

Ordinance No. 6060

AN ORDINANCE TO REVISE THE REGULATIONS RELATING TO PRIVATE WATER AND SEWER SERVICE LINES BY AMENDING CHAPTER 13.12 OF THE RAPID CITY MUNICIPAL CODE

WHEREAS, the City of Rapid City has enacted ordinances that require the identification of non-conforming water and sewer service lines, the prioritization of projects to remedy non-conforming service lines, and the process for the city sharing the costs of such projects; and

WHEREAS, several projects have been completed to bring service lines into compliance with the city's requirements; and

WHEREAS, several projects to bring service lines into compliance have been delayed or postponed due to costs that cannot be shared by large numbers of property owners; and

WHEREAS, many property owners have been paying water and/or sewer rates for several years; and

WHEREAS, a portion of the rates is to be used to reconstruct public sewer and water mains to provide service for the rate payers; and

WHEREAS, City desires to use the revenue from water and sewer rates to construct conforming public mains.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Chapter 13.12 of the Municipal Code be and is hereby amended to read as follows:

Chapter 13.12. Private Water and Sewer Service Lines

Section

- 13.12.010 Application to non-conforming service lines only.
- 13.12.020 Location and notification of existing non-conforming service lines.
- 13.12.030 Criteria for prioritizing projects for upgrade.
- 13.12.040 Financial participation by the city.
- 13.12.050 Subsequently created non-conforming water or sewer service lines, sewer collection systems, and water distribution systems not covered.
- 13.12.060 Exception to constructing public sewer mains or public water mains to bring non-conforming water or sewer service lines into compliance with Title 13.

13.12.010 Application to non-conforming service lines only.

The IDCM and Standard Specifications require the manner in which water and sewer service lines are to be constructed. Service lines that do not meet these requirements are non-conforming. The provisions of this chapter shall only apply to projects in cases where public sewer mains or public water mains must be constructed ~~extended~~ to allow ~~bring~~ existing non-

conforming water or sewer service lines, sewer collection systems, or water distribution systems ~~to be into~~ accordance compliance with Title 13 of the Municipal Code, the IDCM, and built in ~~accordance with the Standard Specifications.~~

13.12.020 Location and notification of existing non-conforming service lines.

A. The Public Works Department shall maintain a record of all identified non-conforming water or sewer service lines within the city limits. The list shall be maintained in the office of the City Engineer and be open to public inspection during normal business hours.

B. The list created by Subsection A may be modified by either presentation to the City of a petition for inclusion or upon determination by staff that a non-conforming water or sewer service line, sewer collection system, or water distribution system exists. Once a non-conforming service line is identified and added to the list, the Public Works Director shall give notice, by first class mail, of the non-conforming nature to the property owner as shown by the current county records.

C. Upon completion of a project that corrects the non-conforming nature, the non-conforming service line shall be removed from the list by the City Engineer.

~~13.12.020 Determination of financial participation by the city.~~

~~—A. Upon either the presentation to the city of a petition for a project improvement or upon the determination of the Public Works Director that a new public sewer mains or public water mains must be extended to remedy existing non-conforming water or sewer service conditions as defined in §13.06.010 then the Public Works Director shall seek Council authorization to construct a project to correct the non-conforming water or sewer services. The city shall provide a portion of the funding for the design and construction of water and sewer mains as follows:~~

~~—1. For parcels receiving city water or sewer service prior to January 1, 1970, the city shall pay 70% and the landowner shall pay 30% of the proportionate share of the cost of design and construction of the project. The determination of whether a parcel had service prior to January 1, 1970, will be made based on the best available records. If a parcel did not have both water and sewer service prior to January 1, 1970, then the parcel is only eligible for cost sharing for the applicable utility.~~

~~—2. For all other qualifying parcels receiving city water or sewer service, the city shall pay 50% and the landowner shall pay 50% of the proportionate share of the cost of design and construction of the project. The determination of whether a parcel had service after January 1, 1970, will be made based on the best available records. If a parcel did not have water and sewer service after January 1, 1970, then the parcel is only eligible for cost sharing for the applicable utility.~~

~~—B. Notwithstanding subsections A.1. and A.2. of this section, the city's total participation shall not exceed \$10,000 per parcel per utility (if both water and sewer maximum cannot exceed \$20,000). All costs exceeding \$10,000 per parcel per utility shall be the responsibility of the landowner.~~

~~—C. This chapter shall not apply to properties that received final plat approval after January 1, 2007.~~

~~—D. Where current or previous property owners have executed and recorded a waiver of right to protest or covenant agreement relating to the extension of public water or sewer mains then the city shall not participate in the funding of the project as stated in this chapter.~~

13.12.030 Criteria for prioritizing projects for upgrade.

The Public Works Department shall develop criteria for prioritizing projects to address non-conforming water or sewer service lines, sewer collection systems, and water distribution systems. The criteria shall be presented to the Council for approval by resolution. The Public Works Department shall apply the approved criteria for prioritizing and budgeting projects to address non-conforming water or sewer service lines, sewer collection systems, and water distribution systems.

~~13.12.030 Location and notification of existing non-conforming water or sewer service lines, sewer collection systems, and water distribution systems.~~

~~—The Public Works Department shall maintain a record of all identified non-conforming water or sewer parcels, as defined in this ordinance, within the city limits. The list shall be maintained in the office of the city's Finance Officer and be open to public inspection during normal business hours. Upon determining that a parcel is served by an existing non-conforming water or sewer service line, sewer collection system, or water distribution system, the Public Works Director shall notify the owner of record of the parcel as shown by the current county records by first class mail of the non-conforming nature. Upon completion of a project that corrects the non-conforming nature, the parcel served shall be removed from the list by the Finance Officer.~~

13.12.040 Financial participation by the city.

A. The Public Works Department shall annually establish a budget amount within the Sewer and Water Enterprise Funds to construct public sewer mains or public water mains to bring non-conforming water or sewer service lines, sewer collection systems, or water distribution systems into compliance with Title 13 of this code.

B. Properties that were platted or received utility service after January 1, 2007, shall not be eligible for the City's financial participation to construct public sewer mains or public water mains as described in Subsection A.

C. For lots receiving city water or sewer service prior to January 1, 2007, the city shall pay for the design and construction of public water mains, public sewer mains, and service line components within the public right-of-way. Service line components within the public right-of-way shall only be funded if they are being constructed as part of a project to construct a public main. The determination of whether a lot had service prior to January 1, 2007, will be made based on the best available records. If a lot did not have both water and sewer service prior to January 1, 2007, then the lot is only eligible for city funding for the applicable utility.

D. Construction of water or sewer service lines on private property to remedy non-conforming service conditions is the responsibility of the property owner.

E. Where current or previous property owners have executed and recorded a waiver of right to protest or covenant agreement relating to the extension of public water or sewer mains, then the city shall not be required to participate in the funding of the project as stated in this chapter.

~~13.12.040 Criteria for prioritizing existing non-conforming water or sewer service lines, sewer collection systems, and water distribution systems for upgrade.~~

~~—The Public Works Department shall develop criteria for prioritizing the existing non-conforming water or sewer service lines, sewer collection systems, and water distribution systems for upgrade. The criteria shall be presented to the Council for approval by resolution. Upon approval, the Public Works Department shall establish a priority list based upon the approved resolution. The priority list shall be maintained by the Public Works Department and an updated copy shall be available for public inspection in the office of the city's Finance Officer.~~

13.12.050 Subsequently created non-conforming water or sewer service lines, sewer collection systems, and water distribution systems not covered.

Non-conforming water or sewer service lines, sewer collection systems, and water distribution systems that are created after January 1, 2007, shall not be covered by the provisions of this chapter and the landowner shall be solely responsible for the maintenance and replacement of such non-conforming water or sewer service lines, sewer collection systems, and water distribution systems.

13.12.060 Exception to constructing public sewer mains or public water mains to bring non-conforming water or sewer service lines into compliance with Title 13.

The Public Works Director may allow water or sewer service lines to be located in a manner that does not conform to Title 13 of the Municipal Code, the IDCM, and the Standard Specifications if all of the following conditions are satisfied:

- A. In the judgment of the Public Works Director, extraordinary circumstances exist that make compliance impractical.
- B. The water or sewer service line must be located within a dedicated service line easement.
 1. The easement shall include provisions requiring the owners of the dominant and all servient tenements to defend, indemnify and hold the City harmless from all claims related to the non-conforming service line. This requirement may be waived by the Public Works Director for easements created prior to January 1, 2007.
 2. Should the properties be under single ownership, the owner must enter into a covenant agreement promising to grant the easement if any part of the property served by the non-conforming service line is ever transferred to a different owner.
- C. The applicant of the non-conforming service line shall execute a covenant agreement consenting to an assessed project to construct public sewer mains or public water mains.

1. The covenant agreement shall include provisions requiring all property owners to defend, indemnify and hold the City harmless from all claims related to the non-conforming service line.
2. The Public Works Director is hereby authorized to execute the covenant agreements required by this Section on behalf of the City.
3. The requirement to enter a covenant agreement may be waived by the Public Works Director for good cause.

D. Should the Public Works Director deny a request for an exception under this subsection, the applicant may appeal the decision to the Rapid City Council. Any such appeal shall be filed with the Public Works Department within ten (10) days of the Public Works Director's denial.

Regardless of the foregoing, a single service line for multiple lots shall not be allowed. Individual service lines shall be required for each lot being served unless the lots are designated as a Developmental Lot, as provided in Title 17 of the Municipal Code.

CITY OF RAPID CITY

Mayor

Attest

Finance Officer

(seal)