

CHAPTER 37 WATERWORKS

SECTION 37-1	Waterworks. Shall Be Under Exclusive Control of City
SECTION 37-2	Employment of Superintendent
SECTION 37-3	Duties of the Superintendent
SECTION 37-4	Written Application for Water Service
SECTION 37-4-1	Temporary Occupancy Pending Financing; Application for Water Service
SECTION 37-4-2	Temporary Fire Hydrant Meters
SECTION 37-5	Service Pipes
SECTION 37-5-1	Water Supply Protection; Cross Connection
SECTION 37-5-2	Ownership of Service Lateral Lines
SECTION 37-5-3	City Meters and shut-off valve for City personnel use only.
SECTION 37-6	Plumbing Approval Report
SECTION 37-7	Waste Prohibited
SECTION 37-7-1	Time-of-Day Watering Parameters
SECTION 37-8	Water Department to Have Free Access
SECTION 37-11	Fire Hydrants
SECTION 37-12	Unlawful to Take Water Without Paying Therefor
SECTION 37-13	Unlawful to Take Water After It Has Been Turned Off by The Water Department
SECTION 37-13-1	Billing
SECTION 37-13-2	Shut-off of Water Service
SECTION 37-13-3	Fee to Resume Service After Shut-off
SECTION 37-13-4	Pulling of the Meter and Imposing a Fee for Re-Installation of the Meter.
SECTION 37-13-5	Pulling of the Meter and Imposing a Fee for Re-Installation of the Meter
SECTION 37-13-5	Authority to Postpone Shutting off Water Service
SECTION 37-13-6	Writing Off Terminated and Uncollectible Account
SECTION 37-13-7	Late Fee Payment Agreements
SECTION 37-13-8	Un-billed water accounts
SECTION 37-14	Scarcity of Water
SECTION 37-15	Repealed, March 1998
SECTION 37-16	Water Mains
SECTION 37-17	Water Rates
SECTION 37-18	Discontinuance During Quarter
SECTION 37-19	Befouling Waters
SECTION 37-20	Extensions of Water Beyond City Limits
SECTION 37-21	Livestock Watering Outside City Limits
SECTION 37-22	Use Restrictions on Livestock Watering Outside City Limits
SECTION 37-23	Authority for Connection
SECTION 37-24	Unlawful to Interfere with City Officers
SECTION 37-25	Rules and Regulations
SECTION 37-26	Repealed, May 2005

SECTION 37-27	Repealed, May 2005
SECTION 37-28	Repealed, May 2005
SECTION 37-29	Recommendations
SECTION 37-30	Penalty
SECTION 37-31	Drinking Water Source Protection
SECTION 37-32	Water Acquisition
SECTION 37-32-1	Findings
SECTION 37-32-2	Purpose and policy
SECTION 37-32-3	Time to acquire water rights or pay special assessment
SECTION 37-32-4	Acquisition of water reserve
SECTION 37-32-5	Acquisition of excess water rights
SECTION 37-32-6	Agricultural uses to continue and accounting for water rights
SECTION 37-32-7	Amount and type of water required – Exception
SECTION 37-32-8	Establishment of special assessment
SECTION 37-32-9	Effective date

CHAPTER 37

WATERWORKS

SECTION 37-1. Waterworks. Shall be Under Exclusive Control of City.

The waterworks constructed by the City to supply the City with water from any source shall be known and designated as the City Water Works; it shall be the property of said City, and shall be under the sole and exclusive control of the Mayor and City Council, who may from time to time direct the construction of such reservoirs, water wells, water tanks, water mains, service pipes and fire hydrants as the necessities of the inhabitants of the City may require.

SECTION 37-2. Employment of Superintendent.

The Mayor with the consent and approval of the City Council shall appoint a competent and suitable person to care for, look after, and take charge of the City waterworks system. Such employee shall be known as the Superintendent of the Waterworks System.

SECTION 37-3. Duties of the Superintendent.

The Superintendent of the Waterworks System shall, under the direction of the Mayor, ~~and~~ City Council, the City Manager, and the Public Works Director have charge of the operation, maintenance, and inspection of the Cedar City Waterworks System, including the mains, storage reservoirs, pumps, wells, sources of supply, water meters and such other duties as shall be assigned.

SECTION 37-4. Written Application for Water Service.

Any property owner of record desiring a supply of water from the City system to their property, where such service is available, shall apply therefore to the City, and file an agreement with the City, said agreement and application shall contain the following information, and any and all other information City staff may deem necessary and appropriate, to wit:

**APPLICATION FOR UTILITY SERVICE
Cedar City, Utah _____, 20__.**

To Cedar City, a Municipal Corporation:

The Undersigned hereby applies for, sewer, and/or garbage utility service for their premises located at _____, Cedar City, Utah, and hereby agrees to pay service charges for utility services as fixed by Cedar City, and agrees to be bound by the rules, regulations and ordinances of CEDAR CITY for the control of the CITY's utility systems, and in

the event of a failure to pay the utility charges, the City shall have the right to shut off the water meter at its election. Any delinquent account may be turned over to a collection agency, and applicant will be responsible for any and all collection fees assessed by said agency. In addition, by affixing my signature to this agreement I hereby signify that I have inspected the premises to insure that it is ready for water service, and hereby authorize the CITY to turn on water service to my property. I also agree that I will indemnify, defend, and hold harmless CEDAR CITY, its agents and employees, elected and appointed officials, from and against all claims, damages, losses that occur due to any condition on the applicant's property arising out of or resulting from the act of turning on water service to the below mentioned property.

Signature of Property Owner Only

Prior to providing water service to any person, company, trust, or organization, any and all charges due and payable to the City by the person, company, trust, organization, or any of their assignors, trustees, or predecessors in interest for past water, service, material or supplies must be paid in full.

SECTION 37-4-1. Temporary Occupancy Pending Financing; Application for Water Service.

As set forth in Section 37-4 above, the property owner of record must make written application for water service, and bear all responsibility for payment of the same.

Under certain circumstances, property may be occupied by individuals desiring to purchase the same. In the event that a closing date for the purchase of property by such individuals has been determined, and/or financing is pending approval, the occupant may make application with the City in writing for water service to said premises, where such service is available. Such service when granted shall be available up and until the closing date as verified by an Earnest Money Sales Agreement or similar document. Thereafter, the property owner shall be subject to Section 37-4 above.

Any occupant qualifying under the circumstances set forth above must make written application to the City Recorder and file an agreement with the City, which in substance and form shall duplicate the agreement and application of Section 37-4 above, except it shall be signed by the prospective buyer.

In addition, such occupant must file a cash sum with the City equal in amount to two months minimum billing for said service as currently established by resolution by the Cedar City Council, as and for a deposit for said water service. The deposit shall be refundable after the closing date upon verification by occupant that occupant is now the owner of record, and upon fulfillment of all terms of the Application for Water Agreement.

Prior to providing water service to any person, company, trust, or organization, any and all charges due and payable to the City by the person, company, trust, organization, or any of

their assignors, trustees, or predecessors in interest for past water, service, material or supplies must be paid in full.

SECTION 37-4-2. Temporary Fire Hydrant Meters.

A. It shall be the policy of Cedar City that individuals who demonstrate to the satisfaction of the Water Superintendent a need for use of culinary water at a location where permanent service has not been connected may obtain from the City a fire hydrant use permit for the purpose of utilizing a portable meter at an approved fire hydrant. The Water Superintendent must determine that the use of said hydrant will not adversely affect deliveries of water to existing connections of the Cedar City Water System. (See paragraph C below.) Water shall not be removed through fire hydrants even with a temporary meter without prior approval of the Water Superintendent or one of his designated agents.

B. The procedure to obtain a fire hydrant use permit is as follows:

- 1) A standard form issued by the Water Department must be completed by the applicant stating the conditions, location and nature of the use requested, and acknowledging charges and liabilities;
- 2) In addition, payment for the use of the temporary fire hydrant meter and associated fees (\$1,500.00 deposit and a \$25.00 non-refundable administration fee) shall be paid in full to the City Treasurer.
- 3) Upon approval of the fire hydrant use permit application by the Water Superintendent, and verification of receipt of payment, the Water Department may issue the hydrant meter. At that time a meter reading and the meter serial number will be recorded on the use permit.

C. The Water Superintendent may deny a hydrant use permit depending upon location and availability of water from the water system. In any event, all other means of obtaining water for construction purposes or dust control should be investigated and used if practicable.

D. The base rate per month for hydrant meters shall be \$75.00. Water usage shall be calculated at double the Tier III (excessive irrigation) rate currently in effect per each thousand gallons. Meters shall be read and billed monthly by the Water Department. The meter lessee shall be responsible for returning the meter to the Water Division each month for inspection and reading. Readings shall be conducted on the third Tuesday and Wednesday of each month or by appointment if made in advance.

E. Any lessee who does not return the meter to the Water Division each month for inspection and reading on the third Tuesday or third Wednesday or by appointment if made in advance shall be subject to a \$250.00 monthly penalty. If the lessee fails to return the meter after three months, the lessee shall forfeit his/her deposit and shall be subject to further penalties

as described in paragraph H. Prior to imposing a penalty, the Water Division shall send the lessee written notice that he/she has missed the monthly reading. Said notice shall be sent certified mail, return receipt requested, to the lessee's billing address as listed on the hydrant meter lease form.

F. Proper use of fire hydrants is required. The applicant must close the hydrant and disconnect the cut off valve from the hydrant when not using the water, thereby leaving the hydrant free and clear for use by the Fire Department.

G. Any damage to the fire hydrant or public works department equipment after release to the applicant and prior to return must be paid for by the applicant. Any portion of the \$1,500.00 deposit may be retained by the City to cover the cost of such damage.

H. Any use of City water from a source where permanent connection has not taken place without a meter as provided herein shall be unlawful. Any person violating any provision of this Ordinance shall upon conviction be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment not exceeding six months (6), or by both such fine and imprisonment.

The City shall retain the right to revoke a hydrant permit and confiscate the hydrant meter for any reason it deems appropriate. In such case, after any the cost of damages and/or fees are subtracted, the remainder of the hydrant deposit shall be refunded.

AMENDED BY CEDAR CITY ORDINANCE NO. 0610-09-1

SECTION 37-5. Service Pipes.

Service pipes must be so arranged that the supply to each separate house or premises may be controlled by separate stopcock and water meter placed within and near the line of the street curb, or as otherwise approved by the Public Works Director or Water Superintendent. Before water will be supplied through such service pipe, a written application for utility service must be completed to the satisfaction of the City as per Cedar City ordinance 37-4 or 37-4.1.

All water users shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No person except under the direction of the Cedar City Public Works Department shall be allowed to dig into the street for the purpose of laying, removing or repairing any service pipe.

All service pipes installed within the City's water system shall be of a type approved for such use listed within the City Engineering Standards. No extension or service pipes shall be made without first obtaining the City's approval.

SECTION 37-5-1. Water Supply Protection; Cross Connections.

No water service connection to any premises shall be installed or maintained by the City or any other water utility unless the water supply in the premises is protected as required herein.

In order to prevent cross connections between the City's culinary water system and any other system, the resident or business owner will choose between another system and the City's culinary system. If a system other than the City's culinary water system is connected, then the homeowner or business shall not have a feed line connecting this other system with the City's culinary water system. No physical connection shall be allowed between the City's culinary system and any other system.

(A) Definitions:

- (1) Back Flow. The reversal of the normal flow of water caused by either back-pressure or back-siphonage.
- (2) Back-Pressure. The flow of water or other liquids, mixtures or substances under pressure into the feeding distribution pipes of a potable water supply system from any source other than the intended source.
- (3) Back-Siphonage. The flow of water or other liquids or substances into the distribution pipes of a potable water supply system from any source other than the intended source caused by the reduction of pressure in the potable water supply system.
- (4) Back Flow Prevention Assembly. To gain approval for the use within a public drinking water system, all back flow prevention assemblies must be in-line serviceable (repairable), in-line testable and have certification through third party certifying agencies. The third party certification will consist of any combination of two laboratory or field test certifications. Acceptable third party laboratory certifying agencies are American Society of Sanitary Engineers, International Association of Plumbing/Mechanical Officials, and the University of Southern California - Foundation for Cross Connection Control Hydraulic Research. All back flow prevention devices must have third party certification.
- (5) Cross Connections. Any connection which may allow non-potable water or industrial fluids or other material of questionable quality to come into contact with potable water inside a distribution system, including any temporary connections, swing connections, removable connections, four-way plug valves, swivel change-over devices, or other similar plumbing arrangements.

- (B) Duty to Inspect. It shall be the responsibility of the water consumer to purchase, have installed, tested, and maintain back flow prevention devices where necessary and to control cross connections. The consumer shall have certified inspections and operational tests at least once a year upon request of the City. Where the City deems a hazard to be great, the consumer may be required to have such inspections and tests at a more frequent interval as prescribed by the City. All such tests shall be made according to the standard set forth by the State of Utah Division of Drinking Water.
- (C) New Construction. The water division employee designated by the Water Superintendent as the Back Flow Enforcement Officer will review all plans for new construction and insure that cross connections are not part of the consumer's water system.
- (D) Installation Required. Whenever the City deems a service connection's water usage contributes a sufficient hazard to the water supply, installation of an approved back-flow prevention assembly shall be required. The type of protective assembly required shall depend upon the degree of hazard. The City may test all back-flow prevention assemblies after the initial installation in order to determine their adequacy.
- (E) Existing Equipment. All back-flow prevention assemblies existing at the time this ordinance is adopted which do not meet the requirements hereof shall be excluded from the requirements hereof provided they were approved for the purposes described herein at the time of installation and have been properly maintained. Such previously existing assemblies shall be subject to the periodic inspection and testing required by Section B above. Whenever an existing assembly is moved to another location, or where it is determined to constitute a hazard to health, the unit shall be replaced by an approved back-flow prevention assembly.
- (F) Repair and Maintenance of Equipment. The maintenance of all back-flow prevention assemblies and cross connection control devices required hereunder shall be the responsibility of the property owner, and failure to adequately maintain the required equipment shall be a violation. Repairs to a back flow prevention assembly must be performed by a tester having appropriate licensure from the Department of Commerce, Division of Professional Licensing who also holds a current Class II or III back flow technical certificate or by an agent of the owner or the assembly.
- (G) Access for Inspection. A consumer system shall be open for inspection at all reasonable times to authorized representatives of the City in order to determine if cross connections or other hazards exist. Consumer's shall be responsible to provide access across their property for inspection purposes free from litter,

overgrowth, threat of vicious animals, or other hindrance that may be detrimental to ease of access.

- (H) Certified Back-Flow Technician. All tests of mechanical devices shall be conducted by a certified back-flow technician. Such technician shall be responsible for the following:
- (1) Assure that acceptable testing equipment and procedures are used for the testing, repairing or overhauling of back-flow prevention assemblies.
 - (2) Make reports of such testing and/or repair to the consumer, and the City,
 - (3) Include in all reports a list of any materials or replacement parts used.
 - (4) Assure that replacement parts are equal in quality to original parts and that any testing, repair or replacement does not change the design or operational characteristics of the assembly.
 - (5) Maintain license in current condition and testing equipment in proper operating conditions.
 - (6) Be equipped with the competent to use all necessary equipment to properly test and maintain back-flow prevention assemblies.
 - (7) Tag each assembly or high hazard air gap tested or inspected; show the serial number, date tested and by whom, including the technician's license number.
- (I) Public Notification. Although failure of a consumer to be aware of this ordinance shall be no defense to violation, the water department shall use reasonable means to notify its customers of the hazards of cross connections and the need for annual inspection of back-flow assemblies.
- (J) Records. The water department shall keep reasonable records of cross connection hazards and the condition of back-flow assemblies, including those records required by State and Federal agencies. It shall provide the tags required by Section H (7) above upon requested.
- (K) Violations. Service of water to a consumer found to be in violation of this Ordinance shall be discontinued by the City after written notice of the violation, ten (10) days suspended for voluntary compliance, and due process otherwise extended by the City before termination of water service. A violation exists:

- (1) If back-flow prevention assembly required herein for control of cross connections is not installed, tested or maintained;
- (2) It is found that a back-flow prevention assembly is removed or has been bypassed;
- (3) If an unprotected cross connection exists on the premises;
- (4) If the periodic system inspection has not been conducted.

Where written notification of a deficiency is provided by the City to the Consumer to take required corrective action within ten (10) days after the date of mailing such notice, the City shall thereafter discontinue service in accordance herewith. Water service will not be restored until all such conditions or defects are corrected. In addition to any penalty provided herein, violation of this Ordinance shall be a class B misdemeanor. **(8/90)**

SECTION 37-5-2. Ownership of Service Lateral Lines.

All service lateral lines connecting the City Water System to a land owner or resident's premises shall be owned, operated and maintained by the City from the City Water Main to the outlet connection of the meter setter or the property line, whichever is the shortest distance. From that point, the service lateral line is owned and maintained by the landowner. Water meters however, shall always be owned, operated and maintained by the City. All service lateral lines from the City water main through the meter box shall be installed to City Engineering Standards. **(7/98)**

SECTION 37-5-3 City Meters and shut-off valve for City personnel use only.

Access into the City owned meter pit or box, and use of the plumbing inside, including, but not limited to the meter, setter, check valves and shut-off valve shall be allowed only by City Water Department personnel, unless otherwise approved by the Water Superintendent or his designee.

SECTION 37-6. Plumbing Approval. Report.

It shall be unlawful for any person to make any extension of any pipe or connect any fixture to the waterworks system for any purpose whatsoever without first obtaining approval from the City. Within twenty-four (24) hours after the completion and before the work is covered any plumbing work, connected with the water works system, the same must be reported to the plumbing inspector. All new service connections and extensions to the water system shall be isolated from the potable water until such time as the lines have been flushed, disinfected and tested as required by Cedar City.

SECTION 37-7. Waste Prohibited.

It shall be unlawful for any water user to waste water, or to allow it to be wasted, by imperfect stops, taps, valves, leaky joints or pipes, or to allow tanks or watering troughs to leak or overflow, or to wastefully run water from hydrants, faucets, or stops or through basins, water closets, urinals, sinks, or other apparatus, or to use the water for purposes other than those for which he has paid, or to use water in violation of the rules and regulations for controlling the water supply. After notification of violation, the City may terminate any service found in violation of this section if, within a reasonable time period, the condition has not been remedied.

SECTION 37-7-1. Time-of-Day Watering Parameters.

- (A) For purposes of this section the following terms shall have the following definitions:
1. “Culinary Water” shall include all water supplied through that portion of Cedar City’s water works system for culinary use. Typical examples of culinary water include, but are not limited to, residential connections, business connections, and industrial connections.
 2. “Ditch Irrigation Water” shall include all water supplied by Cedar City pursuant to the terms of Chapter 21 of the Ordinances of Cedar City.
 3. “Irrigation” shall include the spraying, sprinkling, misting, flooding, dripping, or otherwise applying water on turf, gardens, trees, grass, shrubbery, or any other vegetation.
 4. “Secondary Irrigation Water” shall include all non-potable water supplied through any Cedar City water works system dedicated for secondary irrigation purposes. Typical examples of secondary irrigation water include, but are not limited to, large irrigation users such as schools, City recreational facilities, golf courses, or Southern Utah University. Additional irrigation uses may be added by the Superintendent of the Cedar City Water Works System.
- (B) Beginning on April 1 and ending on October 31 of each calendar year, outside irrigation using culinary water is prohibited between the hours of 8:00 a.m. and 6:00 p.m., except for the following situations:
1. New lawns that require frequent irrigation for establishment purposes within thirty (30) days of planting;

2. Short cycles required for testing, inspecting, and maintaining irrigation systems provided that there is a person physically present to monitor the system test; or
 3. Use of culinary water for irrigation of commercial stock and commercial gardens or plant nurseries that are licensed by the City, provided that the licensee or a representative is personally on the premises at the time the irrigation is taking place.
 4. Special permit issued by the Superintendent of the Cedar City Water Works System.
- (C) Use of Secondary Irrigation Water and Ditch Irrigation Water are specifically excluded from the provisions of this ordinance.
- (D) Within a calendar year culinary water users found violating this ordinance shall be subject to the following penalties:
1. Upon a first offense a notice reasonably designed to educate and inform the water user about the provisions of this ordinance shall be provided. The notice shall be deemed sufficient if left in a conspicuous location on the property where the ordinance violation occurs. An example is leaving a notice hanging on the front door of a residence, or the manager's door of a multi-unit dwelling.
 2. Upon a second violation the water supply to the property where the violation occurs shall be shut off. Once the water is shut off it may only be turned back on by City staff after the fee established in this ordinance or the City's fee schedule has been paid.
 3. Upon a third or subsequent violation the water supply to the property where the violation occurs shall be shut off. Once the water is shut off it may only be turned back on by City staff after the fee established by this ordinance or the City's fee schedule and an additional one hundred dollar (\$100) penalty have been paid.
- (E) All fines and penalties shall be paid in full prior to restoration of water service. If not paid the fines shall be added to the water user's outstanding water bill and collected in accordance with the provisions of this ordinance.
- (F) The City's Public Works Department shall maintain a complete list containing the time of day, date, and address of each property for the enforcement of the provisions of this ordinance.

- (G) After the enforcement action has taken place a property owner shall be able to appeal. The appeal shall be to the City Manager. The appeal shall be limited in scope to the property owner having to show that on the dates and times recorded by the Public Works Department they were not irrigating with culinary water during prohibited times. The City Manager shall be limited in the remedy that may be provided. If clear from the facts and circumstances the City Manager may waive re-connection fees and/or penalties imposed by this ordinance and remove the unfounded violation from the records maintained by Public Works.
- (H) For purposes of enforcing this ordinance each day when a violation occurs may be considered a separate violation.

Amended by City Ordinance No. 0423-14-1

SECTION 37-8. Water Department to Have Free Access.

The Water Superintendent and his agents shall at all ordinary hours have free access to places supplied with water from the water works system for the purpose of examining the plumbing system, ascertaining the amount of water used and the manner of its use.

SECTION 37-11. Fire Hydrants.

All public fire hydrants shall be kept under control of and shall be kept in repair by the Superintendent of water works, and in case of fire the fire department shall have free access to said hydrants. No other person shall open or operate any fire hydrant, or attempt to draw water therefrom without special permission of the Superintendent of water works, or obstruct the approach thereto.

SECTION 37-12. Unlawful to Take Water Without Paying Therefore.

It shall be unlawful for any person by himself, family, servants, or agents to take or use water coming through the water mains without paying therefor as herein provided; or without authority, to open any stop-cock, valve, water meter or other fixture attached to the system of water supply, or in any way to injure, deface, or impair any part, or any appurtenance of the water works, or to cast anything into any reservoir or tank of the said water works.

During construction the general contractor shall be responsible for the project and subject to a five hundred dollar (\$500.00) penalty for any violation of the above paragraph. Said penalty shall be paid in full prior to the issuance of a building permit or certificate of occupancy, whichever comes first.

SECTION 37-13. Unlawful to Take Water After It Has Been Turned Off by the Water Department.

It shall be unlawful for any person, after the water has been turned off from his premises, on account of non-payment of dues, or for violation of the rules and regulations relating to the water supply, to turn the water on again or allow the water to be used without authority.

SECTION 37-13-1. Billing

Water bills are sent out monthly. All water bills shall be paid in full by 5pm on the 23rd of the month. If the 23rd falls on a weekend or legal holiday, payment is due by 5pm the following business day. Late Fees will be assessed when payments are not received as specified herein.

SECTION 37-13-2. Shutting off Water Service

- (A) Unpaid water accounts are subject to immediate shutoff when the delinquent unpaid balance is not paid in full by the due date of the next billing cycle. Posting of a notice on the property shall be used to notify the occupants subject to shutoff at least *three (3)* calendar days prior to shutoff.
- (B) The first sentence of Subsection 37-13-1 (A) shall be re-printed in each water monthly water bill.

SECTION 37-13-3. Fee to Resume Service After Shut-off.

Subsequent to shut-off of water service as set forth in Section 37-13-1, water service shall be resumed only after payment in full of the outstanding bill by the responsible party and payment of a twenty-five dollar (\$25.00) turn-on fee. The turn-on fee may be amended by the Cedar City Council by Resolution as deemed appropriate.

SECTION 37-13-4. Pulling of the Meter and Imposing a Fee for Re-Installation of the Meter.

Any tampering with the water system shall result in pulling of the water meter. The fee for re-installation of a water meter shall be \$100.00. The re-installation fee may be amended by a resolution of the Cedar City Council. **(amended 5/05)**

SECTION 37-13-5. Authority to Postpone Shutting off Water Service

The City Manager, or his designee, shall have the authority to postpone shutting off an account for a maximum of (10) calendar days. The decision to postpone shutting off an account shall be made after considering the circumstances surrounding the request and after consultation with staff regarding the history of the account. In the event a shut off has been postponed, the total delinquent balance must be paid on or before the tenth calendar day after the postponement, or the water will be immediately shut off.

SECTION 37-13-6. Writing Off Terminated and Uncollectible Account

The City Treasurer shall have the authority to manage terminated and uncollectible accounts and refer such accounts to a debt collection service. All terminated accounts with outstanding balances in excess of ten dollars (\$10.00) shall be written off after forty-five (45) days of the account becoming delinquent. After terminated accounts with outstanding balances in excess of ten dollars (\$10.00) have been written off, they shall be sent to a debt collections firm retained by Cedar City. Terminated accounts with outstanding balances of ten dollars (\$10.00) or less shall be written off but not sent to debt collections.

Accounts that have been shut off but not terminated shall remain on the City's books and shall be turned over to collections within forty-five (45) days of being shut off. Interest will continue to accrue on accounts that have been shut off but not terminated. Interest will continue to accrue on all past due amounts at the rate of 5% per month until paid in full. In the event any amount(s) is/are referred to a third-party debt collection agency, the account holder shall be responsible to pay for a collection fee of up to 25% of the principal amount(s) owing as allowed by Utah Code, plus any other amount(s) allowed for by law (such as interest, court costs, reasonable attorney's fees, etc.).

For purposes of this section, a terminated account is defined as any account where the ownership of the property, as evidenced by the utilities service agreement, has changed for any reason, or the City has been given notice by the applicant that the service is no longer needed. The date of termination will be effective as of the date when the City has been notified of the change in ownership.

SECTION 37-13-7. Late Fee Payment Agreements

Upon the request of a property owner that has accumulated more than two hundred dollars (\$200.00) in late fees, the City Manager, or his designee, may enter into a payment agreement with the property owner whereby a stay is placed on the accrual of further late fees and the owner is given a negotiated time period, not to exceed six (6) months, to pay the late fees. Any agreement shall be in writing signed by the City Manager, or his designee, and the property owner.

Prior to entering into a payment agreement, the City Manager, or his designee, shall review the property owner's payment history. Payment agreements shall not be available to property owners with a significant history of late payments.

In cases involving leaks or other extraordinary circumstances, the City Manager or his designee, after consultation with the water superintendent, shall be authorized to reduce the charge per 1,000 gallons to the City's Block two (2) culinary water rate. The staff shall not have

authority to reduce late fees unless the late fee accrued as a result of City action. In no case shall the City staff have the authority to reduce the principal and late fees due on a water bill in an amount greater than \$500.00.

(Amended by ordinance No. 0827-08)

SECTION 37-13-8 Un-billed water accounts.

If upon examination of the customer's bill staff determines that the customer was likely not receiving a bill for water services staff is authorized to take one of the following actions:

1. If the period of time when the customer was not receiving a bill for this utility service is longer than two (2) years staff shall bill the customer for two (2) years of service at the rates applicable during the two (2) years immediately preceding the bill. Staff is authorized to write off any amount that exceeds the bill for the preceding two (2) years. If the period of time when the customer was not receiving a bill is anything shorter than two (2) years staff shall collect the entire bill.
2. If when the customer is notified they request additional time to pay for up to two (2) years of services for which they have not received a bill, then staff is authorized to offer the customer an agreement whereby the customer shall make monthly payments of the principle. The length of any such agreement shall not exceed two (2) years. During the course of such an agreement the customer shall not be charged interest or penalty on the initial principle amount. Interest may be charged if the customer is late on a payment pursuant to the payment agreement. The Mayor is hereby authorized to sign any such agreement on behalf of the City.
3. If staff can document that the customer has engaged in intentional fraud or deceit in order to avoid paying for utility services received, then staff shall not be allowed to offer the customer the benefit of a two-year repayment and shall proceed with all legal collection efforts to collect the entire amount of un-paid bills due to the customer's intentional fraud or deceit.
 - A. A customer may appeal staff's decision that the customer engaged in intentional fraud and/or deceit. The appeal is to the City Manager. A brief written statement must be submitted by the customer. The City Manager is required to receive staff's input prior to making a decision. The City Manager shall render a decision within ten (10) working days, and notify the customer in writing. In cases where the City Manager does not agree with staff's finding of intentional fraud or deceit, the City

Manager's authority is limited to allowing the customer to take advantage of the two (2) year payback provisions contained in this ordinance.

4. Staff shall be able to rely on the City's billing records in order to make a determination if the customer has been receiving a bill for these services and if the bill has been sent to the address requested by the property owner.
5. If the staff is not successful in collecting the bill pursuant to this section, nothing in this section shall be construed to limit, restrict, or prohibit the City from using its other collection remedies contained in the Cedar City Ordinance including, but not limited to discontinuing the customer's water service, or collecting the debt as a civil debt.

Amended by ordinance No. 1214-11

SECTION 37-14. Scarcity of Water.

In the event of scarcity of water, whenever it shall in the judgment of the Council be necessary, the Mayor shall by proclamation limit the use of water to such an extent as may be required for the public good and also, said proclamation may determine the method, manner and time of use of said water.

SECTION 37-15. Tapping and Water Development Fees.
REPEALED, MARCH 1998

SECTION 37-16. Water Mains.

Except where otherwise provided in these ordinances, the following shall be the exclusive method of extending water mains in Cedar City, Utah, on dedicated streets where water services are not now available and outside of recognized subdivisions.

In the event the lot owner desires water service and there is not a water main in front of the property for which owner desires said service, then for whatever extension is necessary to bring the water main (8-inch minimum diameter) to the furthest developed property line, said property owner shall sign an agreement with Cedar City providing that he shall be reimbursed for expenses incurred to cover the actual cost of extending said water main. After said agreement is executed and construction drawings have been submitted and approved by the City Engineer, then water main can be installed. Thereafter, the installation reimbursement amounts, shall be collected along the specific pipe line thus installed, and be paid by Cedar City Corporation to the individual that paid for the extension until that individual has been completely reimbursed without interest for the money expended for making said extension or for a ten-year period whichever occurs first. In addition to the cost of extension, said property owner shall pay

the physical connection costs and impact fee required by ordinance. Other property owners who thereafter connect to the extended line fronting their property shall pay for the physical connection costs, impact fees and, for the ten-year period indicated above, the reimbursement amount of one half (1/2) the actual cost of the installation across the front of their property. This method of reimbursement shall also apply to lines extended and paid for by Cedar City.

This ordinance shall not be applicable in subdivisions wherein extensions have already been made at the cost of the developer.

SECTION 37-17. Water Rates.

All charges for use of Cedar City culinary water provided to a customer shall be established by the Cedar City Council and adopted in the form of written Resolutions duly authorized and approved by said Council. **Amended 8/86**

SECTION 37-18. Discontinuance During Quarter.

Where water service is discontinued during any month at the request of the user, the charge for that month shall be prorated using the then-current rate as a basis for calculating the proportionate amount due. **amended 10/94**

SECTION 37-19. Befouling Waters.

It shall be unlawful for any person to in any way befoul any of the waters which shall come into the Cedar City Water Works System, or to befoul the waters of any spring or stream used as a source of supply. Any person violating this section shall be punished by a fine in any sum less than One Thousand Dollars (\$1,000.00) or by imprisonment for any period less than six (6) months or by both such fine and imprisonment. **Amended 10/8/86.**

SECTION 37-20. Extensions of Water Beyond City Limits.

Except as the same may now exist or as herein otherwise provided, no extension or use of culinary water outside the City Limits of Cedar City, Utah, without prior approval of the governing body of said City shall be permitted. Any violation of this ordinance shall be a misdemeanor. Nothing in this ordinance shall be interpreted to prohibit an individual with a lawful water connection from filling a container and using the water outside of the City limits for a culinary use. This section of the Cedar City Ordinance shall not be interpreted to alter the existing, or hereafter amended or adopted provisions of the Cedar City Ordinance regulating the use of the City's water system for the watering of livestock outside of the City limits. This

section of the Cedar City Ordinance shall not be interpreted to alter the existing or hereafter amended or adopted provisions of the Cedar City Ordinance regulating physical connections to the City's water system.

SECTION 37-21. Livestock Watering Outside City Limits.

Culinary water from the distribution lines of Cedar City, Utah, may be used for livestock watering, or to provide water as currently provided to existing residential or commercial customers. This section of the Ordinance shall not be interpreted as allowing any additional water connections to the Cedar City Water System for residential or commercial connections outside the City Limits of Cedar City, Utah. Other uses may be allowed outside the City limits but only in accordance with City ordinance and amendments thereto.

SECTION 37-22. Use Restrictions on Livestock Watering Outside City Limits.

The following use restrictions shall apply in connection with the use of culinary water service outside City limits:

- A. The user shall at his own expense install all connections and meters as required by Cedar City in accordance with the current Cedar City Engineering Standards.
- B. No connection shall be made to the distribution system of Cedar City, Utah, except under the direct supervision of the Superintendent of the Water Department.
- C. At the point of each connection to any distribution line, a meter shall be installed, at the expense of the user, in accordance with current Cedar City Engineering Standards.
- D. No more than one user shall be on any metered connection to said distribution system.
- E. At the time of the initial application an administration fee shall be assessed as established in the City's consolidated fee schedule. The user rate for connections outside the City limits for livestock watering and residential connections shall be double the Residential Tier III (excessive irrigation) rate charged within the City Limits. The user rate for commercial connections outside the City limits shall be double the Commercial rate charged within the City Limits. Any expense incurred by Cedar City caused by the use of said water, shall be billed to the user and be considered as part of the fee for the use of said water, in addition to the amount provided for in this paragraph.
- F. Cedar City, Utah, specifically reserves the privilege and right at any time, with or without notice, for any reason satisfactory to Cedar City, Utah, to shut off the

water and terminate this use, and in the event of a water shortage, Connections outside the City Limits may be shut off before there is any limitation of water use within the City Limits.

- G. Each user shall meet the standards of the Utah State Board of Health concerning possible contamination of water supplies, potential water supplies, disposal of sewage, disposal of waste, condition of corrals, and any and all sanitary items, and in addition, Cedar City Corporation specifically reserves the right to impose any additional requirements on these items deemed necessary by the governing body of Cedar City, Utah.
- H. The user is to be entirely responsible for the construction and maintenance of any service line connected under authority of this ordinance, and in the event Cedar City incurs any expense whatsoever because of the user's service line or connection, the user shall be required to reimburse Cedar City, Utah for the actual expense incurred.
- I. Any unauthorized hookup or connection on any line installed under authority of this ordinance shall automatically terminate the use of water for the entire offending line, and all sums on deposit from said offending line shall be forfeited and there shall be no renewal without the approval of the governing body of Cedar City, Utah.
- J. No connection may hereafter be made under authority of this ordinance except to a corral for livestock use only, said corral to be owned, used and occupied by a bona fide resident of Cedar City, Utah, residing in a dwelling in Cedar City, Utah, normally occupied by said individual. The intent of this provision is to encourage the removal of livestock, as defined in the City's Animal Control Ordinance, from within the City limits.
- K. Connections of the City water system to other political subdivisions or special service districts water systems may also be allowed in order to purchase or sale water at wholesale rates at times when deemed necessary and appropriate by the Mayor.

This section amended by Cedar City Ordinance No. 0514-14.

SECTION 37-23. Authority for Connection.

No Connection to any water line of Cedar City, Utah shall be made and no water shall be transported outside the City Limits of Cedar City, Utah, for animal use, except by authority of this ordinance.

SECTION 37-24. Unlawful to Interfere with City Officers.

It shall be unlawful for any person to interfere with, molest, hinder or obstruct the Superintendent of water works or the Health Officer of this City or any of their employees, agents or servants while in the performance of their duties as provided herein.

SECTION 37-25. Rules and Regulations.

The Mayor and City Council shall make such rules and regulations not inconsistent with the provisions of this chapter as may be necessary for the further regulation and control of the City Water Works System.

SECTION 37-30. Penalty.

Any person violating any provision of this Chapter shall upon conviction be punished by a fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment. **Amended 10/8/86.**

SECTION 37-31. Drinking Water Source Protection

A. Short Title and Purpose

- (1) This ordinance shall be known as the "Drinking Water Source Protection Ordinance."
- (2) The purpose of this ordinance is to insure the provision of a safe and sanitary drinking water supply for Cedar City by the establishment of drinking water source protection zones surrounding the wellheads and springs for all wells and springs which are the supply sources for Cedar City water system and by the designation and regulation of property uses and conditions which may be maintained within such zones.

B. Definitions. When used in this ordinance the following words and phrases shall have the meanings given in this section:

- (1) Design Standard - means a control which is implemented by a potential contamination source to prevent discharges to the ground water. Spill protection is an example of design standard.
- (2) Land Management Strategies - means zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and operating standards, development rights, public education programs, ground water monitoring,

household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.

- (3) Pollution Source - means point source discharges of contaminants to ground water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies, and animal feeding operations with more than ten animal units. The following clarify the definition of pollution sources:
- (a) Animal Feeding Operation - means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.
 - (b) Animal Unit - means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.1, plus the number of horses multiplied by 2.0.
 - (c) Extremely Hazardous Substances - means those substances which are identified in the Section 302 (EHS) column of the "TITLE III LIST OF LISTS - Consolidated List of Chemicals Subject to Reporting Under SARA Title III", (EPA 560/4-91-011).
- (4) Potential Contamination Source - means any facility or site which employs an activity or procedure which may potentially contaminate ground water. A pollution source is also a potential contamination source.

- (5) Regulatory Agency - means any governmental agency with jurisdiction over hazardous waste as defined herein.
- (6) Sanitary Landfill - means a disposal site where solid wastes, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.
- (7) Septic Tank/Drain-Field Systems - means a system which is comprised of a septic tank and a drain field which accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, septic tank/drain field system discharges cannot be controlled with design standards.
- (8) Wellhead - means the upper terminal of a well, including adapters, ports, seals, valves and other attachments.
- (9) Spring - means the ground surface outlet of a natural underground spring including spring collection and control boxes, valves, piping and other attachments.

C. Establishment of Drinking Water Source Protection Zones. There is hereby established use districts to be known as zones one, two, three and four of the drinking water source protection area, identified and described as follows:

- (1) "Zone One" is the area within a 100-foot radius from the wellhead or spring.
- (2) "Zone Two" is the area within a 250-day ground-water time of travel to the wellhead or spring, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.
- (3) "Zone Three" (waiver criteria zone) is the area within a 3-year ground-water time of travel to the wellhead or spring, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.
- (4) "Zone Four" is the area within a 15-year ground water time of travel to the wellhead or spring, the boundary of the aquifer(s) which supplies water to the ground-water source, or the ground-water divide, whichever is closer.

D. Permitted Uses. The following uses shall be allowed within the ground water protection zones:

(1) All Zones.

- (a) Uses established before the Effective Date of this Ordinance and used continuously and in the same manner thereafter, which uses may continue, subject to Section 37.31.E, of this Ordinance, provided any such use is not judged by any court of competent jurisdiction to be a nuisance under the provisions of federal, state or local laws or regulations.
- (b) Use of single or multiple-family residential dwellings, commercial or institutional uses established on or after the effective Date of this ordinance connected to a sanitary sewer system.
- (c) Uses incidental and accessory to the uses set forth in the two immediately preceding subparagraphs.

(2) Zone 4.

- (a) The tilling of the soil and the raising of crops, provided fertilizing and the use of pesticides is accomplished within federal state and local guidelines.
- (b) The pasturing of livestock, provided all forage is raised on the pastured area.
- (c) Uses incidental and accessory to the uses set forth in the two immediately preceding subparagraphs.

E. Prohibited Uses. Except uses established before the Effective Date of this ordinance and used continuously and in the same manner thereafter, which uses may continue, on or after the Effective Date of this ordinance, the following uses or conditions shall be and hereby are prohibited within ground water protection zones, regardless or whether such uses or conditions may otherwise be included as part of a use allowed under Section 37.31.D of this ordinance:

(1) Zones 1 and 2

- (a) Sanitary sewer lines within 150 feet of a wellhead or spring collection area.

- (b) Underground storage tanks.
 - (c) Storm water infiltration structures.
 - (d) Any pollution source as defined herein or in R-113 or the Utah Administrative Code.
- (2) Zones 1, 2 and 3. Agriculture industries including, but not limited to, intensive feeding operations such as feed lots, dairies, fur breeding operations, poultry farms, etc.
- (3) All Zones.
- (a) Surface use, storage, or dumping of hazardous waste or material, expressly including industrial or commercial uses of agricultural pesticides (except when such pesticides are used in farming applications within strict compliance of the manufacturer's recommendations of use, subject to inspection by local officials).
 - (b) Sanitary landfills.
 - (c) Hazardous waste or material disposal sites.
 - (d) Septic tanks/drain field systems.
- F. Administration. The policies and procedures or administration of any source protection zone established under this ordinance, including without limitation those applicable to nonconforming uses, exception, enforcement and penalties, shall be the same as provided in the existing zoning ordinance Chapter 26 for Cedar City, Utah, as the same is presently enacted or may from time to time be amended.

(Adopted 4/98)

SECTION 37-32. Water Acquisition.

Section 37-32-1. Findings.

- A. Cedar City has limited water rights. Cedar City provides culinary and irrigation water for residential, commercial, and industrial uses consistent with City ordinance. There are limited water rights in the Cedar City area and these

resources are used by Cedar City, Enoch City, the Central Iron County Water Conservancy District, agriculture, private owners, and private water corporations.

- B. Cedar City is experiencing sustained residential, commercial, and industrial growth, and growth necessitates acquisition of additional water rights.
- C. The City Engineer has conducted an analysis of the City's reasonable water needs. That analysis is incorporated herein and forms the basis for this ordinance. Cedar City contracts for the appraisal of water rights, future appraisals shall be used to determine the amount of special assessment to be charged as an alternative to dedicating water rights.
- D. The State of Utah water engineer has determined that the water rights in the Cedar Valley Aquifer have been fully appropriated and has closed the basin to future appropriation of water rights.

Section 37-32-2. Purpose and policy.

- A. Cedar City's primary purpose for establishing this ordinance is to acquire the water rights necessary to serve its expanding population. Therefore, nobody will be allowed to pay the special assessment established herein if the property on which they are filing a land use application has been the point of use for water in the previous three years or since the enactment of this ordinance, whichever is the shorter look back period.
- B. In order to carry out the policy stated above, it is hereby ordained that all land within Cedar City, or petitioning for annexation into Cedar City, is wet land if: the property has been the point of use for water within the look back period described in section 32-2(A); or the land was wet at the time of annexation and deferred conveyance of water rights in accordance with 32-3-A-1. All wet land must deed all water rights used on the land up to the amount sufficient to satisfy the provisions of this ordinance and may not pay the special assessment for the deeded water.
- C. All land that has not been the point of use for water within the look back period described in section 32-2(A) prior to filing of a land use application and did not defer water conveyance at the time of annexation in accordance with 32-3-A-1, is ordained to be dry land and the party submitting a land use application may pay the special assessment contained in this ordinance and not be required to deed water rights to the City.
- D. All land use applications filed with Cedar City must be accompanied by sufficient documentation from the state engineers' office to show if the subject property was

or was not the point of use for any water rights within the look back period described in section 32-2(A).

Section 37-32-3. Time to acquire water rights or pay special assessment.

A. **Annexation.** Unless one of the following exceptions apply: (1) part of the annexation property qualifies for a deferment of water right conveyance as per Section 32-3(A)(1), or; (2) there is a property owner that does not sign the annexation petition as per Section 32-3(A)(4), if the property is wet land pursuant to section 32-2(B), the City shall require the deeding of water rights sufficient to comply with this ordinance at the time of annexation. If, when proposing annexation, the property is dry land pursuant to section 32-2(c), the parties will agree to either acquire water sufficient for the annexation, and deed those rights to the City; or pay the City the special assessment established by this ordinance prior to receiving final approval for a residential subdivision per Section 32-3B, or prior to receiving a building permit per Section 32-3C.

1. DEFERMENT OF WATER CONVEYANCE.

- a. A land owner that signs the petition to annex may defer the conveyance of water only if;
 - 1. The total land area (measured in acres) that wants to defer the conveyance of water does not exceed ten percent (10%) of the total land area (measured in acres) of the annexation, and;
 - 2. The total amount of water rights requesting the deferred conveyance (as measured in acre feet) does not exceed ten percent (10%) of the total surface or subsurface water used on the property (as measured in acre feet) at the time of annexation.

The deferring land owner's land will be considered wet pursuant to the terms of this ordinance so that at the time the present or subsequent owner subdivides or applies for a building permit they will not be allowed to pay a fee instead of conveying water rights. The land owner will be required to convey 1.5 acre feet of water per acre of land pursuant to the provisions of this ordinance.

- b. A land owner that does not sign the petition and does not convey water rights at the time of annexation shall have their property deemed dry property pursuant to this ordinance.

2. Required Notice

The annexation petition sponsor in an annexation having any parties that do not sign the petition, or want to defer the conveyance of water shall send out the following written notice via certified mail return receipt requested, to all owners of land within the boundaries of the annexation petition:

- a. that the owner's property is being petitioned for annexation;
- b. that as a condition of annexation and development within Cedar City's boundaries, all water rights used on the land at the time of annexation, up to the amount sufficient to satisfy the provisions of Section 37-32, will be required at the time of annexation or at the time of development as set forth in Section 37-32-7; and
- c. that if water is conveyed to Cedar City at the time of annexation, the amount of water required by Cedar City, per acre, is less than the amount of water required at the time of development or at the time of requesting a building permit as per section 37-32-7(A)(1) and (2); and
- d. that if water is being used on the owner's land at the time of annexation, Cedar City will not permit development of the land without the owner providing to Cedar City the required water. Payment of the special assessment will not be permitted as per Section 37-32-2(B); and
- e. that if water is not being used on the owner's land at the time of annexation, or the owner does not sign the petition for annexation, payment of the special assessment will be permitted in accordance with the amount of water required per acre as per Section 37-32-7(A)(1) and (2).

3. Required Recording of Notice on Title of Property Deferring Conveyance of Water Rights.

- a. If a land owner qualifies for a water rights conveyance deferment the following notice shall be signed by the land owner and the City and recorded with the Iron County Recorder on the chain of title to the land owner's property within the annexation boundaries at the time the annexation is approved and recorded:

NOTICE OF WATER CONVEYANCE DEFERMENT

Notice is hereby given that the below described property was annexed into Cedar City without conveying water rights required by Cedar City Ordinance 37-32. The current and any subsequent owner is hereby put on notice that this property is deemed wet for purposes of Cedar City Ordinance and will be required upon subdivision or securing a building permit to convey water to Cedar City in an amount sufficient to satisfy the City's existing ordinance at the time of the subdivision or building permit. Because this land has deferred the conveyance of water at the time of annexation it will not be permitted to pay a fee instead of conveying water.

County serial number
County tax I.D. number
legal description

Dated this ____ day of _____, 200_.

Property owner

STATE OF UTAH)
 :ss.
COUNTY OF IRON)

On this _____ day of _____, 200_, personally appeared before me _____, who duly acknowledged to me that he signed the above and foregoing document.

NOTARY PUBLIC

Dated this ____ day of _____, 200_.

Mayor

[SEAL]

Attest:

Recorder

STATE OF UTAH)
 :SS.
COUNTY OF IRON)

This is to certify that on the ____ day of _____, 20__, before me, the undersigned, a Notary Public, in and for the State of Utah, duly commissioned and sworn as such, personally appeared Gerald R. Sherratt, known to me to be the Mayor of Cedar City Corporation, and Renon Savage, known to me to be the City Recorder of Cedar City Corporation, and acknowledged to me that he, the said Gerald R. Sherratt, and she, the said Renon Savage, executed the foregoing instrument as a free and voluntary act and deed of said corporation, for the uses and purposes therein, and on oath state that they were authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove written.

NOTARY PUBLIC

4. Owners of property annexed into the City without the owner of record signing the annexation petition shall not be required to supply water rights to the City upon annexation. If property is annexed without supplying water at the time of annexation that property shall be required to supply water pursuant to the terms of this ordinance upon subdivision or obtaining a building permit. For purposes of this section the property owner of record shall be the current property owner as shown by the records of the Iron County Recorder's office.
5. Effect of Amendment on Pending Annexations

- a. All annexations that have filed a petition with the City prior to the effective date of this amendment shall be able to use the provisions of this amendment.
- B. **Subdivision.** If real property has annexed into Cedar City prior to the enactment of this ordinance, then prior to a residential subdivision's final plat approval being granted, the developer or owner shall either deed to the City water rights sufficient to comply with this ordinance, if they are subdividing wet land pursuant to section 32-2(B); or pay to the City the special assessment established by this ordinance, if they are subdividing dry land pursuant to 32-2©.
- C. **Building Permit.** If real property has been annexed into Cedar City prior to the effective date of this ordinance and is not in a residential platted subdivision, then prior to receiving a building permit the owner shall either deed to the City sufficient water rights to comply with this ordinance, if the property is wet land pursuant to section 32-2(B); or pay the special assessment set by this ordinance, if the land is dry land pursuant to 23-2©.
 1. Nothing in this ordinance shall require deeding of water rights or payment of the special assessment when a building permit is pulled for repair, remodel, or expansion of a building that has been granted a building permit prior to, or after, the effective date of this ordinance.

Section 37-32-4. Acquisition of water reserve.

- A. Cedar City is an owner of water rights. In providing for culinary, commercial, and industrial uses, the City has been able to determine an appropriate reserve necessary to keep ahead of reasonably foreseeable growth in order to serve the health, safety, and welfare of the Cedar City citizens. This reserve would be water rights that are not being constantly used but would be available for service if necessary. These water rights would be administered pursuant to state law in order to avoid any partial or complete forfeiture. The City has determined the reserve amount necessary to keep ahead of reasonably foreseeable growth to be twenty percent (20%) of the total water rights owned by the City. With the annual Water Report, the City Engineer shall provide information relating to the status of the reserve amount. If at any time the reserve amount of water rights is reached, the City Council shall impose a moratorium on the approval of all annexations, residential platted subdivisions, and building permits not in a residential platted subdivision until the developer or owner is able to provide, or the City is able to acquire, sufficient water to meet the needs as established by this ordinance.

Section 37-32-5. Acquisition of excess water rights.

- A. If at any time an owner is required to deed water rights to the City, and if that owner owns more water rights in the Cedar Valley Aquifer than the owner is

required to deed to the City, then the City shall request that the owner either sell the excess rights to the City or enter into an agreement with the City giving the City the first right of refusal should the owner decide to sell said water rights in the future.

Section 37-32-6. Agricultural uses to continue and accounting for water rights.

- A. To the maximum extent legally allowable, the City shall honor agreements entered pursuant to the terms of this section as it existed prior to being repealed.

Section 37-32-7. Amount and type of water required – Exception.

A. Amount of water required.

- 1. If water is deeded at the time of annexation, the property owner will be required to deed 1.2 acre feet of water rights per acre of land annexed into the boundaries of Cedar City.
- 2. If water is deeded after annexation and at or prior to final residential plat approval, the property owner will be required to deed 1.5 acre feet of water rights per acre of property proposed for a platted residential subdivision. All lots within the subdivision that are one (1) acre in size or greater, including the portion of City streets fronting those lots, shall be assessed pursuant to the standard set forth in paragraph 3 of this section.
- 3. If water is deeded after annexation, but at or prior to acquiring a building permit not in a residential platted subdivision, the owner will be required to deed a minimum of .80 acre feet of water rights per each 50 gallons per minute of the water meter's maximum flow rating. The amount of water required for all subdivided residential lots equal to or greater to one (1) acre, including the portion of City streets fronting those lots, shall be pursuant to this provision.

B. Type of water required.

- 1. As used in this section the following terms shall have the following meaning:
 - a. "sub-surface water rights" shall mean all rights to underground water within aquifers that can physically and legally supply water to Cedar City;
 - b. "class 1 surface rights" shall mean all surface water rights to Coal Creek water adjudicated up to 1870;

- c. “class 2 surface rights” shall mean all surface water rights to Coal Creek water on which claims were filed from 1870 through 1880;
 - d. “class 3 surface rights” shall mean all surface water rights to Coal Creek water on which claims were made from 1880 through 1890;
 - e. “class 4A surface rights” shall mean all surface water rights to Coal Creek water on which claims were made from 1890 through 1898;
 - f. “class 4B surface rights” shall mean all surface water rights to Coal Creek water on which claims were made post 1898.
2. The following classifications of water rights shall be deeded to Cedar City in compliance with this ordinance:
 - a. one third of the required water rights shall be sub-surface water rights;
 - b. one third of the required water rights shall be class 1,2, or 3, surface rights or additional sub-surface water rights;
 - c. one third of the required water rights shall be class 4A or 4B surface rights; class 1,2, or 3 surface rights; or additional sub-surface water rights.
 - d. if a secondary or supplemental sub-surface water right can be transferred to and used by the City with a primary surface water right then, 50% of the total right shall be credited as a sub-surface water right and 50% of the right credited as a surface water right of the class designated for the primary right.

C. Exception.

1. Open space exception. If at the time of final plat approval, or pulling of a building permit, land is deeded to Cedar City for undeveloped open space, parks and recreation, or placed in a conservation easement that complies with the provisions of Title 57, Chapter 18, Sections 1 through 7, Utah Code Annotated, 1953 as amended, then that acreage is not subject to the requirements of this ordinance that mandate the deeding of water rights or payment of fees. This provision does not apply to annexation as the amount of water required for annexation was adjusted to account for such lands.
2. Public lands exception. If at the time of annexation, the annexed property is owned by the Bureau of Land Management or the U.S. Forest Service

then that acreage is not subject to the requirements of this ordinance that mandate the deeding of water rights. This exception only applies to annexation and not when the property is platted as a residential subdivision or receives a building permit.

3. Nothing in this ordinance shall require the City to deed water or pay a fee if the City develops land. Furthermore, nothing in this ordinance shall require any person that purchases land from the City, and within the look back period of the purchase develops the land, to deed water to the City. A purchaser of property from the City will have to pay the assessment to the City consistent with this ordinance.
4. A narrow exception is hereby created to allow for the annexation of property with existing water users that are more than 300 feet from existing City water infrastructure. City staff shall be allowed to permit an exception of up to .45 acre feet for a domestic unit, 4 acre feet per acre of irrigated crop land, or .028 acre feet per animal unit of stock watering. Staff shall be permitted to rely on information from the State of Utah Water Engineer in determining animal units, irrigated crop land, and domestic units. Any party that annexes into the City, deeds water to the City and qualifies for this exception shall be able to lease the determined amount of water for domestic use, crop irrigation, and/or stock watering at a nominal fee until such time as they subdivide or receive a building permit.

37-32-7 Last amended by Cedar City Ordinance No. 0225-09

Section 37-32-8. Establishment of special assessment.

- A. There is established a special assessment that owners may pay instead of deeding water rights to the City as required by this ordinance. The special assessment shall be established by the Cedar City Council and adopted in the form of written Resolution duly authorized and approved by said Council. This special assessment may be amended from time to time also by a resolution of the Cedar City Council. Prior to amending the special assessment, the City shall have the surface water rights and sub-surface water rights in the Cedar City area appraised and/or use the best available market information. The council may also, by resolution, add costs for reasonable administrative overhead to this special assessment.

Section 37-32-9. Effective date.

- A. This ordinance shall become effective immediately upon passage by the Cedar City Council, and being signed by the Mayor.

(Section 32 adopted 3/06)

(Section 32 amended by ordinance number 0227-08-01, Dated February 27, 2008)

(Section 32 amended by ordinance number 1203-08, Dated December 15, 2008)

(Section 32 amended by ordinance number 0514-14-1, Dated May 16, 2014)