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December 16, 2024

To: Mayor Grimm and City Council
From: Zachary Jones
RE: McGhee Development Water Service Application Denial

LEGAL MEMORANDUM

I. INTRODUCTION AND BACKGROUND

The City of Sandpoint (hereinafter “the City”) serves water outside of its municipal city limits. The instant water services application is for a parcel not located within the Sandpoint city limits and is instead located in the City of Ponderay. On May 20, 2024, McGhee Development ("Applicant") submitted an application for water service for a proposed 304 equivalent residential unit (ERU) mixed-use development. The City denied the application on September 24, 2024, citing concerns related to fire flow deficiencies. The Applicant has appealed the denial. All correspondence regarding the application and denial of water services are attached to the staff report provided to Mayor and Council, the Applicant, and published along with the City Council Meeting Agenda.

II. LEGAL AUTHORITY

The state of Idaho empowers cities to establish, manage, and maintain domestic water systems. *See* Idaho Code § 50-323. Additionally, cities within the state are empowered to act jointly operating these systems. *See* Idaho Code § 50-324. The City has enacted its own authority regarding water service applications which can be found in Sandpoint City Code Title 7, Chapter 6, and the Sandpoint City Water Rules and Regulations. Additionally, the City enacted Resolution 07-50 on July 18, 2007, and Resolution 11-25 on June 15, 2011, which set forth the City’s policies regarding serving water outside of its

boundaries¹. These Ordinances, Rules and Regulations, Resolutions and Policies are attached hereto for ease of reference.

As an initial matter, it must be determined whether the City of Sandpoint has an obligation to apply its ordinances, rules and regulations, and policies to this particular water services application. The City's municipal water system ordinance § 7-6-4 provides that the chapter is applicable to "all water users and property owners within the corporate city limits and any water users outside the corporate city limits receiving water service from the city's drinking water system." The term "Water User" is defined in Sandpoint City Code § 7-6-3 as follows: "Any person making authorized and proper use of the drinking water system and/or the water delivered thereby and who has made application for water service and such application has been granted and has paid for such service, water, and all fees required."

As stated above, the Applicant is not within the municipal city limits, the Applicant does not currently receive water from the City, and the Applicant's application for water services has not been granted. Therefore the Applicant is not a water user as defined by the Sandpoint City Code. It is the City's position that, under these circumstances, the City does not have an obligation to serve water, or to apply its Code, Rules, or Policies to persons or entities that do not fall within the confines set forth in the City's municipal water system ordinances.

Without conceding that the City has any obligation to provide water to areas outside of its boundaries, and to persons or entities not currently receiving water, and that are not "water users," the City will next analyze the reason for the denial under Sandpoint City Code § 7-6-12 and Water Rules and Regulations Section III.1.D. Under Sandpoint City Code 7-6-12, the City may deny an initial application for water service for "good cause," including but not necessarily limited to circumstances where conditions

¹ At some unknown time around 2015 the City stopped following the policies and procedures set forth in Resolutions 07-50 and 11-25. There is nothing in the City's record, however, voiding or nullifying these policies and therefore they remain in effect.

are impractical to provide service. Section III. D. of the City's Water Rules and Regulations provide additional circumstances where the City may deny a water service application. Subsection 2 provides that the City may refuse "to install a service connection which the City reasonably determines will cause an undue hardship on the City or its Water Users." And Subsection 5 permits the City to refuse "to install any connection whereby the City has reasonably determined the conditions do not conform to sound engineering design or do not meet the standards of the City or may cause a risk to public health.

Resolutions 07-50 and 11-25 establish policies for the City to rely upon when serving water outside its boundaries. Resolution 07-50 provides admission criteria and the application process and requirements including the process for review of the application, a point system checklist, a water supply development agreement, waivers, fees, connection and connection costs. Particularly noteworthy is that the consent to extension of the system requires the majority vote of City Council, the extension of the system strives for no negative impact on current users' water quality, as well as no negative impact on the hydraulic performance of the entire system, and finally consent to extension of the system requires the existence of intergovernmental agreements between the City of Sandpoint and any other involved municipality or public entity (i.e. the City of Ponderay).

Resolution 11-25 provides for separate additional admission criteria. Specifically, it requires, when evaluating applications for water service, the City shall apply the following criteria and failure to meet these criteria results in rejection of the application:

1. Build-out criteria are city specific. (Ponderay's build out is quicker than Kootenai's, expansion to Ponderay boundary may be considered w/o waiting for Kootenai's build out to meet criteria).
2. A net density of 4 Equivalent Residential Units ("ERUs") per acre will be required 'before expansion of water boundary will be considered 'again.'" Subtraction of land for parks, right of way, wetlands, etc. will not be done.
3. Specifically, for the 395 acres considered for the boundary expansion in Ponderay, 1,580 ERUs will have to be paid for and build before expansion of the water boundary system will be considered. The 395 acres are covered in the attached map

that includes the entire proposed Field of Dreams and 20 acres along Highway 95. For the 129 acres in Kootenai, 516 ERUs will have to be paid for and build before expansion of the water boundary will be considered. Prior to consideration of any further expansion of the boundary, an economic analysis is to reflect that the previous expansion has financially broken even.

4. The subject city shall consent to the expansion of the water boundary in their city before the City of Sandpoint will consider a request for expansion from non-city entities.
5. A fee for expansion request from entities other than cities will be paid before expansion requests are considered.
6. All expansions of the Sandpoint Water Boundary system (following this initial expansion of 395 acres in Ponderay and 129 acres in Kootenai are subject to a hydraulic review to determine the engineering, construction, water system economic impacts of the expansions. The developer making the request for expansion shall bear the full costs of the review.
7. New hookups within the expansion area outlined above will be limited to 50 ERUs until reconstruction of the Lake Water Treatment Plant is completed.

As noted in footnote 1 of this memorandum, the City stopped adhering to the processes set forth in the Resolutions at an unknown time but probably around 2015. No additional resolutions, adopting different out of boundary water application policies and procedures have been identified and therefore these resolutions still remain effective. Many of the requirements set forth in these resolutions have not or cannot be verified. For example, Resolution 07-50 requires intergovernmental agreements between the respective public entities. Similarly, Resolution 11-25 requires the City of Ponderay or the City of Kootenai, as applicable, to consent to the expansion of water boundary within its municipal boundaries before the City of Sandpoint will consider a request from a private entity. Although the manner in which said consent is to be obtained is not provided. This Resolution additionally requires that 1,580 ERUs must be paid for and built before the expansion of the boundaries will be considered. The City's municipal water system ordinance was amended in March of 2020 and the ordinance prevails over any inconsistencies regarding the process set forth in these resolutions, however these resolutions do set forth an application criteria and an application process that has not been adhered to in this instance.

III. HEARING PROCEDURE

Without conceding that the city code is applicable under this circumstance, the City is agreeable to providing the Applicant with a formal public hearing. Sandpoint City Code §§ 7-6-16 and 7-6-17 set forth the hearing procedures for the denial of an application for water services. This is a formal proceeding where the following basic hearing standards are as follows:

- A. The governing body's decision must be fair and impartial based on the facts presented at the hearing.
- B. The person requesting the hearing has the right to call witnesses, give testimony and submit evidence as to any facts of the matter. The city has the same right.
- C. The city shall make a full record of the proceedings by electronic recording and must preserve the recording for a period of thirty (30) days.
- D. The city council's decision must be given in writing, stating the reason for the decision.
- E. The city council's decision is the final administrative decision available to the water user.

IV. PRIMARY GROUNDS FOR DENIAL

The City's position is that it has no obligation to serve beyond its boundaries to persons or entities that are not water users and are not receiving water from the City. However, even if the Sandpoint City code is applicable here, the City may deny an application for water services for good cause. SCC § 7-6-12. This includes, but is not limited to, circumstances where conditions are impractical to provide the service. *Id.* The City's position is that good cause for the denial exists primarily based on deficient fire flow. The City's 2018 Water System Master Plan documented existing fire flow deficiencies in the immediate vicinity of the proposed development. Adding 304 ERU's of additional demand would exacerbate these deficiencies. The applicant argues that a proposed water main looping would resolve these concerns based on a 2022 "will serve" letter and a 2023 study related to the future water main looping. However, these do not overcome the current denial because the prior will serve letter was for a

substantially smaller development which consisted of approximately 60 units rather than 304 units. And the 2023 study merely shows the conceptual future improvements, not the current water system capacity.

The City's denial is further grounded in its Water Rules and Regulations § III.1.D, which specifically authorizes denial of service connections where the connection "may cause an undue hardship on water users" or the connection would create "conditions that do not conform to sound engineering design or may cause a risk to public health." *Id.* There already are existing documented fire flow deficiencies in the area. An additional 304 ERUs would worsen these deficiencies resulting in reduced fire protection capability for existing users. This impact constitutes an undue hardship. Additionally, the increased demand would further reduce fire flows and create a risk that the water pressure could drop below the IDAPA-required 20 psi minimum which creates conditions that do not conform to sound engineering design and may cause risk to public health.

V. CONCLUSION

In summary, the Applicant is not located within the City's boundaries, and it is not receiving water from the city. It is not a water user as defined by the Sandpoint City Code and therefore the City has no obligation to serve the applicant. Even if the City were to apply the Municipal Water System Ordinance to the application, the City may still deny the application if the City council finds good cause for the denial.

It is the City's position that the denial of the water services application is supported by the Sandpoint City Code and the Sandpoint Water Rules and Regulations. The City cannot safely accommodate this scale of development given current system constraints and documented deficiencies.

Sincerely,
LAKE CITY LAW GROUP PLLC



Zachary Jones
Deputy Attorney for City of Sandpoint

CHAPTER 6 MUNICIPAL WATER SYSTEM

7-6-1: Short Title:

This chapter shall be known as the Municipal Water System Chapter.

(Ord. 818, 9-16-1985; amd. Ord. 1372, 3-4-2020)

7-6-2: Purpose:

It is hereby determined and declared to be necessary and conducive to and for the protection of the health, safety and welfare of the public and inhabitants of the city, and for the purpose of controlling the use and connection to, and for providing and equitable distribution of the costs and expenses of maintenance, operation, upkeep and repair of the entire municipal water system which includes the water supply, water storage and water distribution facilities of the city, to charge and collect service charges or fees upon all lots, lands, property and premises served or benefitted by the municipal water system of the city, which system and facilities consist generally of all wells, storage reservoirs, transmission mains, structures, buildings, chlorination facilities, valves, service connections, service meters, fittings, mechanical equipment and all other facilities as required for the furnishing and distribution of water as a public system to the citizens of the city; and to provide for the control, use and administration of the installation of private domestic water systems where a public water system is not available.

(Ord. 818, 9-16-1985; amd. Ord. 1372, 3-4-2020)

7-6-3: Definitions:

Unless the context specifically indicates otherwise, the meanings of terms used in this chapter shall be as follows:

ADJUSTED TOTAL COST TO PRODUCE WATER (ATC): The quotient of the quantity of total water produced during a fiscal year divided by the total adjusted cost of producing such quantity during such fiscal year.

CITY: The City of Sandpoint, Bonner County, Idaho, or its authorized or designated agent, representative, or duty thereto.

CONNECTION: Each structure, facility, or premises which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. A single-family residence is considered to be a premises. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection.

DRINKING WATER SYSTEM: The municipal water system including all mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general drinking use.

MAIN EXTENSION: Refers to all proposed extensions of the drinking water system to serve undeveloped areas within the existing corporate limits, newly annexed areas, or areas outside the corporate limits of the city.

MAY: "May" is permissive (see definition of "Shall").

METER SIZE FACTOR: See the Sandpoint rules and regulations and main extension policies and procedures for the City of Sandpoint water department for a measurement of the relative capacity of different meter sizes, as determined by the Sandpoint rules and regulations.

MUNICIPAL WATER SYSTEM PLAN: Preliminary maps, plans, and outlines for extension of the drinking water system as adopted by the city.

OCCUPANT: Refers to the tenant, developer, leaseholder, or other person who occupies the property of an owner that is served by the drinking water system.

OWNER: Refers to the property owner whose property is served by the drinking water system.

PERSON: Any individual, firm, company, association, society, corporation or group.

PRIVATE FIRE SERVICE CONNECTION: A separate and independent connection from the municipal water main that connects directly to a sprinkler system or fire control device that has been, or is to be, installed in any building for the purpose of fire control within the specific building and said connection is to be for no other purpose.

PRIVATE WATER SERVICE LINE: The portion of the water service line that runs from the building being served to the point of connection with the water meter.

PUBLIC WATER SERVICE LINE: See definition of SERVICE CONNECTION.

SERVICE CONNECTION: Refers to that portion of a water service line that runs from its connection with the water main to and including the curb stop and/or valve box and meter that is installed on the service line. It will usually be installed within the limits of the right-of-way or utility easement if feasible and, after installation pursuant to the provisions of this chapter, it shall be owned and maintained by the city.

SHALL: "Shall" is mandatory (see definition of "May").

WATER MAIN: A pipe within a drinking water system which is under the control of the city and conveys water to two (2) or more service connections or conveys water to a fire hydrant. The collection of water mains within a given water supply is called the distribution system.

WATER USER: Any person, making authorized and proper use of the drinking water system and/or the water delivered thereby and who has made application for water service and such application has been granted and has paid for such service, water, and all fees required.

WHOLESALE USER: Another community public water system served by the city.

UNAUTHORIZED WATER USER: Any person who makes any use of the municipal water system or the water delivered thereby who is not an authorized water user or who improperly or illegally uses the water system, or who causes damage or injury to the system in any fashion.

(Ord. 818, 9-16-1985; amd. Ord. 1008, 5-20-1998; Ord. 1372, 3-4-2020)

7-6-4: Applicability of Provisions:

The provisions of this chapter shall apply to all water users and property owners within the corporate city limits and any water users and owners outside of the corporate city limits receiving water service from the city's drinking water system. Whenever any person desires to become a water user shall apply to the city for service and agree to be governed by such rules and regulations not inconsistent with this chapter, as may be prescribed by the mayor and city council for the control of the water supply.

(Ord. 1065, 11-21-2001; amd. Ord. 1372, 3-4-2020)

7-6-5: New User Facility Fee:

There is hereby established a new user facility fee, which fee is as nearly as possible proportionate to the investment of all water users of the drinking water system in the operation, maintenance, repair and replacement of the existing drinking water system facilities.

The new user facility fee (hereinafter "NUFF") shall be set by resolution adopted by the city council.

The NUFF per meter size factor may be updated yearly.

Each such updated NUFF shall be set by separate resolution adopted by the city council, and shall account for the increased value of drinking water system components, the depreciated value of drinking water system components, and projected increased costs of operation, maintenance, repair and replacement of the drinking water system.

(Ord. 818, 9-16-1985; amd. Ord. 1008, 5-20-1998; Ord. 1372, 3-4-2020)

7-6-6: Reserve Fund for Drinking Water System Facility Replacement:

There is hereby created a reserve fund dedicated to replacement of the city's existing drinking water system components. Funds derived from the charge of the NUFF and the user facility fee element of the water service fee shall be placed in this dedicated reserve fund. The money, so reserved, may be utilized to replace pumps, valves, and mechanical equipment, electrical components, existing water mains, fire hydrants, buildings utilized by the drinking water system for storage, operation and maintenance, and administration of the drinking water system; replacement of existing construction associated with the city's water intake pumping system, diversion dam, drinking water treatment plants, and, installation of water meters.

The money from said reserve fund is not to be utilized for regular operation and maintenance of the drinking water system.

(Ord. 818, 9-16-1985; amd. Ord. 1372, 3-4-2020)

7-6-7: Payment of New User Facility Fee:

A. Payment of the NUFF shall be made to the city at the time, and in the percentages or amounts, prescribed by resolution adopted by the city council.

B. Such payment provisions may be amended yearly by separate resolution adopted by the city council.

(Ord. 818, 9-16-1985; amd. Ord. 1372, 3-4-2020)

7-6-8: Fees:

All water users are obligated to pay their proportionate share of the assessments, fees, and charges established in this chapter. All water users and owners who have been and are connected to the city's drinking water system who have not previously been charged are obligated to pay that proportionate share established during such period of usage provided that the demonstrable evidence is present to substantiate such usage. However, such evidence cannot predate January 1, 1976.

The owner, to the extent permitted by law, and occupant of any such premises using the drinking water system shall be jointly and severally liable for all fees and charges due for services received from the city's drinking water system. Such charges shall become a lien upon and against the property against which the charge or fee is levied to

the extent permitted by the laws of the state of Idaho and the ordinances of the city that may be collected in a manner permitted or hereafter permitted by law.

The NUFF, service connection fees, main extension fees, monthly service fees, reconnection fees, and inspection fees shall be established and set by the city council and administered in accordance with the rules and regulations adopted by resolution.

(Ord. 1372, 3-4-2020)

7-6-9: Delinquency; Notice:

If a bill is not paid before the twenty-fifth (25th) day of the month in which the bill is due, the same shall become delinquent. Water users shall be notified of this delinquency and if the entire bill is not paid in full, within fifteen (15) days after service of this notification on the water user, the right to water use shall cease and terminate unless the water user requests a pretermination hearing.

Should the water user not request a pretermination hearing, or if an adverse decision is rendered against the water user as a result of the pretermination hearing, the city may require the water user to pay the delinquent bill attributable to their use plus the reconnection fee as authorized under the approved rate schedule as a condition to reconnecting the water service again.

The city in its delinquency notice to all water users shall inform, in writing, all water users of their right to a pretermination hearing, with such hearing to be held with the due process protection described below, and that the city will not discontinue water service prior to a fair and impartial hearing after timely and adequate notice and an opportunity to confront witnesses, to personally appear with retained counsel, to be judged on facts introduced at the hearing and otherwise be heard and defend the claim made by the city.

If a pretermination hearing is requested by the water user, the city council shall have the responsibility of holding pretermination hearings and shall make a record of any said hearing. The city council shall render its decision in writing, giving the reason for its termination in the form of findings and conclusions. If the decision is adverse to the water user, the city council shall inform the water user that its determination is the final administrative proceeding and that, by exercising the right to a pretermination hearing, the water user has exhausted his administrative remedies and further that the water user may contest the decision of the city council at the pretermination hearing by filing appropriate proceedings and litigation in the district court having competent jurisdiction.

Provided, however, that the city shall not intentionally deny or discontinue water service to any water user because of a delinquent bill on that premises which is attributable to a prior water user; provided further, that the city shall not intentionally deny water service to any water user, for whatever reason, without informing the water user of a right of a hearing to the city council on the issue on whether the city can initially deny water services.

In the case of an initial denial of water services, the city is not required to provide water service pending a hearing; however, a hearing upon request of the water user initially denied water service shall be held as expeditiously as possible and shall be held in the same manner and in accordance with the procedures of the pretermination hearing set forth above.

(Ord. 818, 9-16-1985; amd. Ord. 1114, 6-16-2004; Ord. 1372, 3-4-2020)

7-6-10: Water System Funds:

All fees and charges received and collected under the authority of this chapter, with the exception of the NUFF and the user facility fee element of the water service fee, shall be deposited and credited to a fund to be designated as the water system fund. The accounts of said fund shall show:

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- A. All receipts and expenditures for the maintenance, operation, upkeep, repair and administration of the drinking water system.
 - B. Any payment into a sinking fund established for the purpose of paying the principal on the water indebtedness of the city which shall from time to time be outstanding.
 - C. Any payment into a reserve fund established for the purposes of maintaining a reserve account as required by the farmers home administration in conjunction with the purchase of revenue bonds.
 - D. Any payment into a sinking fund established for the purpose of providing sufficient monies to replace water department equipment.

As provided by law, when budgeted and appropriated, the funds and credits to the account of the water system fund shall be available for the payment of requirements for the maintenance, operation, repairs, upkeep, and administration of the drinking water system of the city; and to the extent legally available for payment into a sinking fund established for the payment of the principal of and interest on any water bond indebtedness of the city which shall from time to time be outstanding.

(Ord. 818, 9-16-1985; amd. Ord. 1372, 3-4-2020)

7-6-11: Rules and Regulations Applicable to the Water System:

As the rules and regulations of the City Water Department are extensive and will be changed from time to time, and it is deemed advisable by the mayor and city council that such rules and regulations be adopted and amended by resolution rather than by ordinance, it is hereby declared by the mayor and city council that the rules and regulations applicable to the water department of the city may be adopted by resolution of the mayor and city council.

(Ord. 818, 9-16-1985; amd. Ord. 1372, 3-4-2020)

7-6-12: Denial of Water Service Upon Initial Application:

The city may deny an initial application for water service for good cause. Such instances may include, but not be limited to, unresolved prior debt or dispute, conditions are impractical to provide the service, or history of violation of items listed in this chapter.

(Ord. 818, 9-16-1985; amd. Ord. 1372, 3-4-2020)

7-6-13: Involuntary Termination of Water Service:

Involuntary termination of water service may occur if:

- A. The user's account becomes delinquent in accordance with this chapter; or
- B. Other abuses of water service privileges occur, such as, but not limited to, tampering with service pipes, meters, seals or other city facilities; use of equipment which adversely affects the city's service to other users; wasting water, and giving false information in application for water service.

(Ord. 818, 9-16-1985; amd. Ord. 114, 6-16-2004)

7-6-14: Right of Entry for Inspection or Testing:

- A. Free access to all places supplied with water, at all reasonable hours, shall be allowed employees of the city, or their designee to examine the apparatus, the amount used, and the manner of use of the same, and any water user violating any of the rules and regulations controlling the water supply.
- B. The city, through its authorized representative bearing proper credentials and identification, shall be permitted, during proper and reasonable hours of the day, to enter all properties, premises or buildings to which water is furnished from the municipal water system in accordance with the provisions of this chapter. Also, the city, through its authorized representative bearing proper credentials and identification, shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, repair, and maintenance of any portion of the municipal water system 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.

(Ord. 1372, 3-4-2020)

7-6-15: Water System Protection:

The protection of the drinking water system is paramount for public health and following actions are considered unsafe and prohibited:

- A. Permitting any person from another premises to take water from the customer's water service or tap without written permission of the city.
- B. Using water from a city fire hydrant without the express written approval of the city fire chief and City Water Department.
- C. Turning on or turning off water at the city's shut-off, tampering with, interfering with, making repairs, connections or replacements to any city property, including any water meter or remote recorder on private premises.
- D. Placing any obstruction upon or about any hydrant, gate valve box, meter, meter box or other substance so as to prevent free access at all times to the same.

(Ord. 818, 9-16-1985; amd. Ord. 1372, 3-4-2020)

7-6-16: Denial of Initial Application for Water Service:

If the city has reasonable cause to deny an initial application for water service, the city shall notify the applicant in writing, stating the reason for the denial and the right to appeal.

If a hearing is requested, it shall be conducted in the same manner as the pretermination hearing described in this chapter. In all cases of initial denial of water service, the applicant has no right to water service pending an appeal of the decision to the city council.

(Ord. 818, 9-16-1985; amd. Ord. 1372, 3-4-2020)

7-6-17: Pretermination Hearing:

The pretermination hearing shall be conducted before the city council in a formal proceeding. Basic hearing standards to be met are as follows:

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- A. The governing body's decision must be fair and impartial based on the facts presented at the hearing.
 - B. The person requesting the hearing has the right to call witnesses, give testimony and submit evidence as to any facts of the matter. The city has the same right.
 - C. The city shall make a full record of the proceedings by electronic recording and must preserve the recording for a period of thirty (30) days.
 - D. The city council's decision must be given in writing, stating the reason for the decision.
 - E. The city council's decision is the final administrative decision available to the water user.

(Ord. 818, 9-16-1985; amd. Ord. 1372, 3-4-2020)

7-6-18: Metered Water Users:

- A. **Authority to Operate:** It shall be unlawful for any person, except one duly authorized by the city, to open, close, operate, turn on, turn off, interfere with, attach any pipe or hose to or connect anything with any fire hydrant or auxiliary valve belonging to the city.
- B. **Damaging Hydrants:** It shall be unlawful for any person to injure any fire hydrant by any means, including, but not limited to, willfully or carelessly running any vehicle against a fire hydrant, or drawing or attempting to draw water therefrom.
- C. **Penalty:** A violation of this section shall be a misdemeanor, and shall, upon conviction thereof, be punishable by a fine and/or imprisonment, as well as any other available civil, administrative, and/or criminal remedies and penalties, including restitution for all damages done to said hydrant.

(Ord. 1063, 11-21-2001; amd. Ord. 1372, 3-4-2020)

7-6-19: Penalties:

- A. **Notice of Violation; Responsibility for Remedy:** Any person found to be violating any provisions of this chapter, other than for nonpayment of a water bill, may be served by the city with a written notice stating the nature of the violation and providing ten (10) days for the satisfactory correction thereof; provided, however, in the event of an emergency, the city may shut off the water without notification. The offender shall, within the period of time stated in such notice, permanently cease all violations and if necessary, make all corrections and repairs to the system or pay for same if the city has to make the correction or repair.
- B. **Penalty Imposed; Discontinue Service:** Any person who shall continue any violation beyond the time limit provided for in this section, shall be guilty of a misdemeanor and, on conviction thereof, shall be subject to penalty as provided in this code, and shall have his water service terminated. Each day in which such violation shall continue shall be deemed a separate offense.

7-6-20: City Not Liable for Shortage:

The city shall not be held liable for damage to any person or property by reason of stoppage or other interruption of the water supply, caused by scarcity of water, lack of pressure, accident to works or mains, alterations, additions, or repairs or from other unavoidable causes.

(Ord. 1372, 3-4-2020)

CITY OF SANDPOINT WATER RULES AND REGULATIONS 2023

I. APPLICABILITY

These rules and regulations serve as the *Water Rules and Regulations* ("Water Rules") and are applicable to the entire drinking water system and all users, in accordance with and supplementary to City Code Title 7, Chapter 6– *Municipal Water System* and violating the Water Rules is subject to Section 19, Penalties.

II. GENERAL

1. Unless the context specifically indicates otherwise, the meanings of terms used in these Water Rules shall be as defined in City Code 7-6-3. For the purpose of these Water Rules, the following terms relating to the water provided by the City for human consumption and irrigation are interchangeable and have the same meaning: "drinking," "potable," and "domestic."
2. No person other than one authorized by the City shall uncover, make any connections with or opening into, use, alter, or disturb any element of the drinking water system, including but not limited to the public water service line without first obtaining a written permit from the City.
3. The Owner is entirely responsible for their private water service line, in accordance with Section V. All Water Users shall have the responsibility of, and be liable for, and shall pay for, all costs and expenses of maintaining their own private water service line(s).
4. The City shall not be obligated to perform any services whatsoever in locating leaks or other troubleshooting on private property, unless the service connection extends onto private property, whereby the City shall only perform work up to and including the water meter.
5. In cases of emergencies, repairs, or during periods of water shortage, the City may, with the approval of the City Council, restrict the use of water for any purpose.

III. SERVICE CONNECTIONS; PUBLIC WATER SERVICE LINE

1. APPLICATION AND PERMITTING:

A. New Service Connection

A service connection is considered new if the main requires a new water main tap. Existing Water User's requesting an additional or larger service connection are new service connections. Service connection replacement initiated by the City as the result of routine operations or capital improvement projects are not considered new service connections.

B. Application for New Service Connection

All new service connections require the Owner or their agent to make application for a permit on the form provided by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the City and requested by the City. The Owner shall acknowledge all terms provided in the application.

C. Permit for New Service Connection

The City shall determine if the application is complete and issue a permit upon receipt of the applicable fees, as described herein.

D. Denial of Service Connection

Except as otherwise provided by these Water Rules, the City may refuse:

1. To install a service connection of larger size than, in its opinion, is necessary to properly serve the premises;
2. To install a service connection which the City reasonably determines will cause an undue hardship on the City or its Water Users;
3. To install one service connection to serve more than one (1) building or premises, except as allowed by the State of Idaho;
4. To install a service connection to the private water service line where the depth of the service line is less than four feet (4') deep;
5. To install any connection whereby the City has reasonably determined the conditions do not conform to sound engineering design or do not meet the standards of the City or may cause a risk to public health;
6. To install a service connection(s) to a new water main extension(s) that has not been accepted by the City;
7. To install a service connection(s), unless the plumbing inspector has provided written documentation that the private water service line meets the plumbing code adopted by the City; or,
8. To install a service connection(s), unless a valid building permit for the lot requiring service has been received.

E. Supply and Install of Service Connections

1. Meters and yokes shall be purchased from the City and installed by the City, regardless of who installs the remaining service connection. The installation of any other meter or yoke is considered an Unauthorized Water User.
2. Service connections may be installed by either the City, a private contractor hired by the City, or a private contractor hired by the Owner or Water User, as approved by permit issued by the City in accordance with these Water Rules. The City reserves the right to require a service connection be installed by a private contractor.

3. Private contractors installing service connections shall have proof of and maintain a valid Public Works Contractor License, Class A (Type 4 – Specialty Construction; Category 02500 – Utilities) as issued by the Idaho Division of Building Safety and shall provide certificate of insurance meeting the City’s most current requirements.
4. Variances to the requirements of Section III.1.E may only be considered and made in writing as approved by the Division Director and the Responsible Charge Operator of Water Distribution.
5. The City may temporarily or permanently revoke a private contractor’s ability to install service connections.
6. Any and all permitted work performed by an authorized private contractor shall meet the requirements of these Water Rules and the terms of the permit and failure to comply with such requirements constitutes a violation in accordance with City Code 7-6-19, *Penalties*.

2. RESPONSIBILITY; FEES:

A. Responsibility for Costs

1. Costs Borne by the City: The City is responsible for the maintenance of service connections and shall, at its own expense, replace or repair service connections as the result of City initiated routine maintenance, failures, the Municipal Water System Plan, or a capital improvement project.
2. Costs and Fees Borne by User: Cost and fees of new, upgraded, replaced or enlarged service connections shall be borne by the user whenever any service connection is at the request of the user and for the user’s convenience.

B. Types and Requirements of Fees

In accordance with City Code, where adopted by resolution by the City Council, the following types of fees, as applicable, are required with all new service connections, in addition to other applicable and separate fees required by City Code, such as but not limited to building permit fees, impact fees, and various planning and zoning fees:

1. Permit Application Fee: per service connection, is a flat fee due upon application for all new service connections and generally includes the administrative review, processing and inspection costs.
2. Connection Fee (also referred to as “Hook-Up Fees”): per service connection, based upon service size, is a flat fee due upon application for a complete, new service connection supplied and installed by the City and generally includes the labor, materials, and equipment required to tap the water main and install the complete public water service line.
3. Meter-Only Fee: per meter, based upon service size, is a flat fee due upon application for the supply and install of a meter and yoke by the City, whereby all other labor, materials, and equipment to tap the main and supply and install the

public water service line are performed by a private contractor and directly paid by the Water User, in accordance with Section III.1.E.

4. New User Facility Fee (NUFF): based upon a meter size factor, in accordance with Section III.3.
5. Other Permit Application Fees: as required for service connections installed by a private contractor, hired by the Owner or Water User, in accordance with Section III.1.E.

3. NEW USER FACILITY FEE (NUFF):

A. Meter Size Factor Designation:

The meter size factor designation for Water Users of the drinking water system of the City to be used in establishing NUFF. The meter size factor (hereinafter "MSF") shall be determined by resolution of the City council.

B. Applicability of NUFF:

NUFF shall apply to all new service connections, including service connections outside City limits but excluding those served by a Wholesale User of the drinking water system. The NUFF is not an impact fee and is in addition to the other Service Connection Fees.

C. Credits:

Where an existing service connection requires relocating, enlarging, or replacing, a credit may be applied to the NUFF. The credit is calculated based upon the existing meter size factor, deducted from the new meter size factor. Where the new meter size factor is the same as the existing meter factor, the resulting calculation yields to a waiver of the NUFF. The credit may be applied to any location within the same parcel or subdivision. The credit is only applicable to the NUFF and does not apply to any other required fees.

D. Properties Excluded from NUFF:

Pursuant to action taken at the regular City Council meeting on December 19, 1988, each owner of the following lots, who makes application to become a Water User of the City's domestic water system, is specifically excluded from the obligation of payment of the NUFF but shall be obligated for the payment of all other fees owed pursuant to Title 7, Chapter 6, Sandpoint Code.

PONDER POINT

Plat of First Addition to Ponder Point:
Lots 6 and 11

Plat of Second Addition to Ponder Point:
Block 1, Lots 4, 8, 10

All plats listed above are according to the plat thereof recorded in the records of Bonner County, Idaho.

E. Extended Payment Plans:

New development with a NUFF exceeding \$100,000.00 shall have the option to pay the NUFF over a period not to exceed five (5) years provided a written contract is executed and a lien

against the property is recorded specifying that the contract must be paid in full upon sale or change in ownership of the property.

4. SERVICE CONNECTION STANDARDS

- A. The City Council may adopt by resolution design and construction standards. Where no standard is specifically provided herein or as otherwise adopted by ordinance or resolution, all design, construction, installation, testing, and inspections shall be in accordance with Idaho Department of Environmental Quality requirements and the Idaho Standards for Public Works Construction, latest edition. Where conflicts within the standards exist, the most stringent condition shall apply, unless determined otherwise by the City.
- B. All Water Users and Wholesale Users of the City, regardless of location, shall have an operable water shutoff and regular or remote water meter, as appropriate, on each service connection served by the City's drinking water system.
- C. A separate and independent service connection shall be provided for every Water User, except as otherwise allowed by the State of Idaho.
- D. Every service connection shall include a curb stop valve and curb box.
- E. Enlargement of any service connection shall be made only after such time that the Water User's plumbing inside their premises have been enlarged sufficiently to accommodate the additional capacity.
- F. Excavations Guarded; Restoration: All excavations for all service connections shall be adequately guarded with barricades to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City or the entity having jurisdiction over the disturbed property.
- G. An in-ground water meter and associated appurtenances shall be installed within the public right-of-way. Existing water meters installed within the premises of a building shall be allowed to continue until such time as the City installs a water meter within the right-of-way.
- H. All work performed within the City right-of-way shall be inspected and accepted by the City in accordance with the terms of the permit. The City may reject any materials or workmanship for cause and upon such, the rejected material shall be removed and replaced with approved material. Disapproved workmanship shall cause the removal and replacement of all materials involved, including appurtenances such as excavations, backfilling and other work items.
- I. When the installation of a service connection by a private contractor hired by the Owner causes damage to any property, public or private, other than the Owner's property, the Owner shall be responsible for all repair costs including, but not limited to, repair to streets, sidewalks, curbs, gutters, sewer lines, irrigation facilities, storm drains, lawns, fences, landscape, structures, trees, gas lines, other utilities, or telecommunications.
- J. Existing service connections may be used in connection with new buildings only when they are found, on examination and being tested as required by the City, to meet all requirements of the Water Rules.

IV. PRIVATE FIRE SERVICE CONNECTION

1. APPLICATION AND PERMITTING:

A. New Private Fire Service Connection

A private fire service connection is considered new if the main requires a new water main tap. Existing Water User's requesting an additional or larger service private fire service connection are new private fire service connections. Private fire service connection replacement initiated by the City as the result of routine operations or capital improvement projects are not considered new fire service connections.

B. Application for New Private Fire Service Connection

All new private fire service connections require the Owner or their agent to make application for a permit on the form provided by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the City and requested by the City. The Owner shall acknowledge all terms provided in the application.

C. Permit for New Private Fire Service Connection

The City shall determine if the application is complete and issue a permit upon receipt of the applicable fees, as described herein.

D. Denial of New Private Fire Service Connection

Except as otherwise provided by these Water Rules, the City may refuse to permit or accept a private fire service connection:

1. When the City reasonably determines it will cause an undue hardship on the City or its existing users;
2. When the private fire service connection will be at a depth less than four feet (4');
3. When the City has reasonably determined the conditions do not conform to sound engineering design or do not meet the standards of the City or may cause a risk to public health;
4. When the water main does not have capacity and/or has not been accepted by the City; or
5. When the fire official and plumbing inspector has not or is unable to provided written documentation that the private fire water service connection meets the fire and plumbing codes adopted by the City.

E. Supply and Install of Service Connections

Private fire service connections may be installed by either the City, a private contractor hired by the City, or a private contractor hired by the Owner or Water User, as approved by permit issued by the City in accordance with these Water Rules. The City reserves the right to require a private fire service connection be installed by a private contractor. The contractor requirements provided in Section III.1.E shall apply to private fire service connections where located within the public right-of-way.

5. RESPONSIBILITY; FEES

A. Responsibility for Costs

1. **Costs Borne by the City:** The City is responsible for reconnecting and/or replacing an existing private fire service connection when the work is the result of City initiated routine maintenance, failures of the system owned by the City, the Municipal Water System Plan, or a capital improvement project.
2. **Costs and Fees Borne by User:** Cost and fees of new, upgraded, replaced or enlarged private fire service connections shall be borne by the Water User whenever it is at the request of the Water User and for the Water User's convenience.

B. Types and Requirements of Fees

The following types of fees, as applicable, are required with all new private fire service connections, in addition to other applicable and separate fees found in the adopted fee schedule, such as but not limited to building permit fees, impact fees, and various planning and zoning fees:

1. **Permit Application Fee:** per connection, is a flat fee due upon application for all new private fire service connections and generally includes the administrative review, processing and inspection costs.
2. **Connection Fee (also referred to as "Hook-Up Fees"):** per connection, is a fee due upon application for only that portion of a private fire service line within the public right-of-way, as supplied and installed by the City and generally includes the labor, materials, and equipment required to tap the water main and install the complete private fire service connection.
3. **Meter-Only Fee:** private fire line connections are not metered.
4. **New User Facility Fee (NUFF):** are not applicable.
5. **Other Permit Application Fees:** as required for service connections installed by a private contractor, hired by the Owner or Water User, in accordance with Section III.1.E.

6. RESTRICTIONS:

The use of water through an unmetered private fire service connection, except for fire and testing purposes, is not allowed and non-compliance constitutes a violation of the Water Rules.

V. PRIVATE WATER SERVICE LINES

1. Responsibility; Ownership

A private water line is defined in City Code, Title 7, Chapter 6 as the portion of the service line (pipe) that runs from the meter to the point(s) of usage, typically a building or irrigation assembly. The Owner is responsible for the ownership, installation, and maintenance of the

private water service line, including that portion of the line that may be located within the public right-of-way, up to the meter (not including the meter itself that is owned, installed, and maintained by the City). The protection of the drinking water system is paramount for public health and therefore, all private water service lines connected to the City drinking water system shall comply with the requirements of this Section V.

2. Private Water Supply

When the premises served by the City is also served in any manner from another or private water supply of any kind, the Water User's plumbing shall be constructed so that entirely separate plumbing systems shall be provided for each water source.

3. Cross Connection Prohibited

No person shall make or permit the cross connection of any private water service lines or supply to any water line that is served by the drinking water system, in accordance with City Code, Title 7, Chapter 8 – Backflow and Cross Connection Control.

4. Conformance with Building and Plumbing Codes; Inspection

- A. The entire private water service line connected to the City service connection shall conform to the requirements of the building and plumbing codes as adopted by the City, including but not limited to the materials of construction and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling.
- B. Any portion of the private water service line located within the public right-of-way shall also conform to City standards specified in these Water Rules.
- C. The entire private water service line and all associated plumbing connections shall be inspected by the plumbing inspector before the installation is covered. Documentation of the inspection and acceptance by the plumbing official shall be provided to the City prior to the City turning on the service for use.

5. Service Line Size and Location:

- A. The private water service line from the service connection to the building or irrigation assembly shall not be smaller than a three-fourths inch (3/4") inside diameter pipe and shall be laid in a trench of such depth so that the minimum cover over the pipe from the finished grade shall be three feet (4') at the service connection, unless otherwise authorized by the City in writing, at its sole discretion.
- B. The alignment of the private water service line from the building to the service connection shall be reasonably straight and shall be located such that the distance between the water service line and the sewer service line shall be a minimum of ten feet (10').

6. Stop Valves

Stop valves shall be installed by the owner on the owner's service line in a place always accessible and so located as to permit shutting off the water for the entire premises with the least possible delay.

VI. HYDRANT USE

1. Application for Hydrant Use

All persons requesting the use of water from a hydrant served by the City drinking water system shall make application for a permit on the form provided by the City. The permit application shall be supplemented by any other information considered pertinent in the judgment of the City and requested by the City. The applicant shall acknowledge all terms provided in the application.

2. Permit for Hydrant Use

The City shall determine if the application is complete and issue a permit upon receipt of the applicable fees, as described herein.

3. Denial of Hydrant Use

Except as otherwise provided by these Water Rules, the City may refuse to permit or revoke an existing permit for the use of the hydrant:

- A. When the City reasonably determines it will cause an undue hardship on the City or its existing users;
- B. When the equipment connecting to the hydrant does not meet the requirements of the City;
- C. When the City has reasonably determined the conditions may cause a risk to public health;
- D. When the water main does not have capacity and/or has not been accepted by the City; or
- E. To any person who connects to, or removes water from a water hydrant on the drinking water system without a valid permit or after having received a valid permit does not follow the requirements of the Water Rules.
- F. The denial shall apply to those persons acting as agents of the person whose application is denied or permit revoked.

4. Fees for Hydrant Use

Application, inspection, and usage of a hydrant shall be according to the adopted fee schedule.

VII. WATER MAIN EXTENSIONS

1. APPLICATION AND PERMITTING:

A. Water Main Extensions; Definition and Applicability

The term "water main" is defined by City Code 7-6-3 and for the purposes of these Water Rules shall mean to include all related piping, valves, fittings, fire hydrants, service, and other appurtenances required to provide a functionally complete water main extension. The term and conditions relating to "water mains" shall not apply to a Wholesale User, except up to the water meter serving the Wholesale User water main (service connection), unless

otherwise specified in an agreement between the City and the Wholesale User.

B. Application for Water Main Extension

All water main extensions require the Owner or their agent to make application for a permit on the form provided by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the City and requested by the City. The Owner shall acknowledge all terms provided in the application.

C. Permit for Water Main Extension

The City shall determine if the application is complete and issue a permit upon receipt of the applicable fees, as described herein.

D. Denial of Water Main Extension

Except as otherwise provided by these Water Rules, the City may refuse:

1. To permit a water main extension of larger size than, in its opinion, is necessary to properly serve the premises;
2. To permit a water main extension which the City reasonably determines will cause an undue hardship on the City or its Water Users;
3. To permit a water main extension whereby the City has reasonably determined the conditions do not conform to sound engineering design or do not meet the standards of the City or may cause a risk to public health; or
4. To permit connection(s) to a new water main extension(s) that has not been inspected, tested, and accepted in accordance with the Water Rules.

E. Supply and Install of Water Main Extensions

1. Water main extensions may be installed by either the City, a private contractor hired by the City, or a private contractor hired by the Owner or Water User, as approved by permit issued by the City in accordance with these Water Rules. The City reserves the right to require a water main extension be installed by a private contractor.
2. Private contractors installing water mains shall have proof of and maintain a valid Public Works Contractor License, Class A (Type 4 – Specialty Construction; Category 02500 – Utilities) as issued by the Idaho Division of Building Safety and shall provide certificate of insurance meeting the City's most current requirements.
3. Variances to the requirements of Section III.1.E may only be considered and made in writing as approved by the Division Director and the Responsible Charge Operator of Water Distribution.
4. The City may temporarily or permanently revoke a private contractor's ability to install water mains.
5. Any and all permitted work performed by an authorized private contractor shall meet the requirements of these Water Rules and the terms of the permit and failure to comply with such requirements constitutes a violation in accordance with City Code 7-6-19, *Penalties*.

2. RESPONSIBILITY; FEES:

A. Responsibility for Costs

1. **Costs Borne by the City:** The City responsible for the maintenance of water mains and shall, at its own expense, replace, repair, or enlarge water mains as the result of City initiated routine maintenance, failures, the Municipal Water System Plan, or a capital improvement project.
2. **Costs and Fees Borne by the Owner, Developer, or Water User:** Cost and fees of new, upgraded, replaced or enlarged of water mains shall be borne by the user whenever any water main extension is associated with development.
3. **Costs and Fees Shared by the City and the Owner or Developer:** The City may consider sharing the costs of new, upgraded, replaced or enlarged of water mains whenever any water main extension is associated with development and the City Council has included the proposed water main extension in an adopted capital improvement plan or Municipal Water System Plan, or whereby the proposed water main extension benefits the City or other Water Users, only as mutually agreed upon in a development agreement approved by City Council.

B. Types and Requirements of Fees

The following types of fees, as applicable, are required with all new water main extensions, in addition to other applicable fees found in the adopted fee schedule, such as but not limited to building permit fees, impact fees, and various planning and zoning fees:

1. **Permit Application Fee:** is a fee due upon application for all new service connections and generally includes the administrative review, processing and inspection costs.
2. **Connection Fee (also referred to as "Hook-Up Fees"):** per new water main connection to an existing water main, is a fee due upon application for a complete, water main connection supplied and installed by the City and generally includes the labor, materials, and equipment required to tap the existing water main and install the complete a single connection.
3. **New User Facility Fee (NUFF):** water main extensions shall not be cause for a waiver or discount of the required service connection NUFF.
4. **Other Permit Application Fees:** as required for water main extensions installed by a private contractor, hired by the Owner or Water User, in accordance with Section VIII.1.D.

3. WATER MAIN STANDARDS

- A. The City Council may adopt by resolution design and construction standards. Where no standard is specifically provided herein or as otherwise adopted by ordinance or resolution, all design, construction, installation, testing, and inspections shall be in accordance with Idaho Department of Environmental Quality requirements and the Idaho Standards for Public Works Construction, latest edition. Fire hydrants as may be required to satisfy Uniform Fire Code specifications. Where conflicts within the standards exist, the most stringent condition shall apply, unless determined otherwise by the City. None of the

adopted standards restrict the City's right to reject any and all type or brand of materials or appurtenances.

- B. All work performed within the City right-of-way shall be inspected and accepted by the City in accordance with the terms of these Water Rules and permit. The City may reject any materials or workmanship for cause and upon such, the rejected material shall be removed and replaced with approved material. Disapproved workmanship shall cause the removal and replacement of all materials involved, including appurtenances such as excavations, backfilling and other work items.
- C. Platted sites not bordering a dedicated right-of-way shall provide dedicated right-of-way or a minimum twenty-foot (20') easement for public access and utility installation.
- D. All design of a water main extension shall be designed and stamped by a professional engineer, licensed in the State of Idaho, including but not limited to the plans, calculations, and inspection reports.
- E. All water mains and service connections shall be installed prior to paving of streets.
- F. Excavations Guarded; Restoration: All excavations for all water main extensions shall be adequately guarded with barricades to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City or the entity having jurisdiction over the disturbed property.
- G. When the installation of a water main extension by a private contractor hired by the Owner causes damage to any property, public or private, other than the Owner's property, the Owner shall be responsible for all repair costs including, but not limited to, repair to streets, sidewalks, curbs, gutters, sewer lines, irrigation facilities, storm drains, lawns, fences, landscape, structures, trees, gas lines, other utilities, or telecommunications.
- H. The applicant shall install mainline and auxiliary gate valves with valve boxes at the following locations:
 - a. Each leg of a tee or cross installed at water main intersections within or adjacent to properties to be serviced by a main extension;
 - b. Branch leg of a tee for a fire hydrant;
 - c. One-quarter (1/4) mile intervals on each side of the cross fitting to be installed on the main line for which the main extension is requested in order to deliver water to the property.
- I. For proposed water line locations shown in the Municipal Water System Plan, the water main size shown shall be installed, unless engineering calculations resulting from the proposed development require a larger size.
- J. Mainline grids of one-half (1/2) mile by one-half (1/2) mile of twelve-inch (12") diameter size shall be installed, unless impractical or unreasonable as determined by the City.
- K. Proposed mains shall be looped in minimum grids of 1,320 feet by 660 feet or less in dimension.
- L. Where dead end mains cannot be avoided or incomplete loops may exist until grids are

completed. Fire hydrants shall be installed on all dead-end mains.

- M. The minimum water main size shall be eight inches (8") in all residential, commercial or industrial areas.
- N. No other utility shall be installed within five feet (5') of the water main except for crossings.
- O. All water mains shall have a minimum five feet (5') cover, unless otherwise approved by the City.
- P. Final grades and alignment information shall be established in the field with field notes provided to the City for review and approval prior to commencing with any construction.

4. WATER MAIN OWNERSHIP

Any and all water main extensions to the City's drinking water system shall become the property of the City on the date of final, written acceptance by the City. Final acceptance by the City shall not be provided until test results, inspections, as-builts, and engineered plans are approved by the City and all required corrections or repairs have been approved by the City. Thereafter, such extensions shall become the City's responsibility to maintain and operate.

5. OTHER REQUIREMENTS

The City reserves the right to impose other requirements such as special right-of-way limits, sequence of construction, time limits for interruption of service or to minimize impacts to traffic, the filing of a performance bond, etc., as deemed necessary by the City to reasonably assure minimal inconvenience to other Water Users of the water system and/or to assure that the main extension construction is in compliance with the specifications required by the City for the water distribution system.

No: 11-25
Date: June 15, 2011

RESOLUTION
OF THE CITY COUNCIL
CITY OF SANDPOINT

TITLE: WATER SERVICE BOUNDARY POLICY REVISION

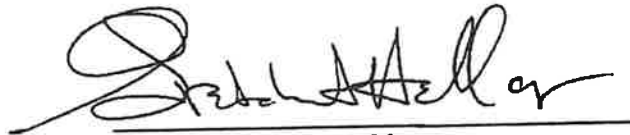
WHEREAS: The City of Sandpoint has consulted with the other cities within the water service boundary;

WHEREAS: The City of Sandpoint receives applications requesting extension of the City's water system to areas outside the current water service area;

WHEREAS: Resolution No. 07-50 was adopted on July 18, 2007, to allow the City of Sandpoint to utilize the policy in evaluating water service extension requests; and

WHEREAS: The Public Works Committee held a special meeting on June 8, 2011, to review revisions on the criteria and process for water service extensions.

NOW, THEREFORE, BE IT RESOLVED THAT: The City hereby adopts the revised City of Sandpoint Water Service Boundary Policy, a copy of which is attached hereto and made a part hereof as if fully incorporated herein.



Gretchen A. Hellar, Mayor

ATTEST:


Maree Peck, City Clerk

City Council Members:

	YES	NO	ABSTAIN	ABSENT
1. Snedden	X			
2. Logan	X			
3. Reuter	X			
4. Ogilvie	X			
5. Brunner	X			
6. Schuck	X			

Admission of New User to City of Sandpoint Water System

Policy

Effective Date: June 15, 2011

Last Revised: June 15, 2011

Contact: Public Works Department

Reviewed by City Council:

Purpose and Eligibility

Under the authority granted by Idaho Code §§ 50-323 and 50-324, this policy sets forth the criteria and process that the City of Sandpoint will use to evaluate requests for extension of the City of Sandpoint Water System to areas outside the current water service area and inside the Minimum Planning Area (MPA), as described in the Sandpoint Water Facility Plan dated November 22, 2006.

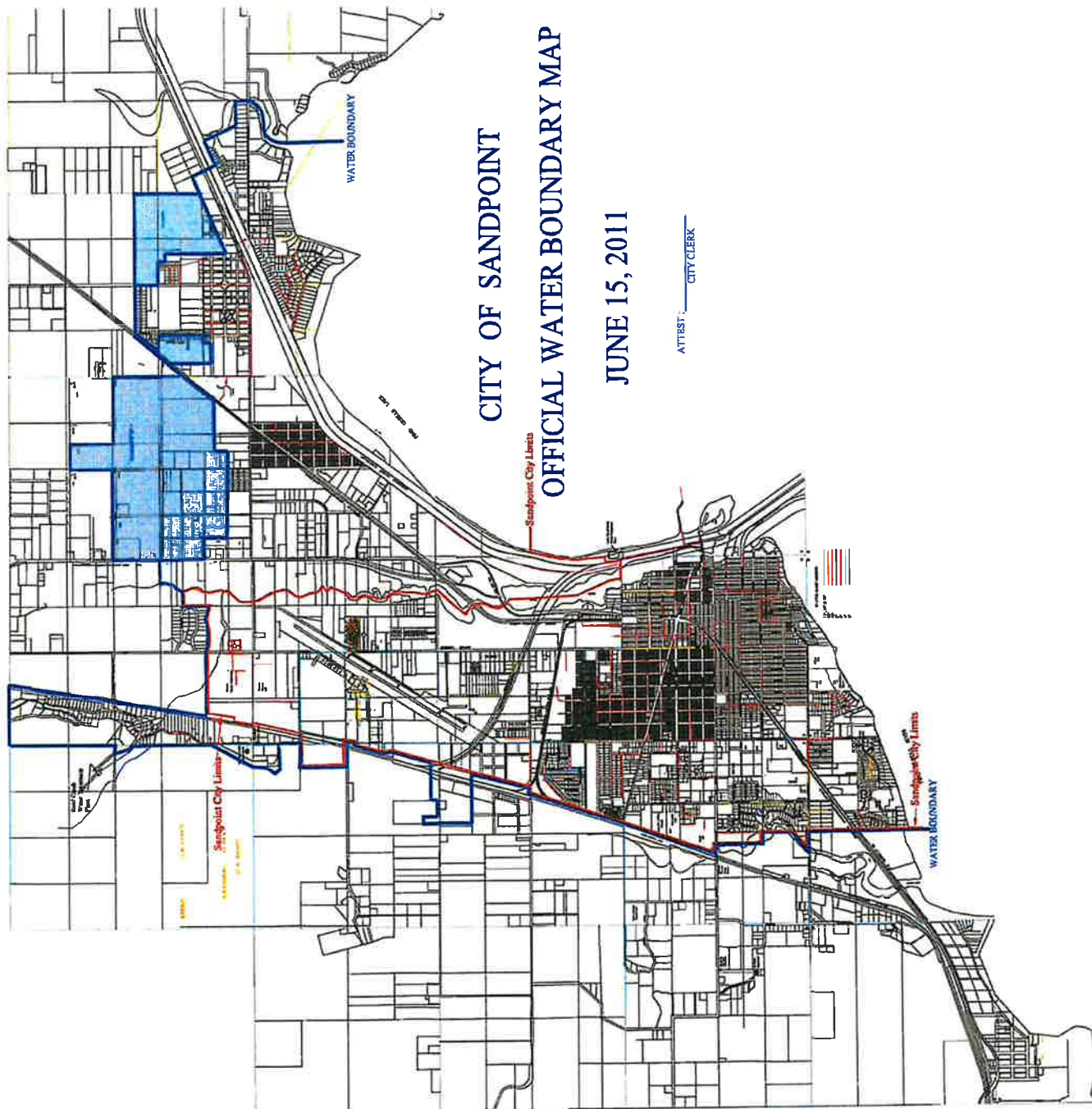
Admission Criteria

In evaluating applications for the extension of the City of Sandpoint water system, the City of Sandpoint shall apply the criteria set out below. Failure to satisfy these criteria will result in rejection of the application:

1. Build-out criteria are city specific. (If Ponderay's build-out occurs quicker than Kootenai's, then expansion to the Ponderay boundary may be considered without having to wait for Kootenai's build-out to meet the criteria.)
2. A net density of 4 Equivalent Residential Units ("ERUs") per acre will be required before expansion of the water boundary will be considered again. Subtraction of land for parks, right of way, wetlands, etc., will not be done.

Admission of New User to City of Sandpoint Water System Policy

3. Specifically, for the 395 acres considered for boundary expansion in Ponderay, 1,580 ERUs will have to be paid for and built before expansion of the water boundary will be considered. The 395 acres are covered in the attached map that includes the entire proposed Field of Dreams and 20 acres along Highway 95. For the 129 acres in Kootenai, 516 ERUs will have to be paid for and built before expansion of the water boundary will be considered. Prior to consideration of any further expansion of the boundary, an economic analysis is to reflect that the previous expansion has financially broken even.
4. The subject city shall consent to expansion of the water boundary in their city before the City of Sandpoint will consider a request for expansion from non-city entities.
5. A fee for expansion requests from entities other than cities will be paid for before expansion requests are considered.
6. All expansions of the Sandpoint Water System Boundary (following this initial expansion of 395 acres in Ponderay and 129 acres in Kootenai) are subject to a hydraulic review to determine the engineering, construction and water system economic impacts of the expansions. The developer making the request for expansion shall bear the full cost of the review.
7. New hookups within the expansion area outlined above will be limited to 50 ERUs until reconstruction of the Lake Water Treatment Plan is completed.



CITY OF SANDPOINT
OFFICIAL WATER BOUNDARY MAP

JUNE 15, 2011

ATTEST: CITY CLERK

No: 07- 50
Date: July 18, 2007

RESOLUTION
OF THE CITY COUNCIL
CITY OF SANDPOINT


TITLE: WATER SERVICE BOUNDARY POLICY

WHEREAS: The City of Sandpoint has received several applications requesting extension of the City's water system to areas outside the current water service area; and,

WHEREAS: The water system boundary sub-committee has drafted the Water System Boundary Policy to provide the criteria and process for water service extensions; and,

WHEREAS: Formal adoption of the Water System Boundary Policy by the City Council will allow the City of Sandpoint to utilize the policy in evaluating water service extension requests.

NOW, THEREFORE, BE IT RESOLVED THAT: The City hereby adopts the 'City of Sandpoint Water Service Boundary Policy, a copy of which is attached hereto and made a part hereof as if fully incorporated herein.


Raymond P. Miller, Mayor

ATTEST:


Maree Peck, City Clerk

City Council Members:

			YES	NO	ABSTAIN	ABSENT
1.	Boge			X		
2.	Elliott	Second	X			
3.	Spickelmire		X			
4.	Lamson					X
5.	Lockwood	Motion	X			
6.	Newton			X		

Admission of New User to City of Sandpoint Water System

Policy

Effective Date: July 18, 2007

Last Revised: July 18, 2007

Contact: Public Works Department

Reviewed by City Council:

Purpose and Eligibility

Under the authority granted by Idaho Code §§50-323 and 50-324, this policy sets forth the criteria and process that the City of Sandpoint will use to evaluate requests for extension of the City of Sandpoint Water System to areas outside the current water service area and inside the Minimum Planning Area (MPA) as described in the Sandpoint Water Facility Plan dated November 22, 2006.

This policy contains the following parts:

Policy Name/ Part Name	Page #
Admission Criteria	3
Application Process	4
Application Requirements	5
Review of Application	6
Point System Checklist	7
Water Supply Development Agreement	11
Waivers	12
Fees	12
Connections and Connection Cost	12

Admission Criteria

In evaluating applications for the extension of the City of Sandpoint water system, the City of Sandpoint shall apply the criteria set out below. Failure to satisfy these criteria will result in rejection of the application:

1. The existing reliable treatment capacity of the water system, as determined by the City Engineer, is sufficient to meet the applicant's demand.
2. Applicant shall extend lines, provide easements along said lines, and enter into a water supply development agreement.
3. Applicant shall be responsible for its share of the capital cost of system-wide upgrades and extensions required to serve the area.
4. The water system in the requested service area shall be designed and constructed or brought up to standards for construction and fire protection in accordance with the Sandpoint Water Facility Plan adopted June 20, 2007.
5. Applicants requesting service within the City of Sandpoint, Ponderay, Kootenai or Dover Area of City Impact (ACI) shall enter into a water supply development agreement and consent to annexation into said City at such time the City deems appropriate.
(Note: Implementation of this paragraph will require intergovernmental agreements between Sandpoint and the other aforementioned municipalities.)
6. Extension of the City of Sandpoint Water System shall be by majority vote of the Sandpoint City Council.
7. Any expansion of the City of Sandpoint Water System shall strive for no negative impact on the interests of the existing water users' water quality, the hydraulic performance of the water system, and the environment, and shall attempt to achieve economic benefit for existing users. Any potential changes to system reliability shall be considered and evaluated.
8. Applicant has met all legal requirements for extension of the City of Sandpoint Water System.
9. The applicant will pay new user fees to the City of Sandpoint system and impact fees, as applicable to areas within and governed by an adopted and defined build out boundary or ACI.

A. Application Process

Application

Applicant shall submit three copies of its completed application to the City of Sandpoint Planning Director and a copy to any impacted local government entity. Completed applications will be placed on the Public Works Committee agenda for review. Upon review of the application by the Public Works Committee, the item will be forwarded for consideration before the Sandpoint City Council with notice to any impacted local government entity.

Staff will review and evaluate the completed application to determine whether the requirements of Sandpoint Code and Resolution 07-50 adopted by the City can be met, and whether water service can be provided by the City of Sandpoint without jeopardizing standards and requirements set forth in this policy.

Fees

At the time of submission of the application, the applicant shall pay a fee for the review and processing of the proposed extension, including, but not limited to, City staff time and any costs for an outside professional consultant and review services as necessary to evaluate the application.

The fees shall be as follows:

The applicant shall deposit a replenishable retainer in an amount not less than \$3,000.00. Any excess amount deposited with the City shall be promptly refunded upon withdrawal, or denial of the application or after the final approval and acceptance of improvements constructed pursuant to the water supply development agreement between the City and the applicant. Applicant shall pay 100% of the costs associated with the review and processing of its application. This retainer shall be credited against the total costs. The retainer balance for pending applications must be maintained at seventy-five percent (75%) of the initial deposit. The City will invoice the applicant for additional retainer funds as needed. If the applicant fails to maintain the retainer account at seventy-five percent (75%) of the initial deposit, the application will be considered withdrawn.

Written reports generated during the application review process shall be available for public review and shall be the property of the City of Sandpoint.

B. Application Requirements

In a formal application for service by the City of Sandpoint water system, an applicant shall provide detailed documentation to enable the City of Sandpoint to make the necessary findings required by City Resolution 07-50.

In addition to providing documentation for the findings above, the applicant shall provide the following:

1. Documentation that the development is a permitted use granted under the authority of the local planning authority when outside the City of Sandpoint.
2. Hydraulic modeling showing the impact of the addition on the Sandpoint Water System using established City modeling program.
3. A detailed description of the water conservation and water accountability programs undertaken by the applicant and other entities including: *leak detection and repair (existing systems)*, commercial and industrial water conservation, and residential water conservation efforts.
4. Applicants shall provide a plan for water conservation. Sandpoint encourages applicants to have a plan that adheres to Best Management Practice water conservation standards, including guidelines for lawns and landscapes. Specific performance shall be described in the terms of the water supply development agreement.
5. A submittal showing how water service to the applicant will allow development to proceed in a manner that meets regulations and policies of the City of Sandpoint and other entities including: guarantees that building will adhere to adopted International Building Code, encourage density, provide for pedestrian connectivity, environmental and other applicable policies designed to protect and promote the public health, safety and welfare.
6. Copies of any studies conducted on existing and potential local service constraints that will be impacted as a result of this development. These might include, police, fire, transportation corridors or similar studies suggesting the cumulative downstream effects that will be experienced by adjacent landowners as a result of development. If no studies are available then the applicant shall prepare documentation on estimated service demands contrasting with available services that are provided to the area.
7. A breakdown of the applicant's current and future total water consumption by customer class: residential, industrial, commercial, municipal facilities, unaccounted-for, other, and agricultural. A listing of customers using over 500,000 gallons a year shall be provided.

8. A Local Water Supply Management Plan if the applicant is a community. A community's application shall address how the requested connection is consistent with the stated objectives of the Sandpoint Water Facility Plan. All other applicants (i.e., state, county, institutional, and private development) shall address how the proposed water connection/water use is consistent with the Sandpoint Water Facility Plan.

C. Review of Application

This policy is intended to promote the health, safety, and general welfare of the community by ensuring contiguous and compact development patterns that are adequately served by urban or suburban level facilities.

The purpose of this point system is to establish a consistent water service boundary expansion system using a rating procedure whereby points are awarded during a development review process for meeting standards and criteria established by this policy. If a development can meet the score prescribed in this policy, the project may be approved. If a given development cannot attain a high enough score to receive acceptance, the development application may be disapproved.

The point system uses criteria and measures to guide selection of uses and development design for a given site. To gain approval, the admission criteria shall be satisfied, and any development application shall achieve the minimum score.

Upon receipt of an application for service to the water system the City of Sandpoint will apply a point analysis that shall be conducted for all policies relevant to an application, and shall be completed prior to the final hearing on the application. The City of Sandpoint also reserves the right to reject applications for those cases in which the applicant fails to achieve a minimum score of 17 in the application point rating system. Unless otherwise expressly provided in a particular policy, each relative category is assigned points for the applicant's performance, as follows:

Point Rating System of Application

	Points Available	Score for Applicant
Location Of Tract: (Score 1 of 4)		
The boundary of development abuts existing development on two or more sides.	5	
The boundary of development abuts existing development on one side.	3	
The property to be developed lies one-quarter mile or less from existing development.	1	
The property to be developed lies over one-quarter mile from existing development.	-3	
Note: "Existing development" refers to the built-up portion of the community that is already within the water boundary.		
Sewer Service: (Score 1 of 3)		
The property to be developed lies within a public sanitary sewer service area and is or will be serviced by said system.	5	
The property to be developed lies within one-quarter mile of a public sanitary sewer service area and is capable of being serviced by said system as determined by the City engineer.	3	
The property to be developed lies outside one-quarter mile of a public sanitary sewer service area or requires a community septic system or individual on site septic system for sewage management.	0	
Note: "will be serviced" refers to service that is concurrent and operational at the time development activity is initiated.		
Road Capacity: (Score 1 of 2)		
A road or roads and intersections will serve the proposed development with sufficient capacity to handle the trips generated by the proposed development as determined by the City engineer.	0	
Trips generated by the proposed development will exceed the capacity of the existing road system.	-3	
Consistency with the future land use plan: (Score 1 of 3)		

The use, or uses, proposed are consistent with the land use category or categories shown for the property by the future land use plan for the City who's ACI the development falls within.	3	
The proposed development is not clearly consistent, nor inconsistent with the future land use plan.	0	
One or more of the uses proposed are inconsistent with the land use category or categories shown for the priority by the future land use plan.	-2	
Land use mix: (score 1 of 3)		
The proposed development consists of a significant mixture of two different land use types, such as institutional, light industrial, commercial, or civic uses in addition to the primary use within the proposed development.	5	
The proposed development significantly incorporates one additional institutional, light industrial, commercial, or civic use, in addition to the primary use within the proposed development, excluding open space or recreation as a use.	3	
The proposed use consists of one single function land use (residential, commercial, institutional, industrial, etc) (open space or recreation shall not count as an additional use).	-2	
Housing Mix: (score 1 of 2)		
The proposed development includes a range of unit sizes, providing for a variety of household income levels and with an enduring affordable component tied to 25% of units through methods including but not limited to, deed restrictions or public -private partnerships that encourage the utilization of state and federal programs.	5	
The proposed development does not specifically provide for affordable components on 25% of the lots.	-5	
Additional Points Possible For Improvements And Amenities		
<i>Note: if a proposed applicant fails to receive the minimum required number of points, the applicant may add amenities to their application of sufficient number and quality to add additional points as set forth below.</i>		

Sidewalks are installed to provide pedestrian connectivity through the development.	2	
No more than 75% of the development's lots, units or square footage are devoted to any one single type of housing (single family, duplex, townhouse, apartment, etc).	2	
The development includes water system improvements that exceed a proportion attributed to the needs of the development and that are required by the City engineer. * Improvements that contribute to leapfrog development are considered non qualifying.	1 for each \$50,000 value of the improvement	
Development provides ten percent or more of the units or square footage constructed will be affordable to low-moderate income individuals or households.	2 for each 10% of total units or square footage affordable up to 6 points.	
<p>Note: Affordable rental units shall be rented at a price which, on average, is affordable for a household with an annual income that is sixty-five percent (65%) of median income adjusted for household size;</p> <p>Affordable units for sale shall be sold at a price which is affordable for a household with an annual income that is seventy-five percent (75%) median income adjusted for household size.</p>		

Total Points

(17 Required) _____

Additionally, the City of Sandpoint will:

1. Review the application's documentation on the necessary findings required by the City of Sandpoint Resolution 07-50, and other items listed in the Admission Criteria.
2. Review documentation submitted pursuant to the requirements section of this Policy (Section B.) to help determine if the City of Sandpoint can make the findings required listed in Admission Criteria.
3. Analyze the applicant's demand impact on the City of Sandpoint water system and consider the projected long-term demand of the system with the new community and contrast it to the City of Sandpoint's operations through average, wet and drought scenarios.
4. Explore whether the development has extraordinary impacts on the system and how those can be funded without impacting current rate payers.

D. Concurrent Reviews

Other regulatory approvals or permits may be required before a request for service may be approved. It is the responsibility of the applicant to obtain all such approvals from any local planning authority. Copies of all applications or requests for regulatory approval shall be submitted to the City of Sandpoint as early as practicable to facilitate review of the request. The City of Sandpoint will cooperate with other regulatory agencies to coordinate its review where possible, and will review and comment in other regulatory processes as appropriate. Final action by the City of Sandpoint cannot be taken until the regulatory approvals from the local planning authority, where required, have been obtained.

E. Water Supply Development Agreement

If the City of Sandpoint approves the request for new service, it will establish appropriate terms and conditions of service in the form of a water supply agreement for (10) TEN years and there after in perpetuity subject to fulfillment on the original Water Supply Development Agreement. Before renewal, the City of Sandpoint will reevaluate and assess the status of the community's demand management efforts.

The Water Supply Development Agreement will set forth as appropriate:

1. Firm limits on usage, including average and maximum daily use of the City of Sandpoint water and a stipulation that any increase beyond the stated amounts would require a contract revision and recalculation of the entrance fee. Any significant increase will also require new approval by the affirmative vote of the Sandpoint City Council.
2. A requirement that the applicant assumes all costs of connection, extensions, payment of impact and new user facility fees.
3. A requirement that the applicant use all local non-City of Sandpoint sources of water to the maximum feasible extent for irrigation.
4. A requirement that the applicant continue to implement all practicable conservation measures. Users shall be encouraged to adhere to Best Management Practices for water conservation standards, including guidelines for lawn and landscapes.
5. A requirement that the applicant guarantee to adhere to submitted plans and specifications relating to density, development and or other conditions that may be required by the Sandpoint City Council.
6. Dedication of utility and maintenance easements along all water line extensions.
7. Annexation consent and other applicable impact fee guarantees.

F. Waivers

The City of Sandpoint may, in its discretion, waive any of the conditions or requirements set forth in this Policy and Procedure, not otherwise mandated by law or regulation, if it finds that the community or applicant has demonstrated unusual factors or extraordinary circumstances which would make imposition of the condition or requirement upon the applicant unfair or inappropriate and finds that the proposed action will not jeopardize the City of Sandpoint's ability to supply its water users. Connection Costs and Impact Fees outlined in the following sections shall not be waived.

G. NUFF & Impact Fees

The City of Sandpoint will collect a new user fee to cover the user's fair share of the costs of the water system in place at the time the user joins. The entrance fee shall be paid up-front, in one lump sum payment, unless otherwise approved by the City Council. If the new user is unable to provide payment on an up-front basis, it may request an alternative entrance fee payment schedule to be made at an interest rate equivalent to the federal prime rate at the time of application, plus an additional 25 basis points, over a period as defined by a vote of the City Council on the application. The user's projected need for City of Sandpoint water will be based upon a detailed analysis of local supplies and shortfalls. Its average annual use and peak six-month average use may be based upon its projected need, but in no case shall the projected need be more than the amount approved under the Sandpoint Water Facility Plan. Firm contract limits will be established based upon the usage volumes provided in the application.

H. Connections and Connection Costs

All new water system connections shall be made directly to the City of Sandpoint transmission system wherever practical. The applicant shall pay all the costs of providing the connection. The City of Sandpoint will charge the costs to the new user as they are incurred, and expenditures by the City of Sandpoint for outside services necessary to make the connection. These costs may include, but are not limited to, costs of preliminary and final design, late comers facility fee, land acquisition, environmental review, pumping and storage facilities, and actual construction including construction services and resident inspection. The new user will pay only the connection cost incurred to serve its own needs. Reimbursement agreements are permissible in order to provide a method for applicants to recover a share of the initial cost expended on line extensions. If other existing users will benefit from the new pipelines and facilities, the City of Sandpoint may assume an appropriate portion of the connection costs that will be added to the overall capital costs for water.