTEST:**

\_\_\_\_\_  
Heather J. Besco  
Financial Officer  
Town of Buffalo Gap

(SEAL)