

**TOWN OF MONTGOMERY**  
**WATER SYSTEM CIVIL ORDINANCE**

**ADOPTED BY**

**THE SELECTBOARD**

**MAY 19, 2008**

**EFFECTIVE DATE**

**JULY 20, 2008**

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**TOWN OF MONTGOMERY  
WATER SYSTEM CIVIL ORDINANCE**

**SECTION I AUTHORITY**

This ordinance is adopted by the Selectboard of the Town of Montgomery under authority of Title 24, Chapters 59 and 89.

**SECTION II PURPOSE**

The following Civil Ordinance regulates the use of the Montgomery Water System, ("MWS" hereinafter). This MWS Civil Ordinance is adopted to promote safe and orderly use of the MWS.

**SECTION III DEFINITIONS**

1. The word "Commission" as used herein is the Water Commissioners of the Town of Montgomery, Vermont.
2. "Common Enclosure" means property under common ownership bounded by property lines, public streets, or highways.
3. "Customer" means any person, firm, corporation, association, governmental unit, or owner of property as guarantor, connected to the MWS.
4. "Operator" means a person certified and licensed by the Agency of Natural of Resources, designated by the Commission to operate the MWS.
5. "Premises" includes but is not restricted to the following:
  - a. A building or combination of buildings owned or leased by one Customer, in one common enclosure, occupied by one family as a residence, or one corporation or firm as a place of business, or
  - b. each unit of a multiple family house or building separated by a solid vertical partition occupied by one family as a residence or one firm as a place of business, or
  - c. a building owned or leased by one Customer and having a number of apartments, offices, or lofts, which are rented to tenants using in common one hall and one or more means of entrance, or
  - d. a building two or more stories high under one roof owned or leased by one Customer and having an individual entrance for the ground floor occupants and one for the occupants of upper floors, or
  - e. a combination of buildings owned by one Customer, in one common enclosure, none of the individual buildings of which is adapted to separate ownership, or
  - f. a public building, or

- g. a single plot, used as a park or recreation area.
6. "Service Pipe" means the pipe that runs between the water main and the point of entry into a Customer's place of consumption, including fire lines.
7. "Service Connection" means the service pipe, excluding the Commission's stop, from the water main to and including the curb stop adjacent to the street line or the Customer's property line, and such other valves and fittings as the Commission may require between the water main and the curb stop.
8. "Water Service" means the flow of water from the water main through the "Service Connection" and "Service Pipe" to and through the water meter and into the Customer's interior piping system for consumption therein.
9. "Town" means the Town of Montgomery, Vermont.
10. "Owner", "Ratepayer", and/or "Customer" are synonymous for the purposes of this ordinance.

#### **SECTION IV THE COMMISSION**

1. The Commission shall consist of five (5) members who shall be appointed by the Selectboard as terms expire. Three (3) members shall serve for a term of three (3) years and two (2) members for a term of (2) years, except the first year two (2) members shall be appointed for a three (3) year term, two (2) members for a two (2) year term, and one (1) member for a one (1) year term. Selectboard members may be appointed Water Commissioners. 17 V.S.A. §2651(b).
2. The Commission shall meet quarterly to conduct business.
3. The Commission shall elect a President, Secretary, and Treasurer, each for a term of two years. These officers shall be elected at the first quarterly meeting on alternate years and the Secretary and Treasurer do not have to be a member of the Commission.
4. All meetings are subject to Vermont's Open Meeting laws. 1 V.S.A. §§312 - 313.
5. Vacancies on the Commission shall be posted and filled by appointment of the Selectboard in accordance with 24 V.S.A. §§961 and 963.
6. From time to time, the Commission shall set fees, rates, and penalties allowed by law and necessary for the good and lawful operation of the MWS.

#### **SECTION V GENERAL RULES**

1. The rules and regulations as herein set forth constitute part of the contract with every Customer taking water from the Commission, each of whom shall be deemed to assent and be bound thereby.
2. The Commission will undertake to provide an adequate supply of water throughout its system,

but cannot assume responsibility or liability, indirect or consequential, for any damage from failure to do so. Whenever possible, work necessitating the interruption of service will be scheduled to provide the least inconvenience to the Customer. The Commission will make every reasonable effort to give notice in advance of any work of this nature.

3. Authorized employees of the Commission shall have reasonable access to Customers' premises for the purpose of reading, testing, or repairing meters, inspecting plumbing connections, fixtures or pipes. Services rendered after hours or on weekends or holidays are subject to special charges, and this service shall be for emergencies only.

4. Whenever the public interest so requires, the Commission reserves the right to curtail or suspend entirely the use of water for non-essential purposes. Such limitation of use shall be without liability on the part of the Commission.

5. No Customer shall supply water to other persons or permit any connection to be made on his premises for supply to other premises.

6. If there is sufficient pressure or flow in the system to permit an industrial or commercial Customer to qualify for preferred risk insurance, the expense for any improvement in the system for this specific purpose shall be borne by the Customer.

7. Customers are responsible for keeping their service pipes, house pipes, and fixtures in good order and protected from freezing. Failure to do so may result in interruption of service and costly repairs for which the Commission is not liable.

8. Any changes in location of meters or services requested by the Customer shall, if approved by the Commission, be made at the Customer's expense.

9. No pipe or fixture connected with the mains of the Commission may be connected with pipes or fixtures supplied with water from any other source. Storage or mixing tanks subject to contamination, swimming pool recirculation systems, private wells/springs, and reclaiming water systems, etc. are considered for the purpose of this Ordinance as other sources.

10. The piping and plumbing on all premises supplied from the Commission's water system shall conform to State of Vermont Health Regulations.

11. Customers who plan to install air conditioning or refrigeration equipment shall provide water-conserving equipment as approved by the Commission. Water passing through air conditioning or refrigeration equipment which is subsequently used for industrial processing or similar purposes in the normal course of the Customer's water usage, shall not be subject to the above conditions.

12. In the event that any Customer shall use water at rates of flow that cause noticeable pressure variations in the water system, the Commission may require that the Customer control his flow or install equipment to minimize such variations.

13. All users connected to the Montgomery Water System as of the 31st day of July, 2001 and thereafter, are prohibited from disconnecting from the System.

## **SECTION VI APPLICATIONS AND TRANSFERS**

1. Applications for water service shall be made on forms provided by the Commission and signed by the owner of the premises to be supplied, or by his duly authorized representative. Service connection fees are payable in advance.
2. Owners shall notify the Commission in advance when premises are to be vacated so that water may be turned off and meters can be read and/or removed. If the premises are to be permanently abandoned, owners shall notify the Commission immediately so that the service connection can be closed at the main.
3. Applications for the purchase of water shall be applied for through the Commission.
4. When the Commission renders temporary or intermittent service to a Customer, it may require the Customer to bear the costs, in excess of any salvage realized, of installing and removing the service.
5. A written water permit must be obtained from the Commissioners, or its municipal designee, prior to any service connection being made to a distribution main. Any fee required and imposed by the Town against the applicant must be paid in full for an application to be deemed complete and ready for review. The applicant shall be responsible for obtaining all local and any State permits required prior to any excavation. The securing of final approvals of the project pursuant to this Ordinance does not remove the applicant's responsibility to obtain other applicable permits, such as public building permits, zoning permits, road access permits, etc. All applicants are advised to contact a Vermont Agency of Natural Resources regional permitting specialist to ascertain whether any State permits, or amendments thereto, are required."

## **SECTION VII SERVICES**

1. A single service may not supply more than one premise.
2. All new and renewed services shall be a minimum of three quarters ( $\frac{3}{4}$ ) inches in diameter with no soldered joints underground. Services shall be type k copper tubing or as approved by the Commission.
3. All services shall be provided with a full way shut off and valve box at the curb or at a convenient point prescribed by the Commission between the curb and the property line, and with a stop valve inside the cellar wall. Where more than one building on a premise is supplied by a single service, the branch line to each building shall have an underground shut off valve box outside the building.
4. When an applicant applies for a new service, except in conjunction with new main extensions, the Commission or its agent will furnish, install, own and maintain such new service connection. The Commission will bear the cost of the service connection pipe and curb stop, but will make a charge to the applicant for tapping the main, furnishing and installing the curb box, curb stop, service connection pipe, cost of excavation, backfill, removal and replacement of paving, walks, curbs, etc. necessarily incurred to provide the new service, and a hook-up fee of one thousand (\$1,000.00) dollars.

5. The Commission or its agent will furnish, install, own and maintain at its expense all replacements of service connections it deems necessary, including the cost of excavation, backfill, and removal and replacement of paving, walks, curbs, etc. necessarily incurred with respect to each replacement.
6. The Customer at their own expense shall furnish, install, own, and maintain the service pipe from the curb stop to the place of consumption in accordance with specifications supplied by the Commission. The Customer shall also assume ownership of the curb box, keeping the service pipe and box in good repair in accordance with reasonable requirements of the commission.
7. The Customer shall inform the Commission previous to backfill so that the Commission may make an inspection in order to determine whether the service pipe complies with the Commission's requirements. No service pipe shall be turned on without prior approval by the Commission.
8. Maintenance of all service pipes from curb stop to inside the cellar wall, shall be paid for by the Customer. The Commission is not liable for any freezing of this portion of the service pipes. All thawing charges shall be borne by the Customer. Such services must be lowered before the following winter, and be inspected before backfilling by the commission, or they will be shut off and drained before frost.
9. The service pipe shall be extended through that point of the Customer's property line or the street line easiest point of access to the utility from its existing distribution system, and, where practicable, from a point at right angles to the existing distribution line in front of the premises to be served. New service pipes and replacement of existing service connections shall not cross-intervening properties. The approval of the Commission shall be secured as to the proper location for the service pipe.
10. The Commission will not be responsible for damages done to services which have not been properly drained. Services for buildings without cellars shall have underground stop and waste valves between buildings and curb shutoff. Services shall be laid at a minimum depth of six (6) feet below ground.
11. Water services may be laid in the same trench with other underground utility facilities except oil or sewer pipes, provided twelve (12) inches separation, in a horizontal plane, shall be maintained and provided such arrangements shall be mutually acceptable to the parties concerned.
12. No service pipe shall cross any portion of a seepage system or be installed less than ten (10) feet away from any portion of a seepage system.
13. All underground lawn-sprinkling systems shall be equipped with check valves and vacuum breakers to prevent back siphoning into the water system.
14. If part of a multiple family house changes ownership, the new owner shall have a separate service and meter installed at the owner's expense.
15. The cost of restoring a deactivated service in excess of any salvage realized shall be borne by the Customer.

16. If service is shut off or discontinued, the Customer's account shall continue to be billed for the bond payment.

## **SECTION VIII BILLING AND CONNECTION**

1. Separate premises shall be separately billed.

2. Bills are payable when rendered. Failure of the Customer to receive the bill or notice does not relieve him from obligation of payment or from the consequences of its non-payment.

3. Water supplied to the building occupied by more than one tenant shall be billed to the owner who shall be liable and responsible for their payment. Ratepayers are also responsible for notifying the Town Treasurer of any changes in mailing addresses.

4. Prorated charges for bond payment will be made in cases where new premises are occupied for the first time.

a. Prorated charges in the Village will be forty eight (48) dollars per quarter times the number of quarters, up to a maximum of forty (40) quarters, since January 2001 for residential customers, and sixty one (61) dollars per quarter for commercial customers.

b. Prorated charges in the Center will be thirty three (33) dollars per quarter times the number of quarters, up to a maximum of forty (40) quarters, since September 1, 2007 for residential customers, and fifty (50) dollars per quarter for commercial customers.

5. Water purchased will be sold at regular commercial meter rates plus the System Operator's hourly fee. The System Operator shall be present to load a container, tank, or truck with water.

6. Miscellaneous sales and temporary services are billed as services are rendered.

7. If any part of a bill is unpaid thirty (30) days after the Mailing Date the Commission may, after fifteen (15) days written notice, discontinue service. If water is shut off for non-payment, there will be a charge for turning the water on again. Customers are warned that interest at a rate of 1% per month, or a fraction thereof, will be charged on all unpaid bills from thirty (30) days after the Mailing Date as voted at Town Meeting March 4, 2008 per 32 V.S.A. section 5136, and that an unpaid bill may become a lien on their real property per V.S.A. 32section 5061.

8. The discontinuance of water service due to delinquent payment of water bills and charges shall be addressed in the manner specified by Title 24, Chapter 129.

9. All charges, rates or rents for or in connection with the public water supply shall be adopted by the Board of Water Commissioners at a regular or special meeting.

10. Listed below is the billing schedule:

**BILL SENT OUT ON OR ABOUT THE FIRST DAY OF THE MONTH IN JANUARY,  
APRIL, JULY, AND OCTOBER.**



## REMINDER NOTICE SENT OUT 20 DAYS AFTER MAILING DATE

BILL IS DUE 30 DAYS AFTER BILLING DATE. Starting on the 31st day, interest accrues at the rate of 1% per month on the unpaid portion of the bill.

## SHUT OFF NOTICE SENT OUT 6 DAYS AFTER DUE DATE BY A TELEPHONE CALL OR LETTER TO ADDRESS OF RECORD

## SHUT OFF NOTICE + 15 DAYS = SHUT OFF OF WATER SERVICE

No shut offs will be done on the day immediately prior to a weekend or Holiday.

10. A fee of twenty five (25) dollars will made for a trip to collect overdue bills

11 A fee of twenty five (25) dollars will be made during normal hours, and thirty seven and 50/100 (37.50) dollars overtime will be made for reconnection of service disconnected because of non-payment. 24 V.S.A. §5151(b).

## SECTION IX DISCONTINUANCE OF WATER SERVICE

1. Disconnection of water service ;for delinquent payment of a valid bill or charge shall conform with the process prescribed by 24 V.S.A., Chapter 129 and amendments thereto. Notice of disconnection shall be provided to the ratepayer prior to disconnection and in the form required by 24 V.S.A. § 5143 and amendments thereto. Disconnection of water service shall occur only between the hours of 8:00 a.m. and 2:00 p.m. of the business day specified on the notice of disconnection, or within the same hours during the four business days thereafter. When service is disconnected or interrupted at the premises of the ratepayer, the individual making the disconnection shall immediately inform a responsible adult on the premises that service has been disconnected, or if no responsible adult is then present, shall leave on the premises in a conspicuous and secure place a notification advising that service has been disconnected or interrupted and what the ratepayer has to do to have service restored. All delinquent ratepayers shall be given an opportunity to enter into a reasonable agreement with the Town to pay the delinquent bill and avoid disconnection of water service.

2. After service has been shut off because of a customer's failure to abide by any section of this ordinance, it shall be restored within 24 hours upon the customer's request when the cause for disconnection of service has been removed or when an agreement has been reached between the customer and the Town regarding the dispute that led to the disconnection or when directed to do so by the Commission."

## SECTION X PENALTIES

1. This is a civil ordinance and shall be enforced by the Constable or any other duly authorized designee of the Selectboard in the Judicial Bureau in accordance with 24 V.S.A. §§ 1974a et seq. Any violation of this ordinance shall be punishable by a fine of five hundred dollars (\$500.00). Each day the violation continues shall constitute a separate offense.

2. An Issuing Municipal Official shall have the authority to levy and collect a Waiver Fee of \$275.00, in lieu of the civil penalty, from any person who declines to contest a municipal

complaint in writing, pay the Waiver Fee, and demonstrate compliance.

3. A customer shall be liable, in addition to the civil penalty set forth above, for all repair costs incurred for damage to the MWS caused by the Customer,

4. Special charges – Fees charged for collection of overdue accounts and reconnection of service disconnected because of nonpayment. Fees charged shall not exceed those prescribed by 24 V.S.A. § 5151 and amendments thereto. These fees are in addition to the interest on delinquent accounts authorized by virtue of 32 V.S.A. § 5136. As of the date of the adoption of this Ordinance, the schedule for such fees is as follows:

(a) collection trips - \$25.00 maximum, regardless of number;

(b) reconnection:

(i) normal hours - \$25.00

(ii) overtime - \$37.50

4. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structures, appurtenances, or equipment which is part of the public water system. No person shall, in any way or by any device, obtain the use of water from the public water system without prior authorization from the Town in conformance with the provisions of this ordinance. No ratepayer shall, without the written consent of the Town, be allowed to furnish water from the public water system to other persons or property or to charge for the same. A lessor may however furnish water to a lessee, and charge for the same, provided the charge is at the same rate as that assessed by the Town. Any person violating this provision shall be liable to the Town in treble damages therefore, to be recovered in a civil action, and any such person on conviction of a violation hereunder shall be fined not exceeding \$100.00 or committed to the commissioner of corrections not more than six months, or both.

## **SECTION XI PRIVATE FIRE SERVICE CONNECTION**

1. Private fire hydrants and sprinkler systems, shall be installed and maintained at the expense of the Customer. The size, material and location of piping, and specifications for any tanks and pumps which may be required, shall be submitted in writing to the Commission for approval.

2. Private fire services shall not be used to serve water for purposes other than fire protection, and no water shall be taken from a private fire service connection or hydrant for any purpose other than to extinguish fires or to test fire-fighting equipment. Such tests shall be made only after written notification to and approval by the Commission.

3. The Commission shall not be held liable or responsible for any losses or damage resulting from fire and water which may occur due to the installation of a private fire service connection or any leakage or flow of water there from.

## **SECTION XII PUBLIC FIRE SERVICE**

1. If the Fire Department desires to use water from hydrants for testing equipment or for any other purpose other than that of extinguishing fires, they must contact the Commission in advance of such usage.

2. Persons other than authorized fire department personnel who desire to use water from public hydrants for building or other purposes must first obtain permission in writing from the Commission.
3. All public fire hydrants shall be owned and maintained by the Commission.

### **SECTION XIII WATER MAINS**

1. All water mains laid as replacements or extensions of the existing system shall be a minimum of eight (8) inches in diameter, and shall comply with plans for the future water system network. Six (6) inch pipe may be laid for short distances between larger size mains or in other circumstances, but only by special permission of the Commission.
2. If the Commission requires the installation of a water main of larger diameter than eight (8) inches, they shall bear the cost difference between the eight (8) inch main and the larger size required.
3. Design and layout of the proposed water main, including valves, hydrants, and appurtenances, shall be according to accepted Good Engineering Practice, and shall be approved by the Commission before any material shall be ordered or construction work started.
4. Water mains shall be laid with a minimum depth of six (6) feet below ground with proper tamping, and with backfill placed in accordance with Commission specifications.
5. Materials to be used in construction work shall be as specified and approved by the Commission.

### **SECTION XIV EXTENSION AND FINANCING OF WATER MAINS (except Real Estate Development)**

The Commission will extend its service and install water mains in streets, lanes and highways under the following conditions:

1. Before water mains are installed, each street lane and highway must be accepted by the town as a public highway and must have an established grade, or in the event such streets, lanes, and highways are not public highways and have no established grade, then at the option of the Commission, after the proposed water main layout plan has been approved, water mains may be installed if suitable easements have been granted to the Commission and the Town.
2. The full length of the proposed extension shall be paid for by the property owner or owners, in advance, at an estimated price per foot based on the cost of the entire extension, including service connections. Payment shall be made in full, before any materials shall be ordered for the work. Upon completion of this extension, the Commission shall determine the exact cost and will either refund or charge the property owner or owners accordingly.
3. If the extension is not used within one (1) year after its installation, then a charge equivalent to the minimum charge for a five eights (5/8) or three quarter (¾) inch meter will be made each year until it is used.

4. All distribution mains shall become and remain the property of the Commission when installed, and said Commission agrees in consideration, therefore, to maintain the same at its own expense so long as there is sufficient demand for water service in said location. The extensions may be installed by an approved private contractor under the supervision and inspection of the Commission.

#### **SECTION XV EXTENSION AND FINANCING OF WATER MAINS - FOR REAL ESTATE DEVELOPMENT**

1. Upon acceptance of the proposed water main layout plans, and estimated consumption, extensions of distributions mains to and in real estate developments, or extensions supplying undeveloped territory, will be made by the Commission or an approved private contractor under the supervision and inspection of the Commission at the expense of the applicant or Customer. The cost of the installation of mains not less than eight (8) inches in diameter, providing satisfactory grades are established, and permanent rights of way are granted to the Commission, will be completely borne by the Customer. In the event the Commission requires more than an eight (8) inch main, the Commission shall bear the cost difference between the eight (8)-inch main and the larger size required.

2. The title to the property installed under the above paragraph shall be conveyed to the Commission upon completion of the work.

3. The applicant, or Customer, on extensions of this character, shall mean the developer or such party or parties with whom the contract is made, and their successors and assigns.

4. Full payment of all estimated expenses in connection with a contract for extensions in real estate, developments or undeveloped territory, including service connections, will be required in advance before any materials shall be ordered for the work.

#### **SECTION XVI APPEALS**

1. Any person cited for a violation of this Ordinance may contest the violation before a judge in the Judicial Bureau.

2. A judgment entered by the Judicial Bureau may be appealed under the provisions of 4 V.S.A. §1107.

#### **SECTION XVII REPEAL OF PRIOR ORDINANCES**

1. Any other ordinance or regulation in conflict with this ordinance is hereby repealed.

#### **SECTION XVIII EFFECTIVE DATE**

1. This Ordinance shall become effective no earlier than sixty (60) days after its adoption by the Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this Ordinance.

#### **SECTION XIX SEVERABILITY**

If any section of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this Ordinance.

Board of Selectmen  
Town of Montgomery

\_\_\_\_\_  
Kenneth Cota, Chairman

\_\_\_\_\_  
Scott Perry

\_\_\_\_\_  
Mark Brouillette

\_\_\_\_\_  
Wendy Howard

\_\_\_\_\_  
Merril Cabana

Montgomery Town Clerk's Office received for record this \_\_\_\_\_ day of \_\_\_\_\_,  
A.D., 2008 at \_\_\_\_\_ P.M.

Attest: \_\_\_\_\_

1. Agenda item at regular Selectboard meetings held on:

4/28/08

5/5/08

5/19/08

2. Read and approved at regular Selectboard meeting on May 19<sup>th</sup> 2008 and entered in the minutes of that meeting which were approved on June 2<sup>nd</sup> 2008.

3. Posted in at least 5 public places on:

Place: Town Office

Date: May 20<sup>th</sup> 2008

Place: Village Post Office

Date: May 20<sup>th</sup> 2008

Place: Center Post Office

Date: May 20<sup>th</sup> 2008

Place: Sylvester's Quick Stop

Date: May 20<sup>th</sup> 2008

Place: Sylvester's Market

Date: May 20<sup>th</sup> 2008

Place: D&D Deli

Date: May 20<sup>th</sup> 2008

4. Notice of adoption, published in the County Courier newspaper on May 22<sup>nd</sup> 2008 with a notice of the right to petition. (NLT 14 days after adoption)

5. Other actions [petitions, etc.]

Last day for Petition: July 2<sup>nd</sup> 2008 (NLT 44 days after adoption. If received, Special Meeting must be called within 60 days of receiving the validated petition, or can be an article at Town Meeting if Town Meeting is within the 60 days)

Effective Date: July 20<sup>th</sup> 2008 (NET 60 Days after adoption)