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**MUNICIPAL WATER SYSTEM ORDINANCE
TOWN OF SEABROOK, NEW HAMPSHIRE**

AUTHORITY

Be it enacted by the Board of Selectmen of the Town of Seabrook, Rockingham County, State of New Hampshire, acting in their capacity as the Board of Water Commissioners, as follows:

ARTICLE I – (RESERVED)

ARTICLE II – GENERAL PROVISIONS

Section 2.1 Purpose and Policy

This Ordinance sets forth uniform requirements for users of the public water system (PWS) of the Town and enables the Town to comply with all applicable State and Federal laws, including the Safe Drinking Water Act (42 United States Code § 300f *et seq.*), New Hampshire Safe Drinking Water Act (RSA 485), Groundwater Protection Act (RSA 485-C), and New Hampshire Drinking Water Rules (Env-Ws 300) including Backflow Prevention rules (Env-Ws 364).

The objectives of this Ordinance are:

- To promote the orderly and efficient operation of the PWS
- To promote the implementation of prudent and effective water conservation measures
- To protect the health and safety of consumers
- To protect the Town's source waters
- To safeguard the public water supply
- To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the PWS; and
- To enable the Town to comply with all Federal and State laws to which the PWS is subject.

This Ordinance shall apply to all users of the PWS. The Ordinance authorizes the requirement and registration of backflow prevention devices; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires inspection and testing; and provides for the setting of fees for the equitable distribution of costs resulting from the programs established herein.

Section 2.2 Administration

- A. Administrative Authority. Except as otherwise provided herein, the Water Superintendent (Superintendent) shall administer, implement, and enforce the provisions of this Ordinance. The Board of Water Commissioners shall promulgate and enact such administrative rules and procedures as they may deem necessary in this regard. Any powers granted to, or duties imposed upon the Superintendent may be delegated by the Superintendent to other qualified Town personnel.
- B. Service Area. The area served by the Water Department (Department) shall include the entire Town of Seabrook, New Hampshire as well as all existing customers in Salisbury, Massachusetts and in Hampton Falls, Kensington, and South Hampton, New Hampshire.

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- C. Emergencies. Any emergency related to the PWS shall be reported directly to the Department office (603-474-9921), or to the Seabrook Police Department (603-474-2666), or the Seabrook Fire Department (603-474-3434).
- D. Office Location. The Department office is located at 550 Route 107. The Department's mailing address is P.O. Box 456, Seabrook, NH 03874
- E. Hours of Business. The Department office is open Monday through Friday from 7:00 AM to 3:00 PM. The office is closed on all major holidays.
- F. Telephone. The telephone number for the Department is (603) 474-9921.
- G. Board of Water Commissioners. The mailing address for the Board of Water Commissioners is Town Hall, P.O. Box 456, Seabrook, NH 03874.

Section 2.3 Acronyms

The following acronyms, when used in this Ordinance, shall have the following designated meanings:

- CFR - Code of Federal Regulations
- EPA - United States Environmental Protection Agency
- MXU - Meter Radio Unit
- NHDES - New Hampshire Department of Environmental Services
- PWS - Public Water System
- RSA - Revised Statutes Annotated
- U.S.C. - United States Code

Section 2.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated.

- A. Agriculture. Farming; the occupation, business or science of cultivating the land, producing crops and raising livestock.
- B. Application for Water Service. A form signed by the owner of property or his authorized representative to obtain water from the distribution water mains, which form will become the contract between the Department and the customer.
- C. Authorized Representative.
 - 1. If the water service account is for a corporation, the authorized representative shall be the president, a vice-president, or other legally appointed officer of the corporation.
 - 2. If the water service account is for a partnership or sole proprietorship, the authorized representative shall be a general partner or the proprietor, respectively.
 - 3. If the water service account is for a Federal, State, or local governmental facility, the authorized representative shall be a director or the highest level official appointed or

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- designated to directly oversee the operation and performance of activities of the government facility.
4. In certain cases, an individual described in paragraph 1, 2, or 3 above may designate another person to be the authorized representative. Such designation shall be submitted to the Town in a signed, written document specifying that the named individual is responsible for the overall operation of the facility to which the water service is provided or that the individual has overall responsibility for environmental matters for that facility. The Superintendent may reject any such designation at his sole discretion.
 5. If the water service account is for a single, renter-occupied dwelling that is supplied by its own service line, the authorized representative shall be the building owner. Multiple renter-occupied units that are served by a single service line shall be considered commercial or governmental facilities under paragraphs 1 through 3 above.
- D. Backflow. The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source or sources other than the intended source.
- E. Backflow Prevention Device. A device or means designed to prevent backflow or back siphonage.
- F. Board of Water Commissioners (or Water Commissioners). A board of individuals who are designated by the Town to direct policy with regard to management of the PWS, and who are charged with certain duties and responsibilities under this Ordinance. In the Town of Seabrook, the Water Commissioners are the Town's selectmen.
- G. Builder. A person or persons building or constructing a structure or structures that will or could be connected to potable water from the PWS.
- H. Bypass. The intentional diversion of the flow of incoming potable water around the water meter or backflow preventer.
- I. Commercial/Industrial Account. A water account that (1) does not qualify as a dwelling unit, (2) that has been issued an Industrial Wastewater Discharge Permit by the Town, and/or (3) has been so designated by the Superintendent.
- J. Consumer. Any person supplied with potable water by the Town.
- K. Contractor. The person constructing a distribution water main, service lateral or service line.
- L. Cross-Connection. Any actual or potential physical connection or arrangement between two otherwise separate systems, one of which contains potable water and the other of which contains water of unknown or questionable safety and/or steam, chemicals, gases or other contaminants whereby there may be a flow of unapproved water or other fluid to the PWS.
- M. Curb Stop. A valve, gate, or fitting that is installed between a service lateral and a corresponding service line, and that can be used to turn on or off the flow of water to a building or other structure.
- N. Customer. The owner of property in whose name an account for water service is maintained by the Town, or that party's authorized representative.

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- O. Department Specifications. The construction guidelines, approved products, policies and practices set forth in the Department Water Main Specifications.
- P. Developer. A person or persons having principal responsibility and authority for the planning and/or construction of structures, which construction includes or could include the installation of one or more distribution water mains.
- Q. Distribution Water Main. A water pipe which is installed or presently located in a roadway layout, right of way, or easement which provides the water for fire protection and/or service laterals including the individual shut off (gate valve or curb stop).
- R. Dwelling Unit. A single family house, cottage, manufactured housing unit, apartment, condominium, townhouse, group of rooms or single room when used as separate living quarters.
- S. Easement. An acquired legal right for the specific use of land owned by others.
- T. Emergency. A sudden, urgent, usually unexpected occurrence or occasion requiring immediate attention.
- U. Environmental Protection Agency. The U.S. Environmental Protection Agency or, the Region 1 Water Management Division Director, or other duly authorized official of the agency.
- V. Improved Property. Any property located within the Town upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and into which potable water will be or may be plumbed.
- W. Livestock. Animals raised for food or other products, or kept for use, especially farm animals such as cattle, horses, pigs and poultry.
- X. May. Is allowed to (permissive); see also “Shall.”
- Y. Meter. A mechanical device that measures the volume of water (normally in gallons) provided to a customer.
- Z. Meter Radio Unit (MXU). A transceiver that is attached to the water meter and is part of a radio-based automatic meter reading system used by the Town to gather water consumption data for billing purposes.
- AA. Notice. Written notice forwarded by a document delivery service postage prepaid to any person's last known address.
- BB. Owner. Any person vested with ownership, legal or equitable, sole or partial, or possession of any improved property.
- CC. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

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- DD. Plumbing Fixture. A receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises and demands a supply of water therefrom; or discharges wastewater, liquid-borne waste materials or sewage either directly or indirectly to the drainage system of the premises; or requires both a water supply connection and a discharge to the drainage system of the premises.
- EE. Potable Water. Water from a source that has been approved by NHDES for human consumption.
- FF. Quarter. One-fourth of a year, or a three month period.
- GG. Recreational Vehicle. A mobile vehicle or trailer used for temporary living quarters (e.g., a camper).
- HH. Residential Account. A water account for a dwelling unit that (1) has not been issued an Industrial Wastewater Discharge Permit by the Town, and (2) has not been otherwise designated by the Superintendent.
- II. Service Lateral. The pipe that normally extends from a distribution water main to a curb stop.
- JJ. Service Line. The pipe that normally extends from a curb stop to a building or other structure being supplied with water.
- KK. Shall. Is required to (mandatory). See also "May."
- LL. State. The State of New Hampshire.
- MM. Town. The Town of Seabrook, Rockingham County, a municipality of the State of New Hampshire, acting by and through its Selectmen or, in appropriate cases, acting by and through its authorized representatives, including the Superintendent.
- NN. Town Manager. The senior management official so titled for the Town, or his duly authorized deputy, agent or representative.
- OO. Unimproved Property. Any property located within the Town that does not satisfy the criteria established in the definition of improved property.
- PP. Water Department (or "Department"). The municipal water department as an operational unit of the Town, organized and controlled by the Board of Water Commissioners and represented by the Superintendent.
- QQ. Water Superintendent (or "Superintendent"). The person designated by the Town Manager to manage the operation of the PWS and who is charged with certain duties and responsibilities by this Ordinance, or his duly authorized representative.
- RR. Water Service. The availability of potable water from the PWS to a building or other structure.

ARTICLE III – APPLICATION FOR WATER SERVICE; WATER CONNECTIONS

Section 3.1 Application for New Water Service

- A. Application for new water service or an increase in supply to an existing serviced property or water service (1) shall be made in writing on such forms as shall be provided by the Town, (2) shall state fully and truthfully the purposes for which the water provided will be used, and (3) shall contain an agreement signed by the applicant to abide by and accept all of the provisions of this Ordinance as conditions governing the use of the Town water supply. Applications shall be accepted only from the owner of the property for which water service is requested or from their authorized representative as defined herein. These requirements are applicable to all new water service requests, including individual residential, commercial, and industrial sites, and multi-site developments.
- B. Buildings, structures or other facilities located within the water service area are not required to connect to the PWS, nor is the Town required to provide water service to every applicant. Applications for water service are approved or disapproved at the sole discretion of the Board of Water Commissioners who, in rendering their decision, may take into account any factor they deem to be relevant, including the purpose(s) for which the water would be used, estimated quantities and times of use, and potential risk to the municipal water and/or sewer system.
- C. Approval of any application shall be subject to there being an existing water main in a street abutting on the premises to be served, but approval shall in no way obligate the Department to extend its water mains to serve the premises, except as hereinafter provided.
- D. The Superintendent shall investigate each application for installation of a new service lateral, and shall make a written recommendation to the Board of Water Commissioners within seven (7) business days of receipt thereof. The Board of Water Commissioners shall render their decision on each application within fifteen (15) days of receipt of each application.
- E. Approval of an application by the Water Commissioners shall constitute a contract between the Department and the applicant obligating the applicant to pay the Department the established rates and charges and to comply with all applicable rules and regulations.
- F. All new water service applications shall expire two years after approval by the Board of Selectmen and the deposit shall be nonrefundable.

Section 3.2 Service Installation Deposit

The customer shall pay a service deposit to the Town in accordance with the current Schedule of Fees prior to any review by the Superintendent or the Water Commissioners of a proposal for the installation of an original service lateral. The service deposit may include:

- A. Connection Fee. A fee charged for making connection to the PWS, whether the connection is performed by the Department or by a contractor.
- B. Testing Fee. A fee charged for the Town's oversight of the testing of all service lines, laterals and mains that are four (4) inches or larger in diameter.
- C. Inspection Fee. A fee charged for the Town's inspection of materials and workmanship for all water mains, valves, fire hydrants, service laterals, service lines, and other appurtenant structures used for potable and fire protection water.

- D. Backflow Fee. A fee charged to oversee the application and inspection of the installation of a backflow prevention device.

Section 3.3 Connection to the PWS

- A. The Department reserves the right to specify the size, location and all design characteristics of any distribution main, service lateral or service line.
- B. Insurance certificates, performance securities and street excavation permits shall be provided in accordance with Town requirements before any contractor performs work in any public right-of-way or easement.
- C. The Department's personnel or its agents shall not perform any work, other than inspection, testing, or general supervision, on private property regarding the installation of new or replacement water lines or services.
- D. Use of water provided by the Town is confined to the premises named in the contract. No person shall supply water to one location by making a physical connection between it and another location having existing water service, nor shall a person use water provided by the Town for any commercial purpose not mentioned in the application for water service. No person shall obtain water service from any hydrant, fountain, or other fixture of the PWS without the prior written consent of the Department.
- E. For any new service line installation, reinstallation, or replacement, only one customer will be supplied through a single service lateral. For existing installations where more than one customer is currently supplied by a single service lateral and controlled by a single curb stop, any violation of the Town's rules governing water use by any of the customers so supplied shall be deemed a violation by all, and the Department may take such action as could be taken against a single customer. Under non-emergency conditions, the Town shall take no action that would reasonably be expected to affect the customer(s) not in violation of this Ordinance, until the customer(s) not in violation of this Ordinance have been provided with reasonable notice and either (a) a reasonable opportunity to connect to a separate service lateral and curb stop or (b) agree to pay any outstanding water charges and fines owed by the customer in violation and to pay any future water charges owed by the customer in violation. Any installation, relocation, or replacement of a service pipe is subject to review by the Department and, if approved shall be at the customer's expense.
- F. Any customer having a private well, surface water intake, or any other water source apart from the PWS shall notify the Department of the nature, design, specifications, size, and location of the source, and of the quantities of water used from that source. If the private system is interconnected to the PWS in any way, the Town shall disconnect the PWS to prevent any possible cross-connection, even if a backflow preventer is in place.
- G. No cross-connection shall be permitted between the PWS and any other supply, or between the PWS and any plumbing fixture, device, or appliance capable of contaminating the PWS unless the connection is protected at the metering point by a backflow prevention device as required by this Ordinance. The connection shall be approved by the Superintendent and the New Hampshire Department of Environmental Services, and shall in all respects the laws of the State of New Hampshire. No wells for irrigation shall be cross-connected to the PWS.

Section 3.4 Construction of Service Laterals

- A. The construction, installation and maintenance of service laterals is the responsibility of the Town and shall be accomplished by, or under the supervision of, the Department.
- B. The rendering of service by the Department and the acceptance thereof by the customer shall be deemed a valid contract between the parties, their heirs, assigns or successors, including and subject to all the provisions of the Department's rates, rules and regulations applicable to that service, whether or not a signed application is made by a customer and accepted by the Department.

Section 3.5 Construction of Service Lines

- A. The Town is responsible for the distribution of water from the source of the water to the water meter. For this reason, the Town regulates the design, construction, and installation of service lines. No service line shall be connected to the PWS except in accordance with this Ordinance.
- B. Application for installation of a new service line, or for any modification of or addition to an existing service line, shall be made in writing on such forms as shall be provided by the Town. Applications shall be accepted only from the owner of the property for which the installation is requested or from an authorized representative as defined herein. No customer shall install, add to, or modify a service line for any purpose not mentioned in the customer's application without first obtaining written approval from the Department.
- C. The construction, installation and maintenance of service lines shall be the responsibility of the customer. Service lines shall be constructed in accordance with the requirements of the American Water Works Association (AWWA) Standards, the Town's construction standards, the Town's Building Code, this chapter, and/or the State Plumbing Code, whichever is more stringent.
- D. All materials, size and make of pipe, valves, fittings, meters, backflow prevention devices, and appurtenances proposed for service lines shall be reviewed and approved by the Department prior to construction. See Department Specifications for a list of approved materials.
- E. All service lines shall be installed to a minimum covered depth of 5 feet below ground surface. Service lines shall not be placed in the same trench with gas pipes, electrical conduits, sewers, or similar structures except under special conditions, in which case written authorization must be obtained from the Superintendent.
- F. No user of the PWS shall install a telephone, cable TV, or ground of any sort to the service line or to his/her own plumbing.
- G. No connection shall be made between the PWS and any non-potable water supply. No connection capable of causing backflow between any waste outlet or pipe having any direct connection to waste drains will be permitted. If the Department discovers such a connection, water service shall be terminated immediately.
- H. A backflow prevention device approved by the Department and the NHDES shall be installed on all new service lines. All customer service lines shall be protected with a device commensurate with the degree of potential hazard, as determined by the Department and the NHDES. All such

devices shall be located at the point directly after the water meter, and all water consumption at that location shall pass through the protective device. Backflow prevention devices shall be owned and maintained by the property owner. The cross-connection control program administrative rules and regulations of the Town are hereby included as part of this Ordinance.

- I. Service lines shall be connected to the designated curb stops by the owner/contractor, and shall be inspected by the Department prior to backfilling. A minimum of one business days' notice (24 hours) is required to schedule the inspection of a service line unless the Superintendent approves less notice.
- J. All work shall be performed in a manner satisfactory to the Department. If any defects in materials or workmanship are found, or if the service line has not been installed in accordance with the specifications and requirements of the Department the water service will not be turned on until such defects have been remedied.
- K. When the Board of Water Commissioners deems that it is in the public interest to do so, the Town may authorize the replacement of service lines to existing buildings at Town expense in conjunction with infrastructure construction projects. The owner shall thereafter be obligated to pay all costs and expenses of operation, repair and maintenance, and of replacement as outlined in this section.

Section 3.6 Maintenance and Repair of Service Laterals and Service Lines

- A. From the distribution water main up to and including the curb stop, the service lateral shall be the property of the Town. In the event that a break or a leak develops in this service lateral, the Town shall be responsible for its repair.
- B. From the curb stop to the building, the service line shall be purchased, owned, and maintained by the customer.
 - 1. All customers shall, at their own expense, maintain the plumbing and fixtures within their premises in good repair and protect them from freezing. If a water meter is damaged by vandalism, freezing, hot water, or other causes within the control of the customer, all labor, administrative and material expenses shall be billed to the customer.
 - 2. Customers shall make any repairs that may be necessary to prevent water leaks and/or damage.
 - 3. All leaks in interior or exterior water lines shall be repaired within 48 hours or the water service shall be subject to termination.
- C. Water service may be terminated as a result of a break or leak in either a service lateral or service line at any time when it is determined by the Superintendent, after consultation with the Town Manager, that a significant amount of water is being lost, the potential for property damage exists or health and safety is threatened.

Section 3.7 Application for Temporary Service

Applications for temporary water service shall be made in writing on such forms as shall be provided by the Town, and shall contain an agreement signed by the applicant to abide by and accept all of the

provisions of this Ordinance as conditions governing the use of the Town water supply. Purposes for which such applications may be submitted might include:

- Temporary water service during the construction of a building, before the installation of a permanent meter.
- Temporary use of a municipal water source to fill a tank truck.
- Temporary water service for a sporting event, carnival or temporary food concession (requires Health Department approval).

Applicants shall provide a detailed description of the specific activity for which the temporary water service is requested, time period, proposed method of connection to the PWS and an estimate of the quantity of water to be consumed. The request will be reviewed by the Superintendent and approved or denied. If approved, the customer will be billed for all relevant fees and expenses, as well as the standard *per unit* charge for water based on the current Schedule of Rates and Fees. The hydrant meter and backflow device assembly provided by the Department will be for a specific registered location and shall not be moved to another location for any reason.

Section 3.8 Records of Customers

The Department shall maintain suitable records of each water service account including the property owner's name, authorized representative, type of account, street name and number, contact information, nature and history of use and billing records (including abatements). These records shall be open at all times for inspection by the Board of Water Commissioners, Board of Selectmen, and the Town Manager.

ARTICLE IV – METERED SERVICE

Section 4.1 Basis for Cost

Charges for all water sold by the Town to both commercial/industrial accounts and residential accounts, both within and outside the Town, shall be in accordance with the current Schedule of Rates.

Section 4.2 Installation of Meters; MXU Radio Transceivers

The owner/developer shall provide and install approved water meters, backflow devices with hot water expansion tanks, and meter reading MXU radio transceivers on all new service lines. Approved meters, backflow devices with hot water expansion tanks, and MXU transceivers shall be inspected by the Department prior to water service being turned on. All installations shall be properly valved upstream and downstream of the water meter and backflow device for repairs and maintenance. The Town will assume ownership of meters and MXU transceivers and maintain them after the installation is complete.

Manufacturers names and specifications for approved water meters, backflow devices, and MXU transceivers are presented on the Town's website. Consult the Department to be sure this information is current.

Meters, MXUs, meter horns and non-testable backflow devices may be purchased at the Water Department office during normal business hours.

Section 4.3 Determination of Size, Type and Location of Meters

The size, type and location of water meters, backflow devices, and MXU radio transceivers shall be approved by the Department in all cases. All meters shall be placed, whenever possible, on the inside of the building or structure at the point of entrance of the service line to the building or structure. The MXU transceiver shall be placed inside of the building or structure being serviced. The customer shall provide and maintain a clean, dry and warm space for service and inspection, wherever practical. No change shall be made in the original location of meters or MXU transceiver unless approved by the Department, and shall be done at the expense of the customer. Immediate access to meters, MXU transceivers and backflow prevention devices shall be provided to the employees of the Town with reasonable notice to the customer.

Section 4.3.1 Water Meters on Private Well Systems

The Town shall have the right to install and maintain at its expense water meters as specified in these rules and regulations for the purpose of measuring domestic water utilized in private residences from private well systems that supply potable water to those residences in order to determine the discharge to the municipal sewer system and the appropriate billings therefore. All of the rules and regulations contained herein shall apply to the metering systems so installed. The installation of meters under this provision shall be by the written consent of the owner of the private property involved. No water billing for metered usage shall be invoiced under this section.

Section 4.3.2 Seasonal Use

When, due to seasonal use, the customer requires the Department to remove and set the meter, the customer shall be billed for such service and for the resetting and reinstallation of the meter as specified in the Schedule of Rates and Fees.

Section 4.4 Meter Vault or Box

A meter may be located in an outside vault or box only when there is not a suitable location inside a building. The meter vault or box shall be provided at the expense of the customer. Unless approved by the Superintendent, a location requiring a confined space entry permit is not considered a suitable location.

Section 4.5 Meter Seals

All meters presently installed and all future installations shall be sealed by the Department. Removal of the seal by anyone other than a Town employee or authorized agent of the Town shall be considered tampering in accordance with Section 7.6, *Tampering with the Water System*.

Section 4.6 Meter Testing and Repair

Every water meter is factory tested before it is first installed, and also before it is reset after being removed for repairs or other purposes. Meters will not be retested after removal and replacement for seasonal drainage.

- A. Water meters will be tested from time to time as the Department may deem necessary. All valves and/or gates that are necessary for maintaining or servicing the water meter shall be the property of the owner and shall be kept in good working order.

- B. A customer may question the accuracy of the meter on his service line at any time. Upon receiving a written request from the customer, the meter in question shall be tested by the Department (preferably in the customer's presence). If the test shows that the meter under-registers (reads in the customer's favor) or over-registers by less than three percent, the customer will be billed for the testing and related costs.
- C. If the testing of a meter as hereinbefore provided shows that the meter fails to register correctly within three percent, then the charge to the customer shall be adjusted accordingly as the registration varies from 100 percent. Such adjustment shall apply to the current period only unless it is apparent to the Department that a previous period's consumption has also been affected by the same error.
- D. If a water meter is damaged by vandalism, freezing, hot water, or other causes within the control of the customer, all labor, administrative and material expenses shall be billed to the customer.
- E. If, due to normal wear, a meter cannot be repaired the Department shall replace the meter. If a meter cannot be repaired because of misuse, abuse, or any reason other than normal wear, the Department shall replace the meter and the customer shall be billed for all related costs.

Section 4.7 Meter Interval Testing

The Department shall require the testing of all water meters, per AWWA standards at the following intervals:

Meter Size (inches)	5/8	3/4	1	1½	2	3	4	6 and over
Test Interval (years)	10	10	4	4	4	2	1	1

Section 4.8 Private Fire Protection

All water supplied by the PWS through fire service pipes may, at the option of the Department, be metered, and special measuring and detecting devices may be installed, and all such meters and devices may be approved, furnished and installed by the Department at the customer's expense in accordance with the current Schedule of Fees.

Section 4.9 Temporary Service During Construction

The Department will provide a hydrant meter and backflow device assembly for temporary use of water during construction of a building upon an approved application for said assembly. A construction hydrant meter and backflow prevention device shall be installed and/or inspected and tested by the Department prior to water service being turned on. When the use of the hydrant has been completed, the hydrant user shall notify the Department office and the Department will close the hydrant and remove the hydrant meter and backflow device assembly.

- A. The hydrant user shall be required to make a security deposit to cover damages or loss to the hydrant meter and backflow device assembly as specified in the Schedule of Fees. Deposits for the hydrant meter and backflow device assembly shall not be credited with any interest.

- B. The cost of setting, removal and use of the hydrant meter and backflow device assembly will be as specified in the Schedule of Fees. Payment of all fees shall be in advance.
- C. If there is no damage to the hydrant meter and backflow device assembly, the charge for water will be deducted from the deposit and the balance if any, returned to the user. If the Department discovers any damage to the hydrant meter and backflow device assembly, the Department shall make the necessary repairs at the expense of the hydrant user.
- D. If the hydrant meter and backflow device assembly is lost or stolen, the hydrant user will be required to reimburse the Department at the current replacement value.
- E. The hydrant user shall be charged for either the volume of water used, or on a per diem basis as determined by the Department as specified in the Schedule of Rates and Fees.
- F. The hydrant and backflow device assembly shall be for a specific registered location and shall not be moved to another location for any reason.

Section 4.10 Water for Tank Trucks/Special Events

Consumers may draw water for tank trucks or for special events from the PWS at such location or locations as may be designated by the Superintendent. The Superintendent shall require installation by the Department of a temporary hydrant meter and backflow prevention device on the hydrant or other water source. In all cases, the consumer shall pay a water service turn-on fee as well as the standard rate for the quantity of water drawn as set forth in the current Schedule of Rates and Fees. All fees and charges may be waived if the use of this water is for the public good, safety, or special civic events approved by the Board of Water Commissioners.

Section 4.11 Theft of Service

In accordance with RSA 637.8, obtaining water from the PWS by any means designed to avoid due payment constitutes theft and is a criminal offense. If evidence of meter or MXU transceiver tampering or any other theft of water is found, the Town shall take the following steps.

- A. Theft from a Service Line.
 - 1. Water service to the property shall be terminated by the Town immediately in order to prevent further theft.
 - 2. The owner of the property shall be required to reimburse the Town for double the normal charge for the quantity of water stolen based on the Town's best estimate.
 - 3. The owner of the property shall be required to reimburse the Town for all expenses associated with the termination of water service.
 - 4. The owner of the property shall be required to reimburse the Town for the cost of remedying any damage to the meter, MXU transceiver, and/or PWS infrastructure.
 - 5. If permitted to re-establish water service, the owner of the property shall provide a cash security deposit to the Town in an amount equal to five times the value of the Town's best estimate of the projected maximum quarterly water usage.

6. If permitted to re-establish water service, the owner of the property shall be required to reimburse the Town for all costs associated with re-establishing service.
7. The Town, at its discretion, may elect to pursue criminal and/or civil action against the responsible party or parties.
8. The Town may, at its discretion, elect not to re-establish water service to any property where theft of service has occurred.

B. Theft from a Hydrant, a Distribution Main, or Elsewhere in the PWS

1. All flow of water to the point of the theft shall be terminated immediately.
2. If the responsible party can be identified, they shall be required to reimburse the Town for double the normal charge for the quantity of water stolen, based on the Town's best estimate.
3. If the responsible party can be identified, they shall be required to reimburse the Town for the cost of terminating the flow of water.
4. If the responsible party can be identified, they shall be required to reimburse the Town for the cost of any damage caused by the theft, including damage to the PWS infrastructure.
5. The Town may, at its discretion, elect to pursue criminal and/or civil action against the responsible party or parties.

Note: In the State of New Hampshire, tampering with, attempting to tamper with, or making a threat to tamper with a PWS with the purpose of harming persons is a class B felony if done by a natural person, and a felony if done by any other person. (per RSA 485.31). A natural person may, in addition to any sentence of imprisonment, probation or conditional discharge, be fined not more than \$50,000 if found guilty of tampering with a public water system with the purpose of harming persons, and not more than \$25,000 if found guilty of an attempt to tamper with or making a threat to tamper with a public water system with the purpose of harming persons. Each day of violation shall constitute a separate violation. A person other than a natural person (i.e., a partnership, company, public or private corporation, or any other legal entity) which tampers, attempts to tamper, or makes a threat to tamper with a public water system with the purpose of harming persons shall be liable to the state, upon suit brought by the attorney general, for a civil forfeiture not to exceed \$50,000 for such tampering or not to exceed \$25,000 for such attempt or threat.

ARTICLE V – WATER MAIN CONSTRUCTION

Section 5.1 General

All water mains shall be constructed in accordance with this Ordinance and the Department Specifications. A deed must be signed by the developer indicating that title to the new distribution water mains will become the property of the Department upon acceptance by the Board of Water Commissioners of the water mains and appurtenances and upon acceptance by the Board of Selectmen of

the road becoming a Town owned road, and upon approval of the completed installation by the Department. Final acceptance of the water distribution mains and appurtenances is conditioned upon acceptance of the road by the Town.

Section 5.2 Maintenance

The property owner shall provide written financial security as approved by the Board and guarantee the new distribution water main and pavement to be free from defects for one full year following approval of the completed installation by the Department.

Any repairs or corrections to the new distribution water main or pavement or areas disturbed during construction will be made by the property owner/contractor. If these repairs are not made within the time set forth by the Planning Board, the repairs will be made by the Department or their agents. A bill for this work will be sent to the developer and a copy of the bill presented to the Planning Board with a request that the subdivision security be held until the bill is paid, or for 30 days after which time the unpaid balance shall be deducted from the security held by the Planning Board.

Section 5.3 Materials

All materials, size and make of pipe, valves, fittings and appurtenances shall be new and reviewed and approved by the Department prior to construction.

Section 5.4 Installation

All water mains and appurtenances shall be installed with a minimum depth of five (5) feet of cover. All intersections shall be properly gated and hydrants shall be located approximately every 500 feet for residential, and 300 feet for industrial/commercial, beginning at the existing hydrant, or as required by the Fire Chief. The minimum nominal size of water main shall be eight (8) inches.

Water mains shall not be placed in the same trench with gas pipes, electrical conduits, sewers, or similar structures except under special conditions, in which case written authorization must be obtained from the Superintendent.

The Department may provide full time observation of all water main installation, disinfecting and testing. All costs associated with this observation shall be borne by the property owner.

Cross-Connections Control Program. See Article VIII, Section 8.1.

An as-built plan showing the water system with GPS locations of mains, fittings, tees, bends, gates, hydrants, corporations stops, and curb stops shall be delivered to the Department in a digital format compatible with the Town's GIS mapping system.

ARTICLE VI – WATER SYSTEM OPERATION

Section 6.1 Service Line & Lateral Ownership and Maintenance

All service laterals up to and including the curb stop or gate valve shall be owned and maintained by the Department. From the curb stop to the building, the service line shall be installed, owned and maintained by the customer. Customers shall maintain the plumbing and fixtures within their own premises in good

repair and protected from freezing at their own expense. They shall make any repairs that may be necessary to prevent leaks and damage. The customer shall repair all water leaks (interior or exterior) immediately or be subject to termination of water service.

Section 6.2 Flushing Water Mains

A regular schedule of flushing mains shall be established by the Superintendent and the Commissioners. Notice of times and locations of planned flushing measures shall be published in a newspaper of general circulation at least two days prior to the date(s) of flushing and posted on the Town's website.

Section 6.3 Quantities of Water Through Fire Service

The Department does not guarantee to furnish proper quantities of water through any fire service, nor does it undertake to guarantee anything relative to that service, but it will endeavor to maintain a reasonable service.

Section 6.4 Flow Test for Private Fire Service and Fire Apparatus

Private fire service and fire apparatus connected therewith may be tested by the owners or by insurance inspectors under the following conditions:

- A. Notice to be given at the Department Office and the date and hour agreed upon by the Superintendent or his designee.
- B. Tests shall be conducted in the presence of a representative of the Department assigned by the Superintendent.
- C. The owner shall be billed for the actual water used in testing based on the Town's current unit price for water, and for the services of the Department representative based on standard minimum and per hour charges developed by the Department and listed in the Schedule of Fees.

Section 6.5 Curtailment of Use

The Board of Water Commissioners reserves the right, in periods of drought or emergency or when deemed essential to the protection of the public health, safety and welfare, to restrict, curtail or prohibit the use of water for secondary purposes, such as irrigation, car washing, or filling swimming pools and shall have the right to fix the hours and periods when water may be used for such purposes.

Section 6.6 Shutoff Damage

The Department will not be responsible for any damages caused by shutoff of the distribution main or service lateral because of emergency shortage of supply or for repairs, extensions, or connection, or for any other reason beyond the control of the Department. Notice of shutoff will be given when practicable, but nothing in this rule shall be construed as requiring the giving of such notice.

- A. The Department will not be responsible for damages caused by discolored water, which may be occasioned by cleaning of pipes, reservoirs, or standpipes, or the opening or closing of any valves or hydrants or any other cause when not due to lack of reasonable care on the part of the Department.

- B. Acceptance of service by the customer shall be on the express condition that the Department shall not be liable for any damages caused by bursting of pipes, collapse or leakage of customer's equipment, nor for any leakage from any pipes, fixtures, or other appliances wherever located between the curb stop or gate valve and the point of leakage for any cause whatsoever.
- C. The Department in no way guarantees the quantity or the quality of the water at the user's tap, but will endeavor to render the best possible service at all times. The Department shall provide a minimum working pressure of 20 pounds per square inch (psi) at ground level under normal conditions. Normal conditions exclude water main breaks, main flushing, and fire fighting activities.

Section 6.7 Termination of Water Service

Reasons for termination of water service.

- A. Violation of this Ordinance, any water system standard or requirement, an order issued hereunder, or any applicable State or Federal law;
- B. Providing false or misleading information to the Department;
- C. Failure to report a significant change in the purpose(s) for which municipal water is used;
- D. Refusal of reasonable access to the customer's premises for the purpose of inspection, monitoring, or testing;
- E. Failure to pay fines;
- F. Failure to pay water charges;
- G. Failure to meet compliance schedules; or
- H. Violation of the Municipal Water System Ordinance

Section 6.8 Termination Without Notification

Any water service may be immediately terminated, without notification, for any of the following reasons:

- A. An illegal connection to a service line, service lateral, or any other part of the PWS.
- B. A cross-connection.
- C. Bypassing or tampering with a service line, meter, backflow preventer, fire hydrant, sprinkler system, or other appurtenant device.
- D. Denial of access to a representative of the Department as authorized by this Ordinance.
- E. Non-compliance with request to curtail the use of water under special conditions determined by the Department or Water Commissioners.
- F. A faulty backflow prevention device.

- G. Use of water for a purpose other than described in the application.
- H. Willful waste of water.
- I. Water leak (internal or external)
- J. Any action that presents an imminent hazard to the public health, safety or welfare, or to the local environment.

ARTICLE VII – WATER SYSTEM USE

Section 7.1 Hydrants and Valves

- A. Because rapid or uncontrolled changes in water flow or water pressure in one portion of the water system can cause adverse effects in other portions of the PWS, no person(s) shall at any time operate a privately owned fire hydrant or gate valve without prior approval from the Superintendent. Fire fighters who are actively engaged in emergency management activities are exempted from this prohibition.
- B. Town owned hydrants or valves shall only be operated by:
 - 1. the Superintendent or his authorized representative;
 - 2. fire fighters engaged in testing (with specific authorization from the Superintendent), filling fire trucks after a fire, working at a fire, or other emergency;
 - 3. personnel of other departments of the Town (with specific authorization from the Superintendent); and
 - 4. authorized private contractors while working for the Town, and under the direction of the Superintendent.

Section 7.1.1 Private Fire Hydrants

- A. Responsibility for properly maintaining a private fire hydrant shall be that of the owner of the property or the owner's designee.
 - 1. Where the owner of a private fire hydrant has designated an occupant, management firm, or managing individual, through specific provisions in the lease, written use agreement, or management contract, to be responsible for the inspection, testing and maintenance of a private fire hydrant in accordance with this Ordinance, the owner's designee shall comply with the requirements of this Ordinance and shall be subject to enforcement of this Ordinance in the event of a failure to so comply.

- B. By means of periodic inspections, tests, maintenance, correction, and repair, every private fire hydrant shall be maintained in proper working condition, consistent with this Ordinance, the AWWA Standard, and the manufacturer's specifications or recommendations.
- C. Inspection, testing, maintenance, correction and repair shall be implemented with the procedures meeting or exceeding those established in the AWWA Standard, and shall be in accordance with the manufacturer's specifications or recommendations. Inspection, testing, maintenance, correction, and repair shall be performed by qualified maintenance personnel or a qualified contractor.
- D. The owner or owner's designee shall notify the Fire Department and Water Department before testing or shutting down a private fire hydrant or its water supply.
 - 1. This notification shall include the purpose for the shutdown, the private fire hydrant involved, and the estimated time that the hydrant will be impaired.
 - 2. Out of service hydrants shall be marked with an out of service ring or covered over with a plastic bag.
- E. The owner or owner's designee shall notify the Fire Department and Water Department when the private fire hydrant is returned to service.
- F. The owner or owner's designee shall promptly correct or repair any deficiencies, damaged parts, or impairments found while performing the inspection, testing, and maintenance requirements of this Ordinance.
- G. The owner or owner's designee shall promptly correct or repair any deficiencies, damaged parts, or impairments of any private fire hydrant of which the owner or owner's designee has knowledge or, in the exercise of reasonable care, ought to have knowledge.
- H. Non-draining hydrants shall be labeled and pumped after each use.
- I. Private fire hydrants shall be kept free of snow, ice or other materials and protected against mechanical damage so that free access is ensured.
- J. Records shall indicate the procedure performed concerning the inspection, testing maintenance, correction, and repair of a private hydrant. Records shall include the organization that performed the work, the results, and the date, as well as other pertinent information as the Water Department shall require.
 - 1. The owner or owner's designee shall submit to the Water Department a record of the annual inspection, test maintenance, correction and repair of each private fire hydrant and its components.
 - 2. The owner shall retain the original records of a private fire hydrant for the life of the private fire hydrant.

Section 7.2 Destruction of Department Property

Damage or vandalism to Department property should be reported immediately to the Town. Persons found to be responsible for such damage or vandalism shall be charged the entire cost of restoring the property to proper operating condition and/or replacement when necessary due to the extent of the damage, and may be subject to civil and/or criminal prosecution.

- A. A bill for all materials and labor will be sent to the owner of any property who hires contractors to do work causing damages to any pipes, fittings, shut-off boxes, or other materials owned by the Department.
- B. The Department will not repair any structures that have to be removed to raise, lower or operate the property shut-off. The Department will not be responsible for damage to lawns, gardens, driveways, fences, walls or pavement if removal is necessary to get to the property shut-off.

Section 7.3 Waste of Water

Customers shall prevent all unnecessary waste of water. They shall not allow it to run to prevent freezing or longer than necessary for proper use. The Water Commissioners shall determine what constitutes waste or improper use and will restrict the same when necessary. Heat tapes and insulation shall be required on all plumbing located beneath mobile homes, in unheated crawl spaces, and in any other area that is likely to be exposed to freezing temperatures. Water will not be turned on if a properly working heat tape is not installed.

Section 7.4 Automatic Lawn Irrigation System

- A. Rain Sensors. Installation of new automatic lawn irrigation systems connected to the municipal water supply shall be equipped with a rain sensor approved by the Department so that watering will be automatically prevented during or after a rain storm. Any upgrade or repair of an existing automatic lawn irrigation system shall include the installation of an approved rain sensor if the same is not already installed and in good working condition.
- B. Backflow Prevention. The lawn irrigation system shall be equipped with a backflow prevention device which meets the requirements of this Ordinance. If the Department discovers an existing sprinkler system which is not equipped with a backflow prevention device, the Department may require the customer to provide and install the device.

Section 7.5 Pressure Fluctuation Caused by Customer

No customer shall install or use any water consuming apparatus which will affect the pressure or operational conditions in the PWS so as to interfere with the water service of another customer.

- A. Where a customer has installed, or proposed to install, apparatus which requires water in sudden and/or material quantities, impairing pressure to the detriment, damage, or disadvantage of customers, the Department reserves the right to require such customer to install devices or apparatus which will confine such fluctuation of demand or reduction of pressure to reasonable limits determined by the Department. All such devices shall be approved by the Department.
- B. If a customer, after receiving written notice from the Department, fails to present an acceptable remedial plan to confine fluctuation of demand or reduction of pressure within the limits set by the Department, that customer's water service will be discontinued.

Section 7.6 Adequacy of Pressure and Volume

The Department will try to continue to provide adequate volume and pressure of water at all times of the day, however, this cannot be guaranteed due to events beyond their control and normal operation requirements.

Section 7.7 Tampering with the Water System

No person other than an authorized town employee shall tap into any water main, service lateral or service line, or tamper with any gate valve, hydrant, curb stop or water meter that is either owned by the Town or connected, directly or indirectly, to the PWS without prior authorization from the Department.

Section 7.8 Turning Water Service On and Off

Forty-eight hours (two business days) notice is required for customer-requested turn on or shut off of water service. The requested action will be carried out as soon as possible in accordance with the Department's normal turn on/shut off schedule except in cases of emergency.

- A. No person other than an authorized employee or agent of the Department shall turn any water service on or off. The homeowner or its representative must be present for the turn on.
- B. In the event the customer requests water to be turned on or off, the Department will not be responsible for any damages occurring due to the actions requested.
- C. Emergency shut off of Town owned curb stops at the customer's request shall be attended to as soon as possible at any time.
- D. Water shut off in the event of any type of disaster on an unattended home where a leak is discovered may be carried out without notifying the customer.
- E. Once water service for an account has been turned off by the Town, if the water at that location is found to have been turned back on without the Town's authorization the owner shall be deemed to be in violation of Section 7.7 of this Ordinance. If the water was originally turned off for nonpayment or some other violation of this Ordinance, the water shall be turned off again by the Town and shall not be turned on until all outstanding bills, fees, charges, liens, and penalties have been paid in full.

ARTICLE VIII – WATER SUPPLY AND SYSTEM PROTECTION

Section 8.1 Cross-connection Control Program

The purpose of this section is to protect the water supply of the Town from potential contamination or pollution from cross-connections; and to ensure that approved backflow prevention devices are tested as required.

- A. The creation, installation, or maintenance of any cross-connection that poses a risk to the PWS as determined by the Superintendent is prohibited. Any such cross-connection now existing or hereafter created or installed is hereby declared to be a violation of this Ordinance and shall be rectified as directed by the Superintendent or his authorized representative(s).

- B. The control or elimination of cross-connections shall be done in accordance with NHDES rules and requirements. [Ref. *Env-Ws 364 Backflow Prevention*] The policies, procedures and criteria for determining appropriate levels of protection shall be in accordance with NHDES rules.
- C. Water service to any premises shall be contingent upon the customer providing cross-connection control in a manner approved by the Department. Backflow prevention devices required to be installed shall be a model approved by the Department and NHDES.

Section 8.2 Water Source Protection Program

- A. It is essential for the protection of the public health that the Town investigate private properties within the boundaries of the water source protection area as determined by the Town and the NHDES. [Ref. *RSA 485: New Hampshire Safe Drinking Water Act; RSA 485-C Groundwater Protection Act*] The purpose of the investigation is to locate potential contamination sources that might affect the water quality of the groundwater aquifers that serve as the source of water for the Town's water system. For each potential contamination source, the Town will prepare an inventory using the form approved by the NHDES.
- B. The Superintendent or other duly authorized Town employees shall obtain permission to enter private properties within the boundaries of the water source protection area, or any other properties within the Town, for the purpose of inspection, observation, measurement, sampling, testing and information-gathering as needed to protect the Town's sources of potable water from sources of pollution and/or degradation of the water quality and in conformity with applicable requirements of the NHDES and the United States Environmental Protection Agency. In the event that access to private properties is not available, the Superintendent or his designee may obtain an administrative search warrant as provided under New Hampshire law.

ARTICLE IX – BILLING, ABATEMENT, TERMINATION, AND PENALTIES

Section 9.1 Financial Responsibility

Financial responsibility for all water bills, charges, fees, liens, fines, assessments, and any other costs associated with the provision of municipal water service to a property under this Ordinance shall reside with the property owner, as reflected on the deed issued by the Register of Deeds, Rockingham County, New Hampshire.

Section 9.2 Water Rates

Each customer shall be billed for water according to the current Schedule of Rates.

- A. All residential customers shall be billed for water according to the current rates established by the Board of Water Commissioners and published in the current Schedule of Rates.
- B. All residential water bills shall be due and payable on established dates set forth by the Board of Water Commissioners published with the current Schedule of Rates.

Section 9.3 Payment by Check

Checks should be made payable to the Town of Seabrook and mailed to the Tax Collector's Office. Once a certified notice charge has been added to a customer's account, checks will no longer be accepted. These accounts are severely in arrears and only cash or a bank check will be accepted.

Section 9.4 Payment by Mail; Receipts

Remittances sent by mail are at the sender's risk and if receipts are desired a stamped, self-addressed envelope must be sent with the remittance.

Section 9.5 Bad Check Fee

A fee shall be added to any account for which payment is made by a bad check in accordance with the maximum amount allowed by State Law.

Section 9.6 Failure to Receive Notice

The failure of the customer or his agent to receive notice of his water bill does not relieve him of the obligation of its payment nor from the consequences of its non-payment.

Section 9.7 Payment of Bills; Overdue Bills

- A. Payment of water bills shall be due 30 days from the billing date.
- B. The Department shall add to all overdue accounts late fees and/or interest charges as specified in the current Schedule of Rates.
- C. The Department shall send thirty-day notices for all past due water bills.
- D. A five-day turn-off notice shall be sent by certified mail to each past due account on a schedule worked out by the Superintendent.
- E. In no case shall unpaid accounts remain active after 90 days.
- F. If the water service is terminated, the account will be charged a turn-on fee. The bill and turn-on fee will have to be paid in full before the water service is turned back on.

Section 9.8 Billing Multi-unit Dwellings

- A. The owner of a multi-unit residential dwelling (apartment building, trailer park, etc.) will be billed as a separate water service. One bill containing all separate water service charges will be sent to the owner or authorized representative for the property. Failure of the owner to ensure payment of the entire bill shall subject the owner and the owner's property to all applicable measures for delinquent accounts, and pursuant to RSA 38:22, it shall constitute a lien against the owner's property for one year, wherein after the first year the Board of Water Commissioners shall reconstitute the lien.
- B. Additional units that are added after the original water bills are sent out shall be billed after the first day of water service. Such bills shall be due and payable within 30 days.

Section 9.9 Billing and Payment for Commercial/Industrial Water Service

Non-residential customers shall be billed on the basis established by the Board of Water Commissioners in the current Schedule of Rates.

Water meters for commercial/industrial accounts shall be read and billed on the basis established by the Board of Water Commissioners in the current Schedule of Rates.

Section 9.10 Abatement

Abatements may be made by the Water Commissioners upon the customer's request, provided one of the following reasons is given:

- financial hardship, as evidenced by the customer receiving aid at the time of the abatement;
- fire or disaster;
- to correct a billing error; or
- for such other reason as may be determined by the Board of Water Commissioners.

Customers shall not be prohibited from making an abatement request, nor shall the Water Commissioners be obligated to grant an abatement.

Section 9.11 Collection of Delinquent Accounts

On any account found to be delinquent under the terms of this Ordinance, collection may be aided by any of the following procedures:

- Discontinuance of water service after proper notice.
- Collection through small claims court or any other court of competent jurisdiction.
- Collection through the collector of taxes through the use of a special warrant signed by the Selectmen requiring him to collect water bills in accordance with RSA 38:22 II (a) and (b).

Section 9.12 Late Fees, Interest Charges and Reconnect Charges

- A. A late fee shall be added after 30 days or a specified date that may be a set fee or an interest charge as specified in the billing rate.
- B. If a service is shut off for late payment, a turn-on fee shall be charged before a service is turned back on.

Section 9.13 Transfer of Ownership

In the event of the transfer of ownership of premises being supplied with water, the buyer shall be responsible for paying all bills, fees, charges and liens, etc., due on the property to the Department.

It is the responsibility of the new owner to notify, in writing, the Department of all necessary information for billing purposes. The new owner shall also be responsible for all charges billed and due at the time of transfer of ownership.

The Department shall coordinate with the Assessing Department in an effort to keep up with property transfers, and shall notify new property owners of any outstanding bills on the property. However, failure to make such notification shall in no way relieve the buyer of responsibility under this section.

Section 9.14 Fee and Payment for Water Service Connections

During the application for a new service lateral or new water main a deposit will be required to cover the Town's costs for the oversight.

A one-inch service lateral shall be installed and totally paid for by the customer, subject to approval and inspection by the Department. A deposit based on the estimated charge for town oversight, inspection, and approval is to be paid in full prior to the application approval and before any work is done.

Section 9.15 Agricultural Exception

The Water Commissioners may grant an agricultural exception from the sewer flow base rate upon the customer's request to the Water Commissioners provided the property is 3.5 acres or greater and the water is being used for agriculture and is not being discharge to the sewer.

Upon the request being granted by the Water Commissioners, the Department will configure a bill using the average month flow from other customers in the residential data base. Any usage above that average will not be charged the sewer flow base rate.

ARTICLE X – POWERS AND AUTHORITIES

Section 10.1 Compliance Monitoring

The Town shall investigate instances of noncompliance with the requirements of this Ordinance and related administrative rules. The Town shall, as necessary, sample and analyze water from a customer's premises, and conduct inspection activities to identify, independently of information supplied by such customers, occasional and continuing noncompliance with this Ordinance and related administrative rules.

Section 10.2 Right of Entry: Inspection and Sampling

All customers of the PWS shall allow access by Town, State and EPA personnel for the purpose of determining whether the customer is complying with all requirements of this Ordinance and associated administrative rules. Customers shall allow the Superintendent and other duly authorized employees of the Town bearing proper identification ready access to all parts of the premises for the purposes of inspection, sampling, and the performance of any additional duties.

- A. Where a customer has security measures in force that require proper identification and clearance before entry into its premises, the customer shall make and maintain all necessary arrangements so that, upon presentation of suitable identification, the Superintendent will be permitted to enter without delay for the purposes of performing specific responsibilities.

- B. The Superintendent shall have the right to set up on the customer's property, or require installation of, such devices as are necessary to conduct water sampling and/or metering.
- C. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the customer at the written or verbal request of the Superintendent. The costs of clearing such access shall be borne by the customer.
- D. Unreasonable delays in allowing the Superintendent access to the customer's premises, sampling or inspection sites, or relevant records shall be a violation of this Ordinance.
- E. The Superintendent or other duly authorized employee(s) is authorized to obtain information concerning all industrial processes that make use of PWS water. In accordance with the provisions of Article XI of this Ordinance, the customer may request that the information in question not be disclosed to the public if it can establish that revelation to the public might result in an advantage to competitors.
- F. While performing the necessary work on private properties referred to in this article, the Superintendent or duly authorized employees of the Town shall observe all safety rules applicable to the premises established by the customer. The customer shall be held harmless for injury or death to the Town employees, and the Town shall indemnify the customer against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the customer and growing out of the monitoring activities, except as such may be caused by negligence or failure of the customer to maintain safe conditions.
- G. The Superintendent and other duly authorized employees of the Town bearing proper identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the PWS lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
- H. The Superintendent and other duly authorized employees of the Town bearing proper identification shall inspect the premises of any customer for leakage or waste of metered water upon the request of the customer. Such a request may be required in writing by the Town. The Town shall not be held liable for any condition that may prevail or exist and discovered by inspection of the Town upon request.

Section 10.3 Search Warrants

If the Superintendent has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town designed to verify compliance with this Ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Superintendent may seek issuance of a search warrant or administrative search warrant, as applicable, from the District or Superior Court having jurisdiction.

ARTICLE XI – CONFIDENTIAL INFORMATION/PUBLIC PARTICIPATION

Information and data about a customer obtained from reports, surveys, applications, and from the Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the customer specifically requests, and is able to demonstrate to the satisfaction of the Superintendent, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time the information or data is submitted or obtained. When requested and demonstrated by the customer that such information should be held confidential, the information that might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to this Ordinance, the Clean Water Act, and in enforcement proceedings involving the person providing the report. Neither water quality data nor information related to the control of cross-connections or back-siphonages will be recognized as confidential information and will be available to the public without restriction.

ARTICLE XII – ENFORCEMENT REMEDIES

Section 12.1 Notification of Violation

When the Superintendent determines that a customer has violated, or continues to violate, any provision of this Ordinance, or an order issued hereunder, or any other water system standard or requirement, the Superintendent may serve upon that customer a written Notice of Violation. Within the time period specified in the violation notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the customer to the Superintendent. Submittal of this plan in no way relieves the customer of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this article shall limit the authority of the Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

Section 12.2 Compliance Schedule Development

The Superintendent may require any customer that has violated, or continues to violate, any provision of this Ordinance, or any order issued hereunder, or any other water system standard or requirement, to develop a compliance schedule. A compliance schedule pursuant to this section shall comply with the following conditions:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to elimination of all violations and compliance with all rules, regulations, standards, and orders;
- B. No increment referred to above shall exceed thirty (30) days, and the Superintendent shall have the option of specifying shorter increments at his discretion;
- C. The customer shall submit a progress report to the Superintendent no later than fourteen (14) days (sooner, if otherwise specified by the Superintendent) following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the action being taken by the customer to return to the established schedule; and

- D. In no event shall more than thirty (30) days elapse between such progress reports to the Superintendent.

Section 12.3 Show Cause Orders

The Superintendent may require a customer that has violated, or continues to violate, any provision of this Ordinance, any order issued hereunder, or any other water system standard or requirement, to appear before the Superintendent and show cause why a proposed enforcement action should not be taken. Notice shall be served on the customer specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the customer show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least sixteen (16) days prior to the meeting. Such notice may be served on any authorized representative of the customer. A show cause meeting shall not be a bar against, or prerequisite for, executing any other action against the customer.

Section 12.4 Cease and Desist Orders

When the Superintendent determines that a customer has violated, or continues to violate, any provision of this Ordinance, an order issued hereunder, or any other water system standard or requirement, the Superintendent shall issue an order to the customer directing it to cease and desist all such violations and directing the customer to:

- A. Immediately comply with all requirements; and
- B. Implement such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating water usage.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the customer.

Section 12.5 Consent Orders

The Superintendent is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any customer responsible for noncompliance. Such orders will include specific action to be taken by the customer to correct the noncompliance within a time period specified by the order. Such orders shall have the same force and effect as the administrative orders issued pursuant to Sections 12.3 and 12.4 of this Ordinance and shall be judicially enforceable.

Section 12.6 Water Service Termination

The Superintendent may terminate water service to a customer for:

- A. Any reason listed under Section 6.7 of this Ordinance;
- B. Violation of this Ordinance, any water system standard or requirement, an order issued hereunder, or any applicable State or Federal law;
- C. Providing false or misleading information to the Department;
- D. Failure to report a significant change in the purpose(s) for which municipal water is used;

- E. Refusal of reasonable access to the customer's premises for the purpose of inspection, monitoring, or testing;
- F. Bypassing or tampering with a water meter or backflow prevention device;
- G. Failure to pay fines;
- H. Failure to pay water charges;
- I. Failure to meet compliance schedules; or
- J. Any action that presents an imminent hazard to the public health, safety or welfare, or to the local environment.

Section 12.7 Termination of Water Service

Any customer who violates a provision listed in Section 6.7 or 6.8 of this Ordinance is subject to termination of water service. The Superintendent shall notify the Town's Health Officer and/or the Board of Health upon termination of water service to any building. Exercise of this option by the Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the customer. A fee will be charged for turning water service back on in accordance with the current Schedule of Fees.

Section 12.8 Recovery of Expenses

There shall be, in addition to any other remedies or penalties imposed or available by law, a fine of \$1,000 for each violation of this Ordinance, any water system standard or requirement, or an order issued hereunder.

Any person violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss, or damage occasioned by the Town by reason of such violation. Employers shall be held jointly liable to the Town for any expense, loss, or damage occasioned by the Town through the actions of their employees. Property owners shall be held jointly liable to the Town for any expense, loss, or damage occasioned by the Town through the actions of their tenants.

If the Superintendent or Board of Water Commissioners implemented the discontinuance of water service to a building, the Town may collect the expenses associated with completing that discontinuance from any person responsible for, or willfully concerned in, or who profited by such violation. The Town may thereafter refuse to permit the resumption of water service or the establishment of any new water connection to the property concerned in the violation until the claim of the Town for the cost of completing such discontinuance shall have been paid in full plus interest and the reasonable cost of any legal expenses incurred by the Town in connection therewith.

Section 12.9 Harm To Town Property

No person shall maliciously, willfully, or negligently damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment that is part of the PWS. Any person violating this provision shall be subject to immediate arrest under charges of destruction of public property and disorderly conduct pursuant to the local Ordinances and State and Federal statutes.

Section 12.10 Injunctive Relief

When the Superintendent determines that any person or customer has violated, or continues to violate, any provision of this Ordinance, an order issued thereunder, or any other water system standard or requirement, the Superintendent may, after notifying the Town Manager and the Board of Water Commissioners, petition the Rockingham County Superior Court through Town Counsel for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the order, or other requirement imposed by this Ordinance on activities of the customer. The Superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the customer to conduct remedial action. A petition for injunctive relief shall not be a bar against, or a prerequisite for, implementing any other action against a customer.

Section 12.11 Civil Penalties

- A. A customer who has violated, or continues to violate, any provision of this Ordinance, an order issued hereunder, or any other water system standard or requirement shall be liable to the Town for a maximum civil penalty per violation, per day, plus actual damages incurred by the Town. In the case of a recurring or long-term violation, penalties shall accrue for each day during the period of the violation.
- B. The Town may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including inspection and monitoring expenses, and the cost of any actual damages incurred by the Town. The Board of Water Commissioners, or the Town Manager or Superintendent if directed by the Board, shall petition the Court to impose, assess, and recover such sums.
- C. In determining the amount of civil liability, the Court shall consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the customer's violation, corrective actions implemented by the customer, the compliance history of the customer, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, implementing any other action against a customer.

Section 12.12 Criminal Prosecution

Any person who willfully or negligently violates any provision of this Ordinance, an order issued hereunder, or any other water system standard or requirement shall, upon conviction, be guilty of a violation, punishable by a fine of \$1,000 for each violation. Every separate provision violated shall constitute a separate violation. Every day that a violation occurs shall be deemed a separate violation.

Section 12.13 Nonexclusive Remedies

The remedies provided for in this Ordinance are not exclusive. The Town may take any, all, or any combination of these actions against a noncompliant customer. The Town may pursue other action against any customer without limitation, including *ex parte* temporary judicial relief to prevent a violation of this Ordinance. Further, the Town is empowered to pursue more than one enforcement action against any noncompliant customer.

ARTICLE XIII – VALIDITY

- A. If a provision of this Ordinance is found to be in conflict with any provision of zoning, building, safety or health or other Ordinance or code of the Town, the State of New Hampshire, or the Federal government existing on or subsequent to the effective date of this Ordinance, that provision which in the judgment of the Town establishes the higher standard of safety and protection shall prevail.
- B. The validity of any article, section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance that can be given effect without such invalid part or parts.

ARTICLE XIV – INTERPRETATION OF REQUIREMENTS

Section 14.1 Interpretation

The provisions of this Ordinance with respect to the meaning of technical terms and phrases, the classification of different types of water lines, the regulations with respect to installing or constructing connections to water distribution mains and service laterals, and other technical matters shall be interpreted and administered by the Superintendent acting in and for the Town of Seabrook, New Hampshire through the Board of Water Commissioners.

Section 14.2 Appeals

Any party aggrieved by any decision, regulation or provision under this Ordinance, as amended, from time to time, shall have the right to appeal said decision to the Superintendent, who shall issue a decision within 30 calendar days of the appeal. If said appeal is denied by the Superintendent, then the aggrieved party shall have the right to appeal to the Seabrook Town Manager and then to the Board of Water Commissioners.

ARTICLE XV – MODIFICATIONS

The Town reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to water service connections and the municipal water system, which additional rules and regulations, to the extent appropriate, shall be a part of these regulations.

ARTICLE XVI – ORDINANCE IN FORCE

This Ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law. The adoption of this Ordinance specifically repeals all previously adopted Water Ordinances of the Town of Seabrook, New Hampshire but leaves all current water rates in effect until further amended.

Duly enacted and ordained this - _____, by the Board of Water Commissioners of the Town of Seabrook in Rockingham County, State of New Hampshire, at a duly noticed and duly held session of the said Board of Water Commissioners.

SEABROOK MUNICIPAL WATER SYSTEM ORDINANCE

Town of Seabrook, New Hampshire

By:

Board of Water Commissioners

_____, Chairman

_____, Vice Chairman

_____, Clerk