HERRIMAN, UTAH
ORDINANCE NO. 14-12

AN ORDINANCE ENACTING A SECONDARY WATER FEE AND RATE STRUCTURE AND ENACTING RELATED PROVISIONS, ESTABLISHING ENFORCEMENT PROCEDURES, AND ESTABLISHING REQUIREMENTS AND CROSS-CONNECTION PROVISIONS

WHEREAS, on March 27, 2014, the City Council (the "*Council*") met in regular session to consider, among other things, enacting a secondary water fee and rate structure and enacting related provisions, establishing enforcement procedures, and establishing requirements and cross-connection provisions; and

WHEREAS, on or about November 14, 2013, Herriman (the "City") hired Zions Public Finance ("Zions") to study and propose a secondary water rates structure and recommend changes, if warranted, to reflect, among other things, a fair allocation of costs (collectively, the "Study"); and

WHEREAS, on March 13, 2014, Zions presented the results of their Study to the Council; and

WHEREAS, a copy of the Study is attached hereto; and

WHEREAS, the Council has carefully reviewed the Study and intends to adopt the Study and findings and recommendations contained in the Study; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interest of the health, safety, and welfare of the citizens of the City to amend and restate this ordinance.

NOW, THEREFORE, be it ordained by the Council that the Study and the findings and recommendations contained in the Study are hereby adopted and that ordinance regarding water fees and rate structure and enacting related provisions and establishing enforcement procedures be restated in its entirety as follows:

Furnishing Secondary Water Outside Corporate Limits.

The City has determined that it does not currently have surplus secondary water and is not willing to provide secondary water connections to individual homeowners and developers outside the City corporate limits, unless they annex to the City as provided herein. As a condition for a secondary water connection for individual homeowners and developers outside the City corporate limits, such applicants must sign and deliver to the City a standard notice of intent and annexation petition, and the City must adopt an ordinance annexing such property(ies).

Furnishing of Water – Application Required.

A. No secondary water shall be furnished to any house, tenement, apartment, building, place, premises, or lot, whether such water is for the use of the owner or tenant, unless an application for secondary water shall be made in writing, signed by such owner or the owner's duly authorized agents, in which application the owner shall agree to pay for all secondary water furnished thereto according with the City's ordinances, rules, and regulations.

B. In case an application to furnish secondary water shall be made by a tenant of the owner as a condition of granting the same, such owner or the owner's duly authorized agent must either cosign the application or sign a separate agreement which provides that, in consideration of the granting of such application, the owner will pay for all water furnished such tenant, or any other occupant of the place named in the application, in case such tenant or occupant shall fail to pay the same in accordance with the City's ordinances, rules, and regulations.

Application – Contents.

The applicant shall agree to conform to and be governed by such ordinances, rules, and regulations as may be prescribed by the City for the control of the secondary water supply. The applicant(s) agrees to be responsible for and pay all bills due the City on account of materials or labor furnished, as provided herein, as well as for all secondary water delivered to the premises.

Previous Charges.

Absent a valid lien, an owner is not required to pay for secondary water that was furnished to the property before the owner's ownership. Absent a valid lien, the City may not use an owner's failure to pay for secondary water furnished to the owner's property as a basis for not furnishing secondary water to the property after ownership of the property is transferred to a subsequent owner.

Connection and Other Facilities.

In all cases, the pipe and type of materials to be furnished and installed in the public right-of-way or per written agreement that are to be maintained by the City shall be approved by the City and shall be under its exclusive control. All excavation and other permits necessary shall be obtained at the expense of the applicant. Pipe and material outside the public way and pipe and materials installed as private pipelines or services shall be maintained by the property owners.

Water Use May be Limited by Proclamation.

In the event of the scarcity of secondary water, whenever it shall be necessary, in the judgment of the City council, the City council shall by ordinance limit the use of secondary water to such extent as may be required for the public good.

Violation of Proclamation Prohibited – Penalty.

It is unlawful for any person, by himself or herself, family, servants, or agents, to violate the water use proclamation made pursuant to the previous section, and if any violation thereof shall occur, then in addition to any other penalty therefor, the secondary water supply to the premises upon which such violation occurs shall be shut off, and if shut off on that account, it

shall not be turned on again until the payment of such amount for each violation as set forth on the proclamation.

Permit – Required for Work on Water Pipes.

No person shall make any alterations, additions, or disconnections, or connections to, or in any manner perform any work upon, any of the mains, connections, or appliances pertaining to the City secondary waterworks until such person shall have received a written permit to do such work granted by the City.

Unlawful to Bypass Water Meter.

It is unlawful for any person to use any means or device to bypass a secondary water meter or connection to a waterline without a water meter. Any person or entity violating this provision shall be deemed guilty of a misdemeanor and punished by a fine not less than or equal to $1,000.

Service Pipes – Materials and Installation.

All service and other pipes used underground shall be of a type and size approved by the City, laid not less than three feet below the surface of the ground, and of sufficient strength to stand the water pressure. All work upon alterations or extensions of water pipes shall be subject to acceptance of the City.

Service Pipes – Minimum Size.

The minimum size for service pipes shall be one (1) inch. The minimum size for secondary main line shall be six (6) inches.

Service to Individual Properties.

No consumer shall be permitted to conduct secondary water pipes across lots to adjoining properties.

Separate Trenches for Secondary Water and Sewer Pipes.

No secondary water pipe shall be roughed out closer than three feet from the sewer pipe and shall not be laid in the same trench with the sewer line or be so constructed as to cross the sewer line, and no secondary water pipes shall be laid in the same trench as sewer, gas, or any other pipe, but a separate trench must be provided for such water pipe at least three feet horizontally from all other pipelines.

Service Pipes – Valve Arrangement.

Valves required for service pipes must be so arranged that the supply to each separate house or premises may be controlled by a separate meter and valve. It is unlawful to turn on, turn off, or manipulate in any way, City-owned valves. Property owners must install an isolation valve for their use on the property owners' side of the meter box.

Valves – Unauthorized Operation Prohibited.

It is unlawful for any person other than duly authorized agents of the City to open or close any water valve in the secondary water system of the City. Any person or entity violating this provision shall be deemed guilty of a misdemeanor and punishable by a fine not less than or equal to $1,000.

Water Shutoff Authorized When.

The City reserves the right at any time, without notice, to shut off the secondary water from its mains for the purpose of making repairs or extensions, or for other purposes, and no claim shall be made against the City, by reason of any breakage whatsoever, or for any damage that may result from shutting off the water for repairing, laying, or relaying mains, hydrants, or other connections, or for any other reason whatsoever.

Good Repair of Private Service Required.

All secondary water takers shall keep their service pipes, connections, and other apparatus in good repair and protected from frost at their own expense.

Opening Meter Boxes – Damages.

The opening of meter boxes by any means other than a proper wrench is unlawful. Any person breaking a meter box cover or bolt will be required to pay for the complete repair of the meter box. Any person or entity violating this provision shall be deemed guilty of a misdemeanor and punishable by a fine not less than or equal to $1,000.

Interfering with Meter Prohibited.

It is unlawful for any person by himself or herself, family, servants, or agents, to open, interfere with, injure, deface, or in any way impair the workings of any secondary water meter.

Removing Meter Prohibited – Exception.

It is unlawful for any person other than a duly authorized agent or the City to remove any secondary water meter from any premises. Any person or entity violating this provision shall be deemed guilty of a misdemeanor and punishable by a fine not less than or equal to $1,000.

Turnoff Allowed for Certain Repairs.

In case of leaks or other accidents damaging service pipes or other apparatus connected with the City secondary waterworks, plumbers and homeowners may shut off the water at the meter to make necessary repairs.

Approval Required Prior to Extension of Secondary Water Mains.

No secondary water mains or secondary pipes shall be laid, nor shall permission be given to lay secondary water mains or secondary pipes, to supply secondary water from the secondary waterworks system of the City to the occupants of any plat, addition, or subdivision of any block, lot, or tract of ground within the City, unless the plat, addition, or subdivision shall have been approved by the City.

Average Rate Charged when Meter Fails.

When for any reason the secondary water meter shall fail to register, or the meter cannot be read, a bill shall be rendered at the average rate of consumption for like periods of time.

Billing Period.

Bills for secondary water used through meters shall be rendered monthly; the City shall determine from time to time when monthly meter readings shall be made and bills rendered.

Using Water Without Payment Prohibited.

It is unlawful for any person, by himself, herself, family, servants, or agents to use the secondary water coming through the secondary water mains without first agreeing to and paying for all secondary water delivered, as provided herein.

Flood Irrigating from Secondary System.

It shall be unlawful for any person to flood irrigate any property from the secondary water system. Water from the secondary water system used for irrigation of lawns, incidental watering gardens, shrubs, and flowers shall be applied through either sprinklers or drip system, including a sprinkler to attach to a garden hose.

Introducing Substance.

It shall be unlawful for any person to place, cause to be placed, or introduce into the City secondary water system or any source of water supplying said system, any matter, substance, chemical, or compound without prior written authorization of the City.

Destruction or Interference with System.

It shall be unlawful for any person to destroy, deface, damage, injure, or interfere with the operations of any part, pipe, fixture, appliance, or appurtenance of the secondary water system.

Schedule of Use.

The City may schedule the use of secondary water in the event it is determined that the use needs to be scheduled in order to meet demands of the system.

Water Rates and Related Charges.

As of April 1, 2014, the charge for secondary water, inside and outside the corporate limits of the City, shall be the usage rate as follows:

Secondary	200 - Residential 3/4"& 1" Zone 1 - 4 Access to Secondary					
Mnimum	Maximum	Price per 1Kga	Table No.			Base Fee
-	10,000	1.38	200	Residential 1"		$ 11.20
10,001	25,000	1.68				
25,001	40,000	1.94				
40,001	70,000	2.45				
70,001	above	2.86				

Secondary	201 City Owned - Non-Billed All Size					
Mnimum	Maximum	Price per 1Kga	Table No.			Base Fee
			201			
		No Charge to City Owned Connections				

Secondary	202 MM - Non Res 3/4" & 1" Zone 1-4					
Mnimum	Maximum	Price per 1Kga	Table No.			Base Fee
-	10,000	$ 1.38	202	Non-Residential 1"		$ 26.67
10,001	25,000	1.68				
25,001	40,000	1.94				
40,001	70,000	2.45				
70,001	above	2.86				

Secondary	203 MM - Non Res 1 1/2 Zone 1-4					
Mnimum	Maximum	Price per 1Kga	Table No.			Base Fee
-	16,300	$ 1.38	203	Non-Residential 1.5"		$ 43.47
16,301	40,750	1.68				
40,751	65,200	1.94				
65,201	114,100	2.45				
114,101	above	2.86				

Secondary	204 MM - Non Res 2" Zone 1-4						
Mnimum	Maximum	Price per 1Kga		Table No.		Base Fee	
-	26,100	$	1.38	204	Non-Residential 2"	$	69.60
26,101	65,250		1.68				
65,251	104,400		1.94				
104,401	182,700		2.45				
182,701	above		2.86				

Secondary	205 MM - Non Res 3" Zone 1-4						
Mnimum	Maximum	Price per 1Kga		Table No.		Base Fee	
-	99,000	$	1.38	205	Non-Residential 3"	$	264.00
99,001	247,500		1.68				
247,501	396,000		1.94				
396,001	693,000		2.45				
693,001	above		2.86				

Secondary	206 MM - Non Res 4" Zone 1-4						
Mnimum	Maximum	Price per 1Kga		Table No.		Base Fee	
-	126,000	$	1.38	206	Non-Residential 4"	$	336.00
126,001	315,000		1.68				
315,001	504,000		1.94				
504,001	882,000		2.45				
882,001	above		2.86				

Secondary	207 MM - Non Res 6" Zone 1-4						
Mnimum	Maximum	Price per 1Kga		Table No.		Base Fee	
-	189,000	$	1.38	207	Non-Residential 6"	$	504.00
189,001	472,500		1.68				
472,501	756,000		1.94				
756,001	1,323,000		2.45				
1,323,001	above		2.86				

	208 MM - Non Res 8" Zone 1-4						
Mnimum	Maximum	Price per 1Kga		Table No.		Base Fee	
-	261,000	$	1.38	208	Non-Residential 8"	$	696.00
261,001	652,500		1.68				
652,501	1,044,000		1.94				
1,044,001	1,827,000		2.45				
1,827,001	above		2.86				

Secondary	209 MM - Non Res 10" Zone 1-4						
Mnimum	Maximum	Price per 1Kga		Table No.		Base Fee	
-	400,000	$	1.38	209	Non-Residential 10"	$	448.00
400,001	1,000,000		1.68				
1,000,001	1,600,000		1.94				
1,600,001	2,800,000		2.45				
2,800,001	above		2.86				

Payment and Enforcement Provisions.

A. Bills for secondary water are due and payable thirty (30) days after their rendition. Customers who do not pay the full amount of the secondary water bill on or before the due date are in default and subject to disconnection and collection of delinquent amounts, as provided herein.

B. Delinquent accounts will be charged a delinquent account fee equal to 1.5% of the delinquent balance amount at the beginning of each month the account is delinquent.

C. A notice of delinquency will be sent to the billing address after the account has been delinquent for sixty (60) days. The notice shall notify the customer that if full payment is not received within the next seven (7) days, that their service(s) will be subject to termination. The notice shall also invite the customer to contact the City during this seven (7) day period to make special arrangements under extenuating circumstances, which may be approved by the City as provided below.

D. The City may maintain an action to receive the amounts, and accounts which are still delinquent after seven (7) days from the date of the Notice of Delinquency will be subject to termination of service (shut off) on a date that is convenient to the City.

E. Service termination for nonpayment shall not be reinstated (reconnected), unless payment of the unpaid balance is paid together with a reconnection fee in the amount of $75.

F. A deferred payment agreement may be entered into between the City and the delinquent customer, subject to the following terms and conditions:

i. The deferred payment schedule may not extend for a period of more than one (1) year.

ii. The deferred payment schedule provides for a specific payment schedule in addition to payment of current water bills.

iii. The deferred payment schedule shall include the payment of interest at the rate of 1.5% per month, compounded monthly.

iv. The deferred payment agreement shall contain such other terms and conditions as the City deems appropriate.

G. Customers who do not comply with the terms and conditions of an executed deferred payment agreement may be reinstated (reconnected) only upon payment of the entire unpaid balance, together with a reconnect fee in the amount of $75 and payment of a deposit in an amount equal to three (3) times the estimated monthly bill. Such estimate shall be made by the City based on the average rate of consumption.

Dishonored Checks.

Each check or other instrument tendered to the City for payment of an obligation to the City and returned to the City as a dishonored instrument, shall accrue the maximum penalty, service charge, and other allowable fees for recovery of an amount due allowed by Utah law.

Connection from Mains - Cross-connections Control.

A. For purposes of this ordinance, the following words shall be the following meanings:

Water director means the person designated by the City to be in charge of the Water Department, who is invested with the authority and responsibility for the implementation of an effective cross-connection control program and for the enforcement of the provisions of this ordinance.

Auxiliary water supply means any water supply on or available to the premises other than the City's culinary water supply will be considered as an auxiliary water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source(s) such as a well, spring, river, stream, etc., or "used waters" or "industrial fluids." These waters may be contaminated or polluted, or they may be objectionable and constitute an unacceptable water source over which the City does not have authority for sanitary control.

Contamination means a degradation of the quality of the potable water supply by sewage, industrial fluids or waste liquids, compounds, or other materials that may create a health hazard.

Cross-connection means any physical connection or arrangement of piping or fixtures which may allow nonpotable water or industrial fluids or other material of questionable quality to come into contact with potable water inside a water distribution system. This would include

temporary conditions, such as swing connections; removable sections; four-way plug valves; spools; dummy sections of pipe, swivel, or change-over devices; or sliding multiport tubes or other plumbing arrangements.

Cross-connection controlled means a connection between a potable water system and a non-potable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

Cross-connection containment means the installation of an approved backflow assembly at the water service connection to any customer's premises where it is physically and economically infeasible to find permanently eliminate or control all actual or potential cross-connections within the customer's water distribution system; or, it shall mean the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross-connections which cannot be effectively eliminated or controlled at the point of the cross-connection (isolation).

B. The service pipes and connections from the secondary main to the water meter, including the meter box, a meter yoke and valve are to be placed within the parking strip or behind the sidewalk within a public utility easement by the City, a licensed plumber, or licensed landscaper to City standards, and subject to City inspection and approval. The City or its designee shall install the water meter. The plumber shall warrant the work and facilities installed by him against defects in workmanship or materials for a period of one year from date of acceptance thereof by the City. The secondary water connection shall either (1) consist of a dual culinary and secondary connection with a reduced pressure backflow assembly (PRZ) installed with the air gap distance 12 inches above ground, to prevent a cross-connection and a swing joint installed so that both systems cannot be on at the same time, to prevent interconnection. The backflow assembly shall be tested within 10 days of installation and annually thereafter; (2) consist of the secondary-only connection to the lawn irrigation systems which shall have the stop and waste valve removed. If the backflow preventer already exists, the stop and waste valve must be removed, cap the pipe, and remove the backflow assembly completely. If the shutoff valve is inside a house, then the piping going through the wall must be cut and capped outside as close to the foundation as possible and removed at a minimum of two feet of pipe to insure no possible cross-connection.

C. It shall be unlawful for any person to connect any part of the secondary water system to any part of the culinary water system, so as to create a potential cross-contamination.

D. The portion of the customer's water system that is not on public property or public right-of-way shall be open for inspection at all reasonable times to authorized representatives of the City to determine whether cross-connections or other structural or sanitary hazards, including violation of this ordinance, exist.

E. If violations of this section exist or if there has not been any corrective action taken by the owner of the premises within ten (10) days of the written notification of the deficiencies, then the City shall deny or immediately discontinue service to the premises by providing a physical break in the service line until acceptable corrective action has been taken in conformance with all statutes relating to plumbing, safe drinking water suppliers, and this ordinance.

This Ordinance, assigned Ordinance No. 14-12, shall take effect immediately.

PASSED AND APPROVED this 27th day of March 2014.

HERRIMAN CITY COUNCIL

By: _____
Carmen Freeman, Mayor

ATTEST:

_____

Cindy M. Quick
Deputy Recorder

VOTING:

Carmen R. Freeman	__x__ Yea	____ Nay
Mike Day	__x__ Yea	____ Nay
Matt Robinson	__x__ Yea	____ Nay
Craig B. Tischner	__x__ Yea	____ Nay
Coralee Wessman-Moser	__x__ Yea	____ Nay

40191.99

CERTIFICATE OF POSTING

STATE OF UTAH)
) SS:
COUNTY OF SALT LAKE)

I, Cindy Quick, do hereby certify that I am the duly appointed, qualified and acting Deputy Recorder for Herriman, State of Utah, and do further certify that the foregoing is a true and correct copy of

ORDINANCE NO. 14-12

AN ORDINANCE ENACTING A SECONDARY WATER FEE AND RATE STRUCTURE AND ENACTING RELATED PROVISIONS, ESTABLISHING ENFORCEMENT PROCEDURES, AND ESTABLISHING REQUIREMENTS AND CROSS-CONNECTION PROVISIONS

Herriman City Council duly adopted this Ordinance at a meeting duly called and held in Herriman, Utah on March 27, 2014 at the hour of 7:00 o'clock P.M. of said day, and I certify that after its passage I caused to be posted a copy of the Ordinance in the following location:

1. Herriman City Recorder's Office – 13011 S. Pioneer Street (6000 West)
2. Herriman City Website: www.Herriman.org
3. Public Notice Website: http://www.utah.gov/pmn/index.html

Cindy Quick

Cindy Quick
Herriman City Deputy Recorder