

ORDINANCE NO. 7
REGULATION OF WATER USE

AN ORDINANCE OF THE SPRING CREEK/COW CREEK SANITARY DISTRICT OF HUGHES COUNTY AND SULLY COUNTY, SOUTH DAKOTA, TO REPEAL ORDINANCE NO. 4 AND RE-ENACT IT AS AMENDED HEREIN ESTABLISHING REGULATIONS RELATING TO WATER USE, WATER RATES, FEES, REGULATIONS, AND PENALTIES FOR VIOLATIONS THEREOF FOR THE AREA DESCRIBED BELOW.

BE IT ORDAINED AND ENACTED by the Board of Trustees of the Spring Creek/Cow Creek Sanitary District ("Board") of Hughes County and Sully County, State of South Dakota, as follows:

ARTICLE I

Repealing Previous Ordinances

- Section 1 That Ordinance No. 4 is repealed upon the effective date of this Ordinance and this Ordinance be enacted therewith to create a seamless change and prevent any lapse of coverage of policy.
- Section 2 The repeal of the above-mentioned Ordinance in no way invalidates any debts owed to the District for services rendered or forecloses on any rights or remedies or power of enforcement the District had, or may still have for events occurring during such periods the repealed ordinance was in full force and effect.

ARTICLE II

General Provisions

- Section 1 The area comprising the Spring Creek/Cow Creek Sanitary District of Hughes County and Sully County, South Dakota ("SC/CCSD" or "District") shall be described as:
- T112N, R80W, HUGHES COUNTY, SOUTH DAKOTA
Sec. 4: NE $\frac{1}{4}$, NW $\frac{1}{4}$
Sec. 5: All of Lots 7, 8, 9 and 10; N $\frac{1}{2}$ N $\frac{1}{2}$ Lot 11 and E $\frac{1}{2}$ E $\frac{1}{2}$ Lot 14
Sec. 6: Lot 11
- T113N, R80W, SULLY COUNTY, SOUTH DAKOTA
Sec. 28: W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$; S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$
Sec. 29: S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$
Sec. 32: SE $\frac{1}{4}$; NE $\frac{1}{4}$; E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$
Sec. 33: SE $\frac{1}{4}$; SW $\frac{1}{4}$; NW $\frac{1}{4}$ EXC. Lot 1; All of Lot 2; SE $\frac{1}{4}$ NE $\frac{1}{4}$
Sec. 34: SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$; SW $\frac{1}{4}$; All of Tract E and that part of Tract C in the SE $\frac{1}{4}$ of Oahe Hills Subdivision and Tracy Subdivision
- Section 2 SC/CCSD (System) shall be operated as a public utility and the rates, fees, charges, rentals, regulations and provisions of this ordinance shall be and remain applicable thereto until duly amended. The SC/CCSD reserves the right and power to amend this ordinance as the need or propriety thereof arises, and the rates and charges herein specified may be increased or decreased, provided that as so amended, the

gross receipts of said systems shall be sufficient each year to pay all costs of operation and maintenance, depreciation, principal and interest on indebtedness therefore, and reserves which may be required. The SC/CCSD is authorized to hire a Superintendent to oversee the operation of the SC/CCSD system.

ARTICLE III

Definitions

Section 1 Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- A. "Easement" shall mean an acquired legal right for the specific use of land owned by others.
- B. "May" is permissive (see "shall" Item G).
- C. "Person" shall mean any individual, firm, company, association, society, corporation, or group.
- D. "Private Water Supply" shall mean any water supply or source of water not owned and/or operated by the SC/CCSD.
- E. "Service Connection" shall mean the point at which the water main or sewer main is tapped to provide a connection for an individual user.
- F. "Service Pipe" shall mean the piping between the individual user's first point of use and the water or sewer main.
- G. "Shall" is mandatory (see "may," Item B).
- H. "Superintendent" shall mean the superintendent of the water distribution system and/or wastewater facilities or an authorized deputy, agent, or representative.
- I. "User" shall mean any person with a service connection.
- J. "Water Main" shall mean the piping to which individual service piping is connected (tapped).

ARTICLE IV

Use of Public Water Supply Required

Section 1 Every owner of houses, buildings or other structures used for human occupancy, employment, recreation, or for other purposes, situated within the SC/CCSD and abutting a street, alley or right-of-way shall connect the same directly with the proper water main in accordance with the provisions of this ordinance, within 30 days after the date of official notice to do so, provided that said water main is within 400 feet of the property line. All proposed improvements, modifications and/or additions of sanitary systems planned within the boundaries of the SC/CCSD must be submitted for approval to the Superintendent for concurrence and also according to Administrative Rule 74:53:05:02, set forth by the South Dakota Department of Agriculture and Natural Resources. The property referred to in this section may be

platted lots, leased areas or other areas where houses, buildings and other structures exist.

- Section 2 An individual or business joining a sanitary system late will be required to pay a fair share of the initial project costs. Late hookup fees shall be paid to the SC/CCSD or its assignees and will be based on the percentage of water usage by the gallons required by new customer(s). This fair share of the initial cost payback will be required for a period of 20 years from the date the SC/CCSD approved and took the section over for operation or will be terminated in the area when service has changed ownership.

ARTICLE V

User's Connection to the Water Main

- Section 1 Unless special permission is granted by the SC/CCSD, each premise shall have a separate and distinct service connection, and where permission is granted for branch service systems, each branch system must have its own separate meter with remote readout and curb stop. All service pipes from the water main to the premises shall be installed by and kept in repair at the expense of the user or person in possession of the premises served. If such user or person shall fail to cause to have properly repaired any service pipe within 48 hours upon receipt of the due notice from the SC/CCSD, the water shall immediately be shut off from said premises and remain shut off until said repairs shall have been made; or the SC/CCSD may repair such service pipe and charge all repairs to the user or person in possession of the premises.
- Section 2 The cost of original installation of all plumbing between the water main pipeline and the premises, and any such service devices maintained by the user and all extensions made thereto, shall be borne entirely by the user, although such plumbing and services, as well as the meters and remotes, shall at all reasonable times be subject to inspection by the Superintendent of the SC/CCSD. After the original installation, the cost of maintenance of and repairs to the service line between the water main and the premises shall be borne by the user. In the event the SC/CCSD Superintendent finds that repairs which are to be made by the user are necessary, the Superintendent shall advise such user in writing, and if such repairs shall not be made promptly within 48 hours, the SC/CCSD shall be authorized to discontinue service.
- Section 3 Every user shall provide a suitable place where a meter with remote readout can be installed. The meter shall be provided by the SC/CCSD at the expense of the user. If at any time the user desires to have the meter tested for accuracy, the same shall be done by the SC/CCSD and a meter testing fee as set forth in Appendix A, Table 1 (residential) or Table 2 (commercial) charged therefore to the user if the meter registers a ninety-eight percent or more accuracy rate. If the meter registers less than a ninety-eight percent rate, it shall be replaced, and no meter testing fee charged. In the event a meter is damaged due to the neglect, carelessness or some

fault of the user, such meter shall be repaired or replaced at the expense of the user, and such cost shall be added to the next bill rendered to the user.

- Section 4 Any water meter installed in connection with commencement of service from the SC/CCSD shall be done so under the supervision of the Superintendent.
- Section 5 Check valves shall be required on all water connections in accordance with the current plumbing code adopted by Hughes County. The check valve must be of a type approved by the SC/CCSD.
- Section 6 There shall be a curb stop attached to every service pipe between the water main and the meter so that the water can be shut off. There shall be an additional shut-off valve on the user's side of the meter. The service pipe, curb stop, and curb box must be of a type approved by the SC/CCSD. Curb stops shall be placed as close to property lines as practicable with the curb stop being placed on the user's property. Meters for new connections made after January 1, 2021, shall be placed in a frost proof pit, as close as practicable to the curb stop on the user's side of the curb stop.
- Section 7 All service pipes connecting the water mains to the water meter shall be a minimum of one inch and shall be of a material approved and set forth in current plumbing code adopted by Hughes County. In all cases, the service piping between the main and the water meter shall be rated for a minimum of 300 psi. Materials not listed in the current plumbing code adopted by the Hughes County shall be used only as approved by the SC/CCSD Board of Trustees.
- Section 8 No interconnection to private water supplies will be allowed within the SC/CCSD. Where private wells or other water sources are utilized, a physical break shall be installed between piping connected to the SC/CCSD and the private well or water source. The physical break shall render it impossible to connect multiple sources at once. Any existing interconnections shall be disconnected by January 1, 2021. Failure to disconnect any interconnection will place the user in violation of this ordinance and subject to a penalty of no more than One Hundred Dollars for each day such interconnection exists after January 1, 2021.

ARTICLE VI

User Compliance with Regulations

- Section 1 Every user receiving water services from the SC/CCSD, and every owner of property situated within the SC/CCSD shall be deemed at the time of connection to the SC/CCSD, to have consented to all the rules, regulations, rates, fees, charges, and rentals contained in the resolutions and ordinances passed by the SC/CCSD, including any modifications thereto, and to all new rules, regulations, rates, fees, charges, and rentals adopted by the SC/CCSD.
- Section 2 It shall be unlawful for any person to use water from any premises without the prior consent of the user, or to use water from the SC/CCSD unless the same is drawn

through a meter authorized by the SC/CCSD. No person except the Superintendent of the SC/CCSD shall turn on or off or tamper with any water service connection.

ARTICLE VII Water Rates and Regulations

Section 1 Classification of Users

- A. Residential users are considered to be one class of user and are assessed a hookup fee as set forth in Appendix A, Table 1 up to a 1" meter, as amended from time to time, plus increases consistent with the District's Ordinances.
- B. Commercial users are considered to be one class of user and are assessed a hookup fee as set forth in Appendix A, Table 2, as amended from time to time, plus increases permitted consistent with the District's Ordinances.

Section 2 Billing Methodology

- A. Residential users shall pay a minimum water charge as set forth in Appendix A, Table 1. That minimum charge shall include 1,000 gallons of water. Water usage of greater than 1,000 gallons will be billed at the water rate per 1,000 gallons as set forth in the same.
- B. Commercial users shall pay a minimum water charge as set forth in Appendix A, Table 1. That minimum charge shall include 1,000 gallons of water. Water usage of greater than 1,000 gallons will be billed at the water rate per 1,000 gallons as set forth in the same.

Section 3 Additional Fees and Requirements

- A. The minimum monthly bill will consist of the minimum water rate as set forth in Appendix A, Table 1 (residential) or Table 2 (commercial). Any additional water usage will be charged the water rate per 1,000 gallons as set forth in appendix A, Table 1 (residential) or Table 2 (commercial).
- B. A transfer fee as set forth in Appendix A, Table 1 (residential) or Table 2 (commercial) will be required when one residential or commercial user transfers to another.
- C. A deposit will be required of all new residential and commercial users as set forth in Appendix A, Table 1 (residential) or Table 2 (commercial). This deposit is refundable upon proper clearing of account upon departure.
- D. Users with seasonal residences may make arrangements to pay their minimum monthly fee in advance. Any user may make arrangements to automatically pay their bill.

- E. There shall be charged a special charge or surcharge pursuant to SDCL 9-40-15 for the services provided by Project by Revenue Bond. The special charge or surcharge shall be segregated from other revenues of the System and shall be used for the payment of the Revenue Bond. The special charge or surcharge shall be set and then periodically reviewed by the Board, not less than yearly, and shall be modified in order to produce such funds as are necessary and required to comply with the Loan Agreement's rate covenant and to pay principal of, interest and Administrative Surcharge on the Revenue Bond when due. See Resolution 2022-3. The special charge or surcharge shall be set according to the rate shown in Appendix A.

This special charge or surcharge stated in this section is not subject to the rate adjustments, or restrictions thereto, pursuant to Section 4 paragraph A of this Article.

- F. All bills are due and payable on or before the end of the month after mailing of the bill. If the account should become over 30 days delinquent, the user will be notified by mail that the water service will be disconnected if the account, including a late payment penalty of 10%, is not paid in full within 10 days. If the service is disconnected, there will be a \$25.00 re-connect fee due and payable along with the past due account. When the account has been paid in full, including the reconnect fee, service will be re-connected. In addition, if the previous deposit has been used up or reduced, the user must provide sufficient money to upgrade the deposit to the amount noted in Appendix A, Table 1 (residential) or Table 2 (commercial), prior to re-connection.
- G. The user shall be billed monthly with the amount calculated using the metered usage or the minimum amount due.

Section 4 Annual Rate Adjustments

- A. Once per year, the District has the authority to increase rates 0 to 3 percent. Rates will be posted 30 days prior on the District's website and printed with the month's billing one full billing cycle prior to the new rates being implemented. Appendix A does not need to be amended to reflect this increase but said increases made consistent with this section, which may include multiple years' increase, will be added to those rates found on Appendix A until the Appendix is updated.
- B. Once per year, and in addition to paragraph A of this section, the District has the authority to review the cost of minimum usages rates as imposed by its supplier and implement a rate increase to distribute that cost, by resolution, among its users. Rates will be posted to the District website and printed with month's billing one full billing cycle prior to the new rates being implemented.

ARTICLE VIII
Water Conservation

- Section 1 The SC/CCSD may set restrictions on water usage in the event of an emergency or over consumption by residential or commercial users that reduces water supply or flow.
- Section 2 The Superintendent may restrict water use for irrigation purposes at any time. Upon notice from the Superintendent, a user shall cease irrigation for a minimum of 48 hours. The Superintendent may impose a maximum restriction of 72 hours without action by the SC/CCSD Board of Trustees.
- Section 3 The SC/CCSD Board of Trustees may restrict water use for irrigation purposes by a vote of the board. Notice of an action to restrict water use for irrigation shall be placed in at least 3 public locations within the SC/CCSD. Notice shall be considered rendered to all users after placement of such notice for 24 hours.

ARTICLE IX
Rules During Fires

- Section 1 It is hereby declared to be unlawful for any user in the SC/CCSD or any owner or occupant of a premises, or portion thereof, connected to the SC/CCSD, to use or allow to be used during a fire, any water from said system except for the purpose of extinguishing said fire; and, upon the sound of the fire alarm, it shall be the duty of every user, owner, or occupant to see that all water services are tightly closed and that no water is used, except for necessary household purposes, during such fire.

ARTICLE X
Limitation on Water Usage During Drought

- Section 1 It is hereby declared to be unlawful for any user in the SC/CCSD or any owner or occupant of a premises, or portion thereof, connected to the SC/CCSD, to use, or allow to be used, during a drought and issuance of a water ban by this Board, any water from said system except in compliance with the rules imposed by said water ban consistent with Section 3 of this article; and, upon the notice of water ban, it shall be the duty of every user, owner, or occupant to see that all water services are tightly closed and that no water is used except for necessary household purposes and in compliance with the Board's water ban, during such drought, and prior to expiration of said water ban.
- Section 2 Upon the Boards determination that the district is experiencing a drought and that there is a need for limited water usage, the Board may issue a water ban and the rules for usage during said issued water ban shall be according to the usage as laid out in Section 3 of this article. Notice of this Board's issuance of a water ban shall

be posted to the District's website and may additionally be sent out via a list serve or calling tree type of service designed to provide more immediate notice to a large number of people.

- Section 3 Following the issuance of a water usage ban, and until the expiration of said water ban any user in the SC/CCSD or any owner or occupant of the premises, or portion thereof, connected to the SC/CCSD, must follow the following regulations and limited usage:
- Watering shall not be done between the hours of 9 a.m. and 8 p.m.
 - Watering for odd numbered houses can only be done on odd calendar days and watering for even numbered houses can only be done on even days. No watering can be done on the 31st day of the month.
- Section 4 Watering practices that are limited pursuant to this article are including, but not limited to watering lawns, watering gardens, watering flowers or landscaping, running sprinklers or irrigation systems, filling outdoor recreational pools, spraying off cement pads and sidewalks, washing vehicles, washing the house, spraying out gutters, using sprinklers for recreational use or any of the above-mentioned uses, and the like.
- Section 5 Any person, user, or property owner who is found to be in violation of this policy can be found guilty of a Class 2 Misdemeanor punishable by up to a \$500 fine. Additionally, the District may impose a fine of \$100 per violation, said fine to be applied on the next monthly bill.

ARTICLE XI

Water Distribution Facilities - Intentional Damage

- Section 1 No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, occupy, or tamper with any structure, appurtenance or equipment which is a part of the water distribution facilities. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

ARTICLE XII

Powers and Authority of Superintendent

- Section 1 The Superintendent and other duly authorized employees of the SC/CCSD bearing proper credential and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, or testing pertinent to operation of the water distribution system. This section shall include the right of entry to read and inspect meters at any reasonable time.
- Section 2 The Superintendent and other duly authorized employees of the SC/CCSD bearing proper credential and identification shall be permitted to enter all private properties through which the SC/CCSD holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and

maintenance of any portion of the water distribution facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

- Section 3 No excavation may be initiated in the vicinity of infrastructure owned or operated by the SC/CCSD without advance notice to the Superintendent and the subsequent receipt of approval.

ARTICLE XIII Reserve Fund

- Section 1 A reserve fund will be established as an interest-bearing account. Excess funds will be transferred between SC/CCSD accounts in accordance with decisions made by the Board of Trustees with the advice of the SC/CCSD's designated accountant.

ARTICLE XIV Hearing Board

- Section 1 A Hearing Board shall be appointed by the Board of Trustees of the SC/CCSD as needed for arbitration of differences between the Superintendent and users on matters concerning interpretation and execution of the provisions of this ordinance by the Superintendent. The cost of the arbitration will be divided equally between the SC/CCSD and the user.
- Section 2 The appointees to the hearing board shall be users with an active account with the SC/CCSD.

ARTICLE XV Penalties

- Section 1 Any person found to be in violation of any provision of this ordinance except Article XI shall be served by Hughes County or Sully County with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The ordinance offender shall, within the period of time stated in such notice, permanently cease all violations.
- Section 2 Any person who continues to violate this ordinance, or any portion thereof, beyond the time limit provided for in Article VII, Section 3, Subsection F shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount not to exceed One Hundred Dollars for each violation. Each day in which any such violation shall occur shall be deemed a separate offense.

- Section 3 Any person violating any of the provisions of this ordinance shall become liable to the SC/CCSD for any expense, loss, or damage occasioned by the SC/CCSD by reason of such violation.

ARTICLE XVI

Validity

- Section 1 This ordinance shall be in full force and effect from and after its passage, approval, record, and publication as provided by law.
- Section 2 The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.
- Section 3 Nothing in this Article, shall prohibit or otherwise limit the SC/CCSD from commencing a separate civil action, whether equitable or legal, to remedy a violation of this ordinance.
- Section 4 All ordinances which cover the same substance as this ordinance, or any portion of a previous ordinance which directly conflicts with the terms of this ordinance is hereby repealed as to those provisions which conflict.
- Section 5 Nothing in this ordinance, shall prohibit or otherwise limit the SC/CCSD from commencing a separate civil action, whether equitable or legal, to remedy a violation of this ordinance.

ARTICLE XVII

Ordinance in Force

- Section 1 This Ordinance shall be in full force and effect from and after its passage, approval, recording and publication as required by law.
- Section 2 Passed and adopted by the Board of Trustees of Spring Creek/Cow Creek Sanitary

District on the 14TH day of DECEMBER, 2022, by the following vote:

Ayes: 3, Namely: SCHUH, BACON, WISEMAN

Nays: 0, Namely: _____

Passed First Reading: 10/12/22

Passed Second Reading: 11/9/2022

Published Hughes County: 11/17/2022

Published Sully County: _____

Kathy Schuk

President,
Spring Creek/Cow Creek Sanitary District

ATTEST:

Jennifer Anderson

Clerk, Spring Creek/Cow Creek Sanitary District

Published once in Hughes County at the approximate cost of \$ 405.69
Published once in Sully County at the approximate cost of \$ _____

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Ordinance 7 Appendix A

Table 1: Residential Water and Sewer Rates	
New Service Connection Fees	
Water Hookup (Includes Inspection)	\$2,500.00
1" Meter assembly at cost + Labor	\$350.00
¾" Meter assembly at cost + Labor	\$300.00
TOTAL CONNECTION FEE (Hookup + Meter + Labor)	VARIABLE
Sewer Hookup (inspection)	\$4,000.00
Total for Sewer Hookup	\$4,000.00
Sewer Deposit (2 months of minimum sewer)	\$50.56
Water Deposit (2 months of minimum water)	\$73.12
Total Utility Deposit	\$123.68
Transfer/Reconnect Fees	
Transfer/Reconnect Fee (New Account Fee)	\$25.00
Seasonal Disconnect Fee - Maximum fee shown (reconnect fee plus minimum monthly charges for up to 12 months)	\$1043.68
Monthly Charges	
Minimum Water Rate (Includes 1000 gal)	\$36.56
Minimum Sewer Rate (Includes appr. 5000 gal)	\$25.28
Sewer Surcharge	\$15.20
Water Surcharge	\$7.85
TOTAL (Water + Sewer)	\$84.89
Water Rate per/1000 gallons above minimum included.	\$5.07
Sewer Rate per/1000 gallons above minimum included.	\$2.52
Meter Testing Fee	\$45.00

Table 2: Commercial Water and Sewer Rates	
New Service Connection Fees	
Sewer Hookup/Inspection Fee per Unit based on Hydrology Study	\$5000.00
Water Hookup, 3/4"	\$2,500.00
Water Hookup, 1"	\$5,000.00
Water Hookup, 2"	\$7,050.00
Water Hookup, 4"	\$9,050.00
Total for Hookup, 3/4"	\$7,500.00
Total for Hookup, 1"	\$10,000.00
Total for Hookup, 2"	\$12,500.00
Total for Hookup, 4"	\$14,050.00
Meter assembly at Cost + Labor	Determined at install
TOTAL CONNECTION FEE (Hookup + Meter + Labor)	VARIABLE
Sewer Deposit	\$223.02
Water Deposit	\$147.44
Total Utility Deposit	\$370.46
Transfer/Reconnect Fee (New Account Fee)	\$25.00
Seasonal Disconnect Fee – Maximum Fee Shown (Reconnect fee plus minimum monthly charges for up to 12 months)	\$2,524.36
Monthly Charges	
Minimum Water Rate (includes 1000 gal)	\$73.72
Minimum Sewer Rate (incl appr 5000 gal)	\$111.51
Sewer Surcharge	\$15.20
Water Surcharge	\$7.85
TOTAL (Water + Sewer)	\$208.28
Water Rate per/1000 gallons above minimum included.	\$5.07
Sewer Rate per/1000 gallons above minimum included.	\$2.52
Meter Testing Fee	\$45.00