

**CHAPTER 40. WATER DEPARTMENT**

**ARTICLE 1. THE WATER DEPARTMENT**

**SECTION 101. ESTABLISHMENT.** This Chapter is adopted pursuant to the Home Rule Powers as provided in Article VIII, Part 2, of the Maine Constitution and the Home Rule provisions of Title 30-A M.R.S.A. § 3001, the Brewer City Charter, and other applicable laws.

## **ARTICLE 2. SUPERINTENDENT OF THE WATER DEPARTMENT**

**SECTION 201. SUPERINTENDENT OF THE WATER DEPARTMENT.** There is hereby authorized and established the position of the Superintendent of the Water Department, who shall be appointed by the City Manager.

**SECTION 202. DUTIES AND RESPONSIBILITIES.** The Superintendent of the Water Department shall have the general oversight authority of the operation and dissemination of water within the area served pursuant to Chapter 66 of the Private and Special Laws (2001) of the Second Regular Session of the One Hundred and Twentieth Legislature.

### **SECTION 203. OTHER DUTIES.**

Section 203.1. The Superintendent shall supervise all Water Department employees.

Section 203.2. He or she shall annually prepare a budget for the Water Department and submit it to the City Manager at least annually.

Section 203.3. The Superintendent will prepare and present to the City Manager a plan of action for the Department at least annually.

Section 203.4. The Superintendent shall carry out all lawful directives of the City Manager or the Assistant City Manager.

**SECTION 204. ANNUAL EVALUATION.** At least once annually the City Manager shall evaluate the Superintendent of the Water Department.

### **ARTICLE 3. TRANSITION ADVISORY TEAM**

**SECTION 301. TRANSITION ADVISORY TEAM.** There is hereby established a Transition Advisory Team consisting of the City Manager, City Finance Director, and four representatives appointed by the City Council.

Section 301.1. The Transition Team shall advise on the acquisition of the assets of the Brewer Water District.

Section 301.2. The Transition Team shall have such duties and responsibilities as may be given to it by the Brewer City Council.

## **ARTICLE 4. ADVISORY BOARD**

**SECTION 401. ADVISORY BOARD.** There is hereby established a Water Department Advisory Board to advise the Superintendent of the Water Department.

Section 401.1. There shall be seven (7) members on the Advisory Board, who shall be appointed as follows:

- (a) One member from the Town of Holden appointed by the Town Council;
- (b) One member from the Town of Eddington appointed by the Board of Selectmen;
- (c) One member from the Town of Orrington appointed by the Board of Selectmen;
- (d) Four members from the City of Brewer appointed by the City Council.

Section 401.2. The Advisory Board shall meet from time to time as needed or requested and advise the Superintendent of the Water Department on all matters the Superintendent seeks their advice on.

Section 401.3. The Advisory Board shall also have such duties as may be delegated to it by an order or resolve adopted by the City Council.

**ARTICLE 5. TERMS AND CONDITIONS (#1)**

**SECTION 501. CONTRACT BETWEEN THE CUSTOMER AND THE UTILITY.**

Terms and conditions made by the City of Brewer Water Department and filed with the Maine Public Utilities Commission constitute a contract between the customer and the utility. The customer agrees to adhere to these terms and conditions and to take water only for purposes stated in the application and at the established rates. The word “customer” means any person, firm, corporation or governmental division who has applied for and is granted service or who is responsible for payment of the service.

**SECTION 502. ADOPTION OF TERMS AND CONDITIONS BY REFERENCE.**

Pursuant to the authority granted to the City under Title 30-A, M.R.S.A., Section 2156, as amended, the City Council herewith adopts, by reference, the terms and conditions made by City of Brewer Water Department and filed with the Maine Public Utilities Commission that constitute a contract between the customer and the Brewer Water Department. At least three (3) copies of these terms and conditions are on file in the office of the Brewer City Clerk.

**TERMS AND CONDITIONS**

**CITY OF BREWER WATER DEPARTMENT**

The following Terms and Conditions made by the City of Brewer Water Department and filed with the Maine Utilities Commission constitutes a contract between the Customer and the Utility. The Customer agrees to adhere to these Terms and Conditions and to take water only for purposes stated in the application and at the established rates.

**DEFINITIONS**

The word “Commission” refers to the Maine Public Utilities Commission.

The word “Customer” means any person, firm, corporation or governmental division who has applied for and is granted service or who is responsible for payment of the service.

The word “Main” means a water pipe, owned, operated and maintained by the Utility, which is used to transmit or distribute water but is not a water service pipe.

The words “Service Pipe” mean the pipe running from the main to the premises of the Customer.

The word ”Utility” refers to the City of Brewer Water Department.

1. APPLICATION OF SERVICE. The owner or the owner's agent, or the occupant of the establishment to be served may apply for service on forms provided by the Utility. If seasonal rental property only the property owner may be an applicant for service. Any tenant may become a Customer if the tenant assumes responsibility for future service under the conditions set forth in 35-A M.R.S.A. Sec. 706(2), Chapter 810, Sec. 9(1)(2) of the Commission's Rules, and Section 4 below. If a new service connection or other work on the establishment is required, the must authorize the Utility to enter the premises to do the necessary work.

2. SEASONAL CUSTOMER. A seasonal Customer regularly takes service for only a portion of the year from either a summer or year-round main. A seasonal Customer will be subject to the rules and charges of seasonal rates in effect. A Customer regularly vacating the premises for three months or less may elect in writing to be classified as an annual Customer subject to annual charges.

3. BILLING PROCEDURES. Annual metered rate charges are normally billed quarterly. The Utility does reserve the right to render bills monthly if it so desires.

Minimum meter charges for annual metered service shall be billed quarterly and water used in excess of the minimum will be billed at the end of the billing quarter. (#2)

Seasonal minimum meter charges will be billed and due immediately after the meter is set for the season. Bills for water used in excess of the minimum amount will be billed immediately after the final reading for the season. The Utility reserves the right to render bills quarterly for excess water used by seasonal Customers.

Public and private fire protection charges shall be due and payable in advance, each year, on a quarterly basis.

All bills shall be payable at the Brewer City Hall or at any designated collection station. Failure of the Customer to receive his/her bill does not relieve him/her of the obligation of its payment nor for the consequences of non-payment.

4. CREDIT AND COLLECTION PROCEDURES. All credit and collection procedures for residential Customers will be based upon Chapters 810 and 870 of the Commission's Rules and Regulations. The Utility may demand a deposit from any residential Customer if it has proof (as defined in the regulations) that the Customer is likely to be a credit risk or will damage the Utility's property. The amount of a deposit shall not exceed a reasonably estimated bill for two (2) average billing periods. The interest rate on Customer deposits shall be the rate set from time to time by the Commission.

5. DISCONNECTION OF LEASED OR RENTED PROPERTY. Before disconnecting a leased or rented single-meter, multi-unit residential property, the Utility shall:

A. Comply with the notice requirements in Chapter 810 of the Commission's Rules and Regulations; and

- B. Assess, against the landlord, a collection fee of \$50.00 in addition to any applicable reconnection fee set forth in Section (6) of these Terms and Conditions; and
- C. At the Utility's option, the Utility may separately meter or cause to be separately metered each dwelling unit within the property at the landlord's expense; and
- D. Apply any existing deposit to the current account balance; and
- E. File a lien authorized by Title 35-A M.R.S.A., Sec. 6111; and
- F. Notify the Commission of the actions taken pursuant to these Terms and Conditions and their results.

6. RESTORATION OF SERVICE. The Utility will charge a Customer a reconnection fee to restore services at the Customer's premises if service was disconnected for non-payment of bills, violation of these Terms and Conditions, fraudulent use of water, dangerous conditions on the Customer's premises, violation of Commission rules or at the Customer's request.

The reconnection charge is \$20.00 for each resumption of service made during the normal business hours of 8:00 a.m. to 4:00 p.m., Monday through Friday. The charge during other than normal business hours is \$40.00 per hour with a minimum charge of \$40.00.

7. CHARGE FOR ESTABLISHMENT OF SERVICE. The Utility will charge \$15.00 to establish water service if it is not necessary to visit the premises to connect the service. If it is necessary to visit the premises to connect the service the Utility will charge \$20.00 during the normal business hours of 8:00 a.m. to 4:00 p.m., Monday through Friday.

8. COLLECTION TRIP FEE. If Utility personnel visit the Customer's premises to disconnect service for non-payment and in lieu of actual disconnection the Customer pays or makes a payment arrangement for the entire past due balance, the Utility will charge a collection fee of \$10.00 or the Utility's reconnection charge, whichever is less.

9. TERMS OF PAYMENT. All bills are due and payable upon presentation. Payments may be made at the Brewer City Hall or at any designated collection station. Failure of the Customer to receive his/her bill does not relieve him/her of the obligation of its payment nor from the consequences of non-payment.

10. CHARGE FOR RETURNED CHECKS. The Utility will charge the Customer's account for any check returned by the bank for reason of non-payment. The charge is the greater of \$5.00 per check or the amount the bank charges the Utility, not to exceed \$15.00. The Utility will furnish the Customer with proof of any bank charges in excess of \$5.00.

11. UNAUTHORIZED USE OF WATER. No Customer shall supply water to another, nor use it for any purposes not mentioned in his/her application without prior Utility approval. No person shall obtain water from any hydrant or other fixture of the Utility without prior approval.

12. MAINTENANCE OF PLUMBING. A Customer must maintain the plumbing and fixtures within his/her own premises in good repair and protect them from freezing or from heat damage. If damage does occur, the Customer is liable for any expenses incurred.

13. NO TAMPERING WITH UTILITY PROPERTY. No person may tamper with Utility property. No valve, shutoff, hydrant or standpipe, which is the property of the Utility, will be opened or closed or otherwise operated by other than persons authorized by the Utility.

14. ACCESS TO PREMISES. Employees of the Utility having proper identification have free access to all premises supplied with water, at all reasonable hours to permit the inspection of plumbing and fixtures, to set, remove or read meters, to ascertain the amount of water used and manner of use, and to enforce these Terms and Conditions.

15. LIABILITY. The Utility will only be liable for any damages arising from claims to the extent liability is provided in the Maine Tort Claims Act, as set forth in Title 14, Chapter 741 of the Maine Revised Statute Annotated. The Utility makes no representations or warranties about the suitability of the water for any particular purpose.

16. SERVICE INTERRUPTION. The Utility will provide notice of any planned shut-off to affected Customers at least twenty-four hours in advance of the interruption of service. The Utility will give notice of any unplanned shut-off when practicable. If a Customer requests, the Utility will make a pro rata reduction in the Customer's minimum bill if service is interrupted for longer than forty-eight hours and the interruption is not the Customer's fault.

17. METERING. Except as provided in Chapter 810 of the Commission's Rules where there is more than one occupant of a building supplied with water, the Utility may require the owner to arrange the plumbing to permit separate connections with shutoffs and meters in locations acceptable to the Utility, for each place of business or abode.

18. CHARGES FOR REPAIR OR REPLACEMENT OF DAMAGED WATER METERS. The charges to customers for costs incurred for the repair or replacement of meter(s) damaged due to improper care by customers are as follows: (#2)

The Customer will not be charged for a service call during normal business hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, and \$40.00 per hour for other than normal business hours and holidays for the cost of removing or replacing a damaged meter, plus a repair fee based upon the size of the meter as follows:

Repair Fees	
5/8"	\$ 15.00
3/4"	\$ 25.00
1"	\$ 50.00
1 1/2"	\$ 75.00
2"	\$100.00
3"	\$150.00
6"	\$200.00

If a meter needs to be replaced, the customer will be charged for the cost of the meter.

19. METER TESTING. The Utility will test its water meters according to the schedule and standards in Chapter 620 of the Commission's Rules. Upon Customer request, the Utility will test the Customer's water meter in the presence of the Customer or representative, at not charge unless the Customer requests more than one test in an 18-month period. If the Customer requests a test more frequently, the Utility may require the Customer to pay a deposit to cover the cost of the test. If a meter tested at the Customer's request does not conform to standards, the Customer's deposit will be refunded and the Utility will adjust the Customer's bill according to the provisions of Chapter 620. If the meter conforms to standards, the Utility may keep the Customer's deposit and continue to use the meter at the Customer's premises. Meter testing to be done during normal business hours of 8:00 a.m. to 4:00 p.m.

20. SUBMETERING. Additional or auxiliary meters for showing subdivision of water use must be furnished, installed, read and maintained at the Customer's own expense.

21. STOP VALVE. Every service must be provided with an operable stop valve located inside the building near the service entrance, easily accessible, and protected from freezing. All the plumbing must be installed to prevent back-syphonage and to permit draining whenever necessary.

22. CROSS CONNECTIONS. No cross connection between the public water supply system and any other supply will be allowed unless properly protected in accordance with the directives and rules of the State Bureau of Health, and no new cross connection may be installed without the approval of the Bureau and the Utility. In addition, no connection capable of causing back flow between the public water supply system and any plumbing fixture, device or appliance, or between any waste outlet or pipe having direct connection to waste drains will be permitted. If the owner of such a connection fails or refuses to break or properly protect the connection within a time limit specified by the Utility, the Utility may disconnect the service according to Chapter 810 or Chapter 860 of the Commission's Rules. The Utility's cross connection rules are on file at the Utility office.

23. FLUCTUATION OF PRESSURES BY CUSTOMER'S APPARATUS. A Customer may not install or use any device which will affect the Utility's pressure or water quality without prior Utility permission.

24. SAFEGUARDING DIRECT PRESSURE WATER DEVICES AND SYSTEMS SUPPLIED BY AUTOMATIC FEED VALVES. Customers must install vacuum, temperature and pressure relief valves or cutouts to prevent damage to a direct pressure water device or secondary system supplied by an automatic feed valve.

25. UTILITY JOBBING. “Utility Jobbing” means unregulated utility services, including but not limited to construction and laboratory services. A Customer must complete a written application before a Utility will provide unregulated Utility service. Applicants are required to provide, in advance, sufficient funds as provided in a written estimate by the Utility to cover the anticipated expense. The Utility will return excess funding within 30 days of project completion; costs in excess of the estimate will be billed to the Customer and must be paid within 30 days. Work performed in support of unregulated utility service outside of regular business hours will be charged at overtime rates.

New Service Installation: The Utility is responsible for performing the tap into its water main. The Customer is responsible for providing the corporation to complete the tap, and for installation of the service line from the tap into the premises to be served, including the curb stop. Installations must meet Utility specifications.

Utility Ownership: The Utility shall own and maintain the service pipe including the curb stop within the limits of the public way. Applicants for new services will be required to pay the cost of installing this section of pipe.

Customer Ownership: The Customer shall, at his/her own expense, install, own and maintain the portion of the service pipe between the edge of the public way and the water meter. To avoid potential problems regarding the location of the service pipe, the Customer is requested to consult with the Utility prior to the installation or renewal of their service pipe.

26. WINTER CONSTRUCTION. No new service or extension of mains will be installed for the convenience of a Customer during winter conditions which increase the cost of the work for the Utility unless the Customer assumes all extra expense over ordinary construction costs.

27. JOINT USE OF SERVICE PIPE TRENCH. Normally, water service pipes will not be placed in the same trench with other Utility facilities. Where possible, a horizontal separation of ten feet will be provided.

Where extenuating, unusual or special circumstances are encountered, a lesser separation of joint use of trench may be allowed if all parties agree provided that the installation complies with all applicable laws, rules and regulations.

28. USE OF HOSE AND LAWN SPRINKLER. When necessary to conserve the water supply, the Utility may restrict or prohibit the use of hoses and sprinklers for metered rate Customers.

29. FIRE HYDRANTS. Fire hydrants may not be used for any purpose other than to extinguish fires unless prior permission is given by the Utility. Fire hydrants must not be opened by any person other than an agent of the Utility or a duly authorized representative of the municipality or the owner.

30. PRIVATE FIRE PROTECTION. Customers requiring private fire protection must contact the Utility to determine the availability of fire service at their location. Fire service, if available, will be installed at the Customer's expense within the bounds of the public way or right of way. The fire service line, after installation, will be owned and maintained in the public way or right of way by the Utility. Ready-to-serve charges for fire services are billed quarterly. The Utility does not guarantee any quantity of water or pressure available through a fire protection service. The owner of the service shall determine, from time to time, the adequacy of supply through the fire service by conducting tests of his private system. Timely notice must be given to the Utility so a representative of the Utility can be present to observe the test.

## END OF CHAPTER NOTATIONS

- (1) Enacted August 20, 2003, Effective August 25, 2003 (2003-C012)
- (2) Enacted October 14, 2003, Effective October 19, 2003 (2003-C021)