

ORDINANCE NO. 408

AN ORDINANCE AMENDING AND RE-ENACTING CHAPTER XI, ARTICLE 3 - THE WATER SUPPLY AND DISTRIBUTION SYSTEM, AND CHAPTER XI, ARTICLE 4 - WASTE WATER SYSTEM AS AMENDED OF THE REVISED ORDINANCES OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA OF 1972.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA, AS FOLLOWS:

- I. Chapter XI, Articles 3 and 4 of the Revised Ordinances of the City of Beulah, Mercer County, North Dakota of 1972, and all subsequent amendments thereto are hereby amended and repealed as follows:**

11-301 Water Works System

It is hereby found and determined that the City of Beulah now owns and operates a waterworks, mains, and water distribution system, together with equipment and appliances connected therewith, as a municipal utility in accordance with the provisions of Chapter 40-33, North Dakota Century Code. Said Water Utility shall hereinafter be referred to as "the utility."

11-302 Water Service Application

Any party desiring water service from the utility for premises not theretofore connected with the utility shall apply for a connection on a form provided by the City. Such application shall state an exact description of the premises to be served and the uses, both general and special, to which the water is to be put. The application shall be filed with the City Auditor. The City shall only accept and approve applications for properties located within the city limits of the City of Beulah. For single family households there shall be a connection charge of \$500.00. For two-family dwellings and multiple family dwellings there shall be a connection charge of \$500.00 per dwelling unit. For commercial operations with a line tap of one inch diameter or less there shall be a connection charge of \$1,500.00. Said connection charge shall increase \$750.00 for each additional half-inch of diameter of water service line not to exceed \$7,500.00.

Any party desiring water service from the utility for premises currently connected with the utility shall apply for water service on a form provided by the City. Such application shall state an exact description of the premises to be served and the uses, both general and special, to which the water is to be put. The application shall be filed with the City Auditor, and the applicant shall thereupon pay to the Auditor, as and for a connection charge, the sum of \$25.00.

11-303 Deposit Required

Any party desiring water service from the utility, upon application for such service, shall deposit with the City Auditor as security for payment of charges to become due, the sum of \$50.00. Said deposit will be refunded to the depositor of the same who no longer wants service and whose bills have all been paid in full.

11-304 Written Application Required

Any party, other than the original applicant, desiring water service for premises where a connection has been pursuant to 11-302 hereof shall make written application therefore as in cases describing in 11-302 hereof.

11-305 Water Meter Purchase and Installation

Each application for water service shall include an agreement to purchase from the City a water meter at a price equal to the cost thereof to the City, including but not limited to the cost of the meter itself, applicable sales tax and freight, which amount shall be added to and payable with the connection charge provided for in 11-302 above.

All water meters shall be installed and maintained in accordance with their manufacturer's specifications and the North Dakota State Plumbing Code. Such installation and maintenance shall be the sole responsibility of the property owner.

11-306 Unlawful to Use Water Without Meter

It shall be unlawful for any person to use water from any premises without the consent of the owner thereof, or to use water from the utility unless drawn through a meter installed in accordance with Section 11-305. No person except an authorized representative of the City shall turn on or off or tamper with any curb cock. Curb cocks shall be installed and maintained in a manner whereby the City shall have unobstructed access to such curb cocks at all times.

11-307 Meters May be Tested

The owner or occupant of any premises may have the meter installed therein tested for accuracy. The owner or occupant shall be responsible to have said meter removed for testing and shall provide the same to the City which shall have said meter tested. The City shall provide the owner or occupant a temporary replacement meter during the time period in which the original meter is being tested. It shall be the owner or occupant's responsibility to have the replacement meter installed. If the original meter registers 98% or greater accurate, then the owner or occupant shall reimburse the City for the City's expenses incurred for said meter testing as well as a fee payable to the City Auditor in the amount of \$50.00. It shall be the owner or occupant's responsibility to have the original meter re-installed and the temporary replacement meter shall be returned to the City. If the original meter registers less than 98% accurate, then the City shall incur the expense of having the original meter tested and there shall be no \$50.00 fee due and payable by the owner or occupant. The owner or occupant, however, shall be required to have the defective original meter repaired or replaced.

Should the City have the meter tested for accuracy, the City shall be responsible to have the original meter removed and temporary replacement meter installed and the City shall also be responsible to have the original meter tested for accuracy. If the original meter registers less

than 98% accurate, the owner or occupant shall be required to either repair or replace the original defective meter and have the same re-installed and the owner or occupant shall thereafter return the temporary replacement meter to the City. There shall be no fee to the owner or occupant when a meter is tested at the request of the City.

11-308 Claims for Defective Service

All claims for defective service shall be made in writing and filed with the City Auditor on or before the 10th day of the month next succeeding such defective service, or be deemed waived by the claimant. It shall be the duty of the City Auditor to have investigated the facts alleged in any claim for defective service, and determine the amount, if any, which should be refunded to such claimant by reason of such defective service, and to report such determination to the City Council, and, if approved by the Council, such amount shall be allowed as a credit on the following bill or paid as other claims, but no claims shall be made against the City for any fire or any injuries to the person or property of any consumer of water under the provisions hereof.

11-309 Applicant Consents to Rules

Each person applying for water service from this utility, and every owner of property for which such application is made, shall be deemed by such application to consent to all the rules, regulations, and rates contained in the resolutions or ordinances of the City and to any modification thereof, and to all new rules, regulations or rates duly adopted.

11-310 Service to Discontinue for Nonpayment of Bills

The City reserves the right to discontinue service to any or all customers of the utility, upon 10 days written notice, for nonpayment of bills or for disregard of the rules and regulations affecting the service. When service has been discontinued for nonpayment of bills or for

disregard of regulations, it shall not be resumed except upon payment of the bill, together with interest thereon at the rate of 12% per annum, full compliance with the regulations, and payment to the City Auditor of a non-refundable re-connection fee of Fifty Dollars (\$50.00) for re-establishing service. A non-refundable re-connection fee of Fifty Dollars (\$50.00) shall also be charged for the re-establishing of service to property in which service was discontinued at the request of the property owner.

11-311 Water Rates

The City of Beulah hereby reserves the right to make changes to the monthly water rates by formal written Resolution of the City Council of the City of Beulah. Said monthly water rates and all subsequent amendments thereto shall become effective when notice thereof has been given by publication in the official newspaper of the City.

All water furnished to consumer shall be charged at the established rates against both the owner of the property and the consumer thereof but shall ultimately be the personal liability of the owner of the property. No contract entered into between the owner of the property and their tenant whereby the liability for water services and charges is to be altered, changed or amended shall in anyway affect the owner's liability hereunder. Owners of premises where water service is supplied shall notify the City Auditor in case any tenant moves from said premises, prior to such moving. On request of the owner or owners, the City Auditor will bill or cause to be billed the occupant or tenant for such charges, but if such charges are not paid when due by the occupant or tenant, the owner or owners shall be responsible for such charges and they shall be assessed to the property served. It shall be the duty of the City Auditor to certify to the County Auditor such unpaid water or service charges that are unpaid in the same manner and at the same

time as other assessments are certified, and they shall be assessed and collected in the same manner.

11-312 Restricting Use

The City of Beulah hereby reserves the right to at any time, restrict or prevent the use of any utility service, including water service, furnished by the City during periods of emergency or circumstances demanding such restriction or prevention of use.

Periods of emergency or circumstances demanding water restriction may be determined by either of the Water and Waste Water Commissioners of the City. Upon determination that an emergency or circumstance requiring restriction of the water use exists, such information will be disseminated immediately over the local radio station in the City of Beulah, and when practicable, in the official newspaper of the City. After such information has been announced, anyone using water in violation of the terms of the restriction shall pay a fine of Seventy-Five Dollars (\$75.00). Each additional day in violation of the restriction shall constitute an additional violation of this section.

11-313 Right to Appeal Rates

The owner or occupant of any premise who, by reason of special circumstances, finds the foregoing rates unjust or inequitable as applied to his premises, may make written application to the City Council for adjustment, stating such circumstances and requesting a different basis of charges for water service to his premises; if such application be approved by the Council, the Council shall by resolution fix and establish fair and equitable rates for such premises during the period of such special circumstances.

11-314 Water Meters Read Monthly

1. The water meter in each residential and commercial premise shall be read monthly, and provided to the City Auditor no later than the 10th day of each month. Monthly statements of water charges for each customer shall be prepared in duplicate, one copy thereof to be filed with the City Auditor and the other copy to be mailed or delivered to the customer. The monthly statement shall be in an amount equal to the total of the following items:

- a. The minimum monthly charge
- b. Any installment due for connection charges
- c. Any repairs charged
- d. Any amount due for water consumed

2. The amount shown on each statement shall be due and payable to the City Auditor on or before the 10th day of each month, and if not paid by the 10th day of each month service to such premises may be discontinued thereafter by the City.

3. Should the City reasonably suspect that a customer is providing inaccurate monthly water readings, either due to a defective water meter or by act of the customer himself, the City may request the customer's water meter to be inspected by an employee of the City to ensure the accuracy of the water meter readings so provided. In the event that said customer refuses to allow the City access to the water meter in question, the City reserves the right to discontinue service to said customer in accordance with Section 11-312 above.

4. The City shall have the right to conduct regular inspections of water meters to ensure that such water meters throughout the City are in proper working order. In the event that any customer refuses to allow the City access to the water meter to be checked, the City reserves the right to discontinue service to said customer in accordance with Section 11-312 above.

11-315 Authority to Issue Bonds

It is hereby found and determined that the City of Beulah now owns and operates a waterworks, mains and water distribution system, together with equipment and appliances connected therewith, as a public utility for the use of the municipal government and inhabitants of the City and other customers, in accordance with the provisions of Charters 33 and 35 of Title 40 of the North Dakota Century Code, as amended; and under the provisions of said laws the City is authorized to improve, better and extend said utility and to pay the cost thereof in whole or in part by the issuance of revenue bonds, payable exclusively out of the net revenues of said utility upon individual properties within the City, and the issuance of special improvement warrants or refunding improvement bonds payable from such special assessments and in part, if so determined by the City Council and approved by the Board of Budget Review, from net revenues derived from such utility improvements.

11-316 Water Utility Fund Created

In furtherance of the operation of said utility and to facilitate the financing of improvements thereof, there is hereby created and shall be maintained on the official books and records of the City a separate and special fund to be designated as the "Water Utility Fund". Into said Fund there shall be created and paid as received the entire gross revenues from time to time derived from the operation of said utility, and from any future additions thereto and betterments thereof, including all income and receipts derived from rates and charges for services, facilities, products and by-products of the utility furnished or sold to the City and its inhabitants and all other customers, and for the availability thereof, and from sale of any of the properties of the utility not necessary to be retained, and from the investment of any of the moneys so collected; but such gross revenues shall not be deemed to include any sums realized from special

assessments or taxes which may be levied or from the sale of bonds or other obligations which may be issued to finance improvements to said utility. All such gross revenues shall be deposited as received in a duly qualified depository bank, and secured as required by law.

11-317 Separate Accounts

On the books and records of the Water Utility Fund there shall be established and maintained two separate accounts designated as the "Operation and Maintenance Account" and the "Surplus Account". From the revenues on hand in the fund from time to time there shall be apportioned to the Operation and Maintenance Account, at least once in each calendar month, as a first lien and charge on the gross revenues, such sum as shall be needed, over and above any credit balance, then held therein, to pay all claims then due and allowed which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of one month, and to maintain a reasonable reserve for contingencies. The aggregate of the sums on hand in said fund from time to time, in excess of the current requirements of the Operation and Maintenance Account, as herein set forth, are herein referred to and defined as the "net revenues" of the utility. Upon each of said monthly apportionments the entire net revenues, except such as are then required to be credited to funds for the payment and security of revenue bonds, special improvement warrants or refunding improvement bonds to which the same have been pledged, shall be credited to the Surplus Account.

11-318 Rates and Charges, Purposes Used For

The rates and charges for service and availability of the utility shall at all times be imposed and collected according to schedules which are reasonable and are adequate to produce net revenues sufficient for the payment of all obligations to which said net revenues sufficient for

the payment of all obligations to which said net revenues have been pledged, with interest thereon, and to maintain reserves securing such payments, in accordance with the ordinances or resolutions of the City authorizing the issuance of said obligations, and the moneys from time to time on hand in the Surplus Account shall be available and shall be used whenever and to the extent necessary to restore any deficiencies from time to time existing in the Operation and Maintenance Account or in the funds maintained for the payment of said obligations. Moneys in the Surplus Account may be used also for the repair, enlargement, alteration, improvement and extension of the utility and may be invested in the manner provided by Section 40-33-12, North Dakota Century Code, and acts amendatory thereof and supplemental thereto; and any cash surplus over and above the amount necessary to provide adequately for the operation and maintenance of the utility for the principal and interest and reserve requirements of all obligations for which net utility revenues have been pledged, and for the repair, enlargement, alteration, improvement and extension of the utility, may be transferred to other funds of the City at the times and in the manner prescribed by said Section 40-33-12.

11-319 Penalty Section

Any violation of this Ordinance will be considered an infraction, for which a maximum penalty of a fine of Five Hundred Dollars (\$500.00) may be imposed and a separate infraction may be deemed committed for each day that a violation occurs.

ARTICLE 4: WASTE WATER SYSTEM

11-401 Waste Water System

It is hereby found and determined that the City of Beulah now owns and operates a Municipal Waste Water Utility, together with equipment and appliances connected therewith as a Public Utility for the use of the Municipal Government and inhabitants of the City and other customers

in accordance with the provisions of Chapters 33 and 35 of Title 40 of the North Dakota Century Code as amended, and under the provisions of said laws, the City is authorized to improve, better, and extend the utility and to pay the costs thereof, in whole or in part by the issuance of Revenue Bonds payable exclusively out of the net revenues of said utility or by the levy of special assessments in an amount proportionate to and not exceeding the special benefits conferred by improvements to said utility upon individual properties within the City, and to issue Special Improvement Warrants or Refunding Improvement Bonds payable from such special assessments or in part, if so determined by the City Council and approved by the Board of Budget Review, if so determined by the City Council and approved by the Board of Budget Review, from net revenues derived from such utility improvements.

11-402 Waste Water Utility Fund Created

In pursuance of the operation of said utility and to facilitate the financing of the improvements thereof, there is hereby created and shall be maintained on the official books and records of the City, a separate and special fund to be designated as the Waste Water Utility Fund. Into said fund shall be credited and paid as received the entire gross revenues from time to time derived from the operation of said utility and from any future additions thereto and betterments thereon, including all income and receipts derived from rates and charges for services, facilities, products and by-products rates and charges for services, facilities, products, and by-products of the utility furnished to the City, and its inhabitants and all other customers and for the availability thereof and from sale of any of the properties of the utility not necessary to be retained and from the investment of any of the money so collected, but such gross revenues shall not include any sums realized from special assessments or taxes which may be levied or from sale of Bonds or other obligations which may be issued to finance improvements to said utility.

All such gross revenues shall be deposited as received in duly qualified depository bank and secured as required by law.

11-403 Separate Accounts

On the books and records of the Waste Water Utility Fund there shall be established and maintained two separate accounts designated as the "Operation and Maintenance Account" and the "Surplus Account". From the revenues on hand in the fund from time to time there shall be apportioned to the Operation and Maintenance Account, at least once in each calendar month, as a first lien and charge on the gross revenues, such sum as shall be needed, over and above any credit balance, then held therein, to pay all claims then due and allowed which by accepted accounting practices constitute normal, reasonable and current expenses of operation and maintenance of the utility, and to pay such expenses estimated to accrue for a period of one (1) month, and to maintain a reasonable reserve for contingencies. The aggregate of the sums on hand in said fund from time to time, in excess of the current requirements of the Operation and Maintenance Account, as herein set forth, are herein referred to and defined as the "net revenues" of the utility. Upon each of said monthly apportionments the entire net revenues, except such as are then required to be credited to funds for the payment and security of revenue bonds, special improvement warrants or refunding improvement bonds to which the same have been pledged, shall be credited to the Surplus Account.

11-404 Rates and Charges, Purposes Used For

The rates and charges for service and availability of the utility shall at all times be imposed and collected according to schedules which are reasonable and are adequate to produce net revenues sufficient for the payment of all obligations to which said net revenues have been pledged with interest thereon, and to maintain a reserve securing such payments in accordance

with the ordinances or resolutions of the City authorizing the issuance of said obligations, and the moneys from time to time on hand in said account shall be available and shall be used to the extent necessary to restore any deficiencies from time to time existing in the funds maintained, any cash surplus over and above the amount necessary to provide adequately for the operation and maintenance of the utility and for the principle and interest and reserve requirements of all obligations for which net utility revenues have been pledged and for the repair, enlargement, alteration, improvement and extension of the utility may be transferred to other funds of the City at the times and in the manner prescribed by said Section 40-33-12.

11-405 Rates, Residential and Commercial

The City of Beulah hereby reserves the right to make changes to the monthly rates and charges for waste water service by formal written Resolution of the City Council of the City of Beulah. Said monthly rates and charges for waste water service and all subsequent amendments thereto shall become effective when notice thereof has been given by publication in the official newspaper of the City.

All waste water services furnished to consumer shall be charged at the established rates against both the owner of the property and the consumer thereof but shall ultimately be the personal liability of the owner of the property. No contract entered into between the owner of the property and their tenant or by the liability for such waste water services and charges is to be altered, changed or amended shall in any way affect the owner's liability hereunder. Owners of premises where waste water services are supplied shall notify the City Auditor in case any tenant moves from said premises, prior to such moving. On request of the owner or owners, the City Auditor will bill or cause to be billed the occupant or tenant for such charges, but if such charges are not paid when due by the occupant or tenant, the owner or owners shall be responsible for

such charges and they shall be assessed to the property served. It shall be the duty of the City Auditor to certify to the County Auditor such unpaid waste water service charges that are unpaid in the same manner and at the same time as other assessments are certified, and they shall be assessed and collected in the same manner.

11-406 Service to Be Discontinued for Non-Payment of Bills

The City reserves the right to discontinue water service to any or all customers of the water works system without notice when necessary for repairs and upon 10 days written notice for the non-payment of bills or for disregard of rules and regulations affecting the service. When service has been discontinued for non-payment of bills or for disregard of regulations, it shall not be resumed except upon payment of the bills, together with interest as hereinafter provided for, full compliance with the regulations, and the payment to the City Auditor of a fee of \$50.00 plus costs for re-establishing services. All past due accounts shall be assessed interest at the rate of 1% per month. Said interest to begin to accrue on said past due accounts sixty days after billing of same. Thereafter, interest to accrue at the rate of 1% per month and at 1% for any portion thereof of a month.

11-407 Waste Water Service Application

Any party desiring waste water service from the utility for premises not theretofore connected with the utility shall apply for connection to said utility service on a form provided for by the City. Said application shall be filed with the City Auditor. For a single family household there shall be a connection charge of \$250.00. For two-family dwellings and multiple family dwellings there shall be a connection charge of \$250.00 per dwelling unit. For commercial operations with a line tap of eight inch (8") diameter or less there shall be a connection charge of \$500.00 per hookup.

11-408 Penalty Section

Any violation of this Ordinance will be considered an infraction, for which a maximum penalty of a fine of Five Hundred Dollars (\$500.00) may be imposed and a separate infraction may be deemed committed for each day that a violation occurs.

II. Severability

All Ordinances or parts of Ordinances in conflict herewith are hereby rescinded and repealed.

III. Effective Date

This Ordinance shall be in full force and effect upon its final passage and upon the publication of its title and penalty provisions.

DATED This 17th day of March, 2014.



DARRELL R. BJERKE, Mayor

ATTEST:



HEATHER FEREBEE, City Auditor

First Reading: January 20, 2014

Second Reading: March 17, 2014

Publication Date: April 17, 2014