

A RESOLUTION REPEALING THE 2005 POLICY REGULATING THE PROVISION OF CITY UTILITY SERVICES TO PROPERTY LOCATED OUTSIDE THE CITY LIMITS AND ESTABLISHING A NEW POLICY

WHEREAS the City of Rapid City has established water and sewer systems; and

WHEREAS the City of Rapid City is growing and new property is regularly annexed into the City; and

WHEREAS the City of Rapid City desires to support orderly growth and development and extension of infrastructure; and

WHEREAS the City of Rapid City desires to ensure the beneficiaries of the extension of City utility service bear the cost thereof rather than the utility customers; and

WHEREAS the utility services provided by the City of Rapid City to property located outside of the City limits constitutes an expense to the taxpayers of the City of Rapid City; and

WHEREAS the City of Rapid City previously approved A Resolution Establishing a Policy Regulating the Provision of City Utility Services to Property Located Outside the City Limits on May 16, 2005; and

WHEREAS the City of Rapid City determines it is in the best interests of the City to replace the 2005 policy with the policy contained herein.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Rapid City that above-described Resolution be and is hereby repealed.

BE IT FURTHER RESOLVED by the Common Council of the City of Rapid City that the following policy to regulate extraterritorial provision of utility services is hereby adopted:

The Rapid City Council will consider providing water and/or sewer utility services to property located outside of the corporate limits when the utility extensions are necessary to serve either existing or proposed development. If utility services are provided to property located outside of the City's corporate limits, it is desirable that both water and sewer services be extended when feasible. If the City Council decides to provide utility services outside the corporate limits the applicant for services will comply with the following requirements:

1. The water and wastewater service shall be sold/provided at 100% of the retail water/wastewater rate charged to customers within Rapid City.

2. If the property is contiguous to the City limits at the time the City utility services are requested, the property shall be annexed prior to services being provided. If the property is not contiguous to the city limits at the time service is requested, the owners of all property served shall, pursuant to SDCL 9-4-1.1, enter into an irrevocable agreement and covenant running with the property. The covenant agreement shall contain the following:

A. The property owners' agreement to sign a petition to annex the property to the City of Rapid City within thirty (30) days' written notice from the City that the property has become contiguous to the city limits and is therefore eligible to be annexed.

B. The property owners' agreement that should they refuse to sign such a petition within thirty (30) days of receiving said notice, the City shall have the option to either

1. Disconnect the property from service. The City shall provide a notice of intent to disconnect service, after which the property owners shall have sixty (60) days to agree to consent to the annexation before disconnection.

Or

2. Increase all fees and charges for each utility service provided by three hundred percent (300%) for residential customers and six hundred percent (600%) for commercial and industrial customers. The increase shall take effect in the billing cycle immediately following the expiration of the thirty-day notice. Should the City choose to increase fees and charges, it shall retain the right to disconnect service with sixty (60) days' notice.

C. A provision providing the remedy of specific performance for refusal to abide by the terms of the covenant agreement.

D. The property owners' agreement not to voluntarily annex to another municipality or join a rural water, sanitary, or other water or wastewater utility-providing district.

E. The property owners' agreement to abide by all applicable city ordinances, resolutions, and policies regarding water and wastewater utility services.

3. Once the property is annexed into the City, the rate charged for services shall be the same rate as the rate charged to all customers residing within the corporate limits of Rapid City.

4. Those requesting service shall pay all of the costs of improvements, including but not limited to the master planning of facilities, as well as the design and oversizing costs required to extend the utility services. All improvements shall be constructed in accordance with the adopted standards of the City of Rapid City and the State of South Dakota. System improvements shall be transferred to the City, at no cost to the City, at the time water or sewer service is provided by the City. No service shall be provided by the City until the system improvements have been transferred to the City.

5. The City's Municipal Code, Infrastructure Design Criteria Manual, Standard Specifications for Public Works Construction, Resolutions, and Policies pertaining to water and wastewater shall apply to property located outside the corporate limits served by municipal utilities the same as if the property were located inside the corporate limits.

6. This Resolution will not apply to any existing contracts unless the contracts are amended or revised, at which time they will become subject to this Resolution.

DATED this ___ day of _____, 2014.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)