

ORDINANCE NO. 10
REGULATION OF SYSTEM EXPANSION

AN ORDINANCE OF THE SPRING CREEK / COW CREEK SANITARY DISTRICT OF HUGHES COUNTY AND SULLY COUNTY, SOUTH DAKOTA, TO REPEAL ORDINANCE NO. 9 AND REENACT THE SAME AS AMENDED ESTABLISHING REGULATIONS RELATED TO THE EXPANSION OF THE EXISTING WATER DISTRIBUTION WASTEWATER COLLECTION AND TREATMENT SYSTEM AND PROVIDING FEE STRUCTURE AND PENALTIES FOR VIOLATIONS THEREOF.

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 Ordinance

- Section 1 That Ordinance No. 9 is repealed upon the effective date of this Ordinance and this Ordinance be enacted therewith to create a seamless change and prevent any lapse of coverage of policy under the repealed Ordinance or previously repealed Ordinances.
- Section 2 The repeal of the above-mentioned Ordinance in no way invalidates any debts owed to the District for services rendered nor forecloses on any rights, remedies, or power of enforcement the District had, or may still have, for events occurring during the periods for which the repealed ordinance was in full force and effect.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 DISTRICT 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 DISTRICT is authorized to hire a Superintendent to oversee the operations 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. “Developer” shall mean the owner of the platted parcels installing the sewer main and/or water main and associated appurtenances.
- B. “Easement” shall mean an acquired legal right for the specific use of land owned by others.
- C. “Existing System” Shall mean all water distribution and wastewater collection and treatment systems in place and under operational control of the DISTRICT on January 1, 2021.
- D. “Final Completion” shall mean the construction is complete and all requirements have been met for the District to take ownership of the improvements. Once obtained a letter of final acceptance will be provided by the District.
- E. “Force Main” shall mean any sewer piping operating under pressure.
- F. “May” is permissive (see “shall,” Item M).
- G. “Person” shall mean any individual, firm, company, association, society, corporation, or group.
- H. “Sanitary Sewer” shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
- I. “Service Connection” shall mean the point at which the water main or sewer main is tapped to provide a connection for an individual user.
- J. “Service Pipe” shall mean the piping between an individual user’s first point of use and the water or sewer main.
- K. “Sewer” shall mean a pipe or conduit that carries wastewater or drainage water.

- L. "Sewer Main" shall mean the piping to which individual service connections are connected (tapped) and any force main piping used to convey wastewater.
- M. "Shall" is mandatory (see "may," Item F).
- N. "Substantial Completion" shall mean the construction is complete and the system can perform for its intended use. Once obtained a letter of substantial completion will be provided by the District.
- O. "Superintendent" shall mean the superintendent of the water distribution system and/or wastewater facilities or an authorized deputy, agent, or representative.
- P. "User" shall mean any person with a service connection.
- Q. "Water Main" shall mean the piping to which individual water service connections are connected (tapped).
- R. "Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water- carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and storm water that may be present.

ARTICLE IV

Design and Construction Requirements

Section 1 Adoption of Design and Construction Requirements

- A. The Board of Trustees may adopt standard specifications utilized by other municipalities, sanitary districts, or similar governing bodies that oversee or operate and maintain sanitary sewer collection and treatment facilities and water supply facilities.
- B. The Board of Trustees may adopt standard specifications by reference where such standards are published or publicly available.
- C. The Board of Trustees may issue revisions to the adopted standard specifications by Resolution. Any Resolution containing revisions to a set of adopted standard specifications shall contain all revisions adopted by the DISTRICT related to the particular adopted standard specifications with the clear intention of having all applicable revisions contained in one Resolution. Revisions shall be available to interested parties and shall be published on the DISTRICT's website.
- D. Nothing in this Ordinance or in any adopted standard specification shall limit the Board of Trustees or the Superintendent of the DISTRICT from issuing a variance to the standard specifications. The Board MAY issue a variance to the adopted standard specifications by majority vote. Variances shall be issued in writing and are binding only upon the specific project or portion thereof for

which the variance is issued. By issuing a variance, the variance does not modify the standard specifications, or any revision issued by the Board of Trustees.

- E. The Design and Construction Standards For Water and Wastewater System, Piping and Appurtenances are attached to this Ordinance as Appendix 1 which may be modified from time to time by Resolution according to paragraph (C.) of this section or by Ordinance. The Specifications, Standards, Codes, and Design Criteria mentioned in Section 1.2 of Appendix 1 are hereby adopted by the DISTRICT and this Ordinance in their entirety unless in conflict with the provisions of this Ordinance, Appendix 1, or subsequent Resolution pursuant to Article IV section (C.) above.

ARTICLE V

General System and Application Requirements

Section 1 Preparation of Plans and Specifications

- A. Plans and specifications shall be prepared in accordance with South Dakota Codified Laws and the Administrative Rules of South Dakota.
- B. Plans and specifications shall be complete for all phases of work to be operated and maintained by the DISTRICT upon completion, acceptance of the work, and passage of the warranty period. This includes civil, mechanical, electrical, and HVAC plans as applicable to the works seeking approval.
- C. Developer fees as specified in Article IX shall be paid in full within 30 days of approval by the DISTRICT. If developer fees are not paid in full within 30 days of approval, the approval shall be void. Construction shall not begin until the developer fees are paid in full. Beginning construction prior to payment of developer fees shall void the approval.
- D. Sewer Services: Each platted parcel not serviced by the existing system shall be provided with at least one service pipe. The sewer service pipe shall be installed as required by the standard specifications, see Appendix 1.
- E. Water Services: Each platted parcel not serviced by the existing system shall be provided with at least one water service pipe. The water service pipe shall be installed as required by the standard specifications, see Appendix 1.
- F. Where planned lots will be serviced by an on-site wastewater system as allowed by the Administrative Rules of South Dakota (ARSD) 74:53:01, the plans and specifications shall be submitted to the Superintendent for review and approval. Plans and specifications for any onsite wastewater system shall be prepared by a licensed plumber or registered professional engineer and shall be installed by a certified installer pursuant to ARSD 74:53:02.

ARTICLE VI

Conditions of Approval

Section 1 Approval Period

- A. Plans and specifications shall be approved by the DISTRICT in writing. Upon approval, the developer shall begin construction within two (2) years and complete construction within three (3) years, or the approval becomes void.
- B. The developer shall provide written notice to the Superintendent a minimum of seven (7) days prior to commencing construction.
- C. The approved plans and specifications and any approved changes shall be on the jobsite at all times during construction.

Section 2 Deviations from Approved Plans and Specifications

- A. Deviation from the approved plans and specifications shall not be allowed without DISTRICT approval in writing. Construction of works which deviate from the approved plans is at the developer's risk and may not be accepted by the DISTRICT. The Superintendent shall have the authority to grant approval of deviations, in writing, from the approved plans where the Superintendent determines the deviation does not materially alter the plans and specifications.
- B. Deviations that materially alter the plans and specifications shall be subject to review and approval of the Board of Trustees. The Superintendent may recommend approval or denial of such deviations. Approval or denial of such deviations shall be issued in writing.

Section 3 Construction and Testing Water Usage

- A. Water flows to newly installed water mains shall be restricted, except for water needed to test and flush lines, until such time that a Notice of Completion is submitted to the Superintendent, as-built plans are approved, and DISTRICT provides a certificate of substantial completion.
- B. Sewer flows from newly installed sewer mains shall be restricted, except for water needed to test and flush lines, until such time that a Notice of Completion is submitted to the Superintendent, as-built plans are approved, and the DISTRICT provides a certificate of substantial completion.

Article VII

Transfer of Ownership

- Section 1 The DISTRICT will accept responsibility for water and sewer infrastructure (system) that have been installed by a developer upon a certificate of substantial completion, signed by the DISTRICT. A maintenance bond for 20% of the amount of the work shall be provided to the DISTRICT and dated to match the signed approval for substantial completion. The maintenance bond shall warrant the

integrity of the work for a minimum of twenty-four months. At the end of the warranty period, the DISTRICT will review the installation and provide any comments in writing to the developer to make any repairs necessary. Written notice of final approval shall be provided to the developer. Any problems with the water mains or sewer mains that occur during the warranty period must be resolved by the developer upon written notice by the DISTRICT. If a developer fails to receive substantial completion, the DISTRICT may refuse to take over the installed system in question. Any improvements or repair shall then remain the responsibility of the respective developer until such time the DISTRICT accepts responsibility. For the purposes of this section, sewer main and water main includes the individual service pipes to the curb stop and/or lot line.

- Section 2 Where transfer of ownership cannot be completed, the DISTRICT will not issue substantial completion, nor will the DISTRICT allow any lots to be serviced until substantial completion is provided. The Superintendent is authorized to disconnect any water and/or sewer service that has been prematurely connected without approval. Any usage of water prior to official acceptance will be charged to the developer and fines will be assessed to cover any and all costs associated with additional effort borne by the DISTRICT to remedy the situation.

Article VIII

Transfer of Easements

- Section 1 The developer shall obtain and cause to be recorded transferrable easements for all piping and appurtenances required to install, operate, and maintain the water distribution and wastewater collection and treatment system within a proposed development. Easements shall be perpetual easements running as a covenant with the land. Transfer of Ownership as described in Article VII shall not occur until such easements are legally recorded and copies of the recorded easements are provided to the DISTRICT.

Article IX

Fees for Application, Inspection, and Development

- Section 1 The developer shall submit the application form supplied by the Superintendent for all proposed improvements or planned developments within the boundaries of the DISTRICT. The application fee for review of plans and specifications shall be as noted:

- \$2,500 for 20 lots or less
- \$5,000 up to 100 lots
- \$10,000 for 100 lots or more

Fees are payable when the application is submitted for approval. An application is not deemed complete until full plans and specifications are submitted, and all fees are paid.

- Section 3 Once plans are approved consistent with the procedures set forth above and in the adopted standard specifications, the developer shall pay a developer fee for each set of plans which are approved in the amount of Four Thousand Dollars (\$4,000) per planned residential lot. RV spots are calculated at 4.5 spots are equivalent to one residential lot and will be billed accordingly. For other proposed developments/lots which are not calculated here (i.e. apartments, condos, etc.) a hydraulic study will be completed and compared to the residential lot and billed accordingly.
- Section 4 The board, by majority vote, MAY approve a variance to the requirement that all developer fees be paid prior to commencing work on the planned development. The terms of such a variance shall be provided in writing and shall be signed by the President of the Board of Trustees and an authorized party for the developer.
- Section 5 The board, by majority vote, MAY enter into an agreement to waive the developer fees specified in Section 3, where doing so is mutually beneficial to the DISTRICT and Developer. The terms of such agreement between the developer and the DISTRICT shall be in writing and shall be signed by the President of the Board of Trustees and an authorized party for the developer.
- Section 6 Where a water or sewer service is installed to a platted lot which is owned by a different owner or developer than the one installing said water or sewer services, and which is not part of the developer's expansion plan, the developer or owner of the platted lot shall be responsible for paying the developer fee to connect said platted lot to the expansion. The developer or owner of the platted lot may elect to pay the developer fee with the connection fee when services are rendered by the DISTRICT. The developer fee, if not paid at the time of the installation, shall be calculated at the prevailing fee at the time of connection.

Article X

Suspension of Work

The Board of Trustees may suspend construction wholly or in part, by written suspension order, for failure to perform construction in accordance with the approved plans and specifications or any conditions of approval; for the contractor failing to make adequate progress on the project; for failure to carry out orders; for violation of laws of governmental authorities; for such periods as may be necessary due to unsuitable weather; for conditions considered unsuitable for the prosecution of the work; or for other conditions or reasons as determined by the Board of Trustees in the public interest.

Article XI

Powers and Authority of Superintendent

- Section 1 The Superintendent and other duly authorized employees or agents of the DISTRICT bearing proper credential and identification shall be permitted to enter all properties

for the purposes of inspection, observation, measurement, sampling, or testing pertinent to the installation of any new water and/or sewer infrastructure that are intended to be transferred to the ownership and operation of the DISTRICT. The Superintendent shall make a reasonable effort to coordinate any inspection, observation, measurement, sampling, or testing pertinent to the installation with the developer.

- Section 2 No excavation may be initiated in the vicinity of infrastructure owned or operated by the DISTRICT without advance notice to the Superintendent and the subsequent receipt of approval.

Article XII Penalties

- Section 1 Any person found to be in violation of any provision of this ordinance 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 violating any of the provisions of this ordinance shall be liable to the DISTRICT for any expense, loss or damage occasioned by the DISTRICT by reason of such violation.

Article XIII 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 DISTRICT 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 DISTRICT from commencing a separate civil action, whether equitable or legal, to remedy a violation of this ordinance.

Article XIV
Ordinance in Force

Section 1 This Ordinance shall be in full force and effect from and after its passage 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 _____ day of _____, 2024, by the following vote:

Ayes: _____, Namely: _____

Nays: _____, Namely: _____

Passed First Reading: _____

Passed Second Reading: 2/05/24

Published Hughes County: 12/13/23

Published Sully County: _____

/s/ Kathleen Schuh

President,
Spring Creek/Cow Creek Sanitary District

ATTEST:

/s/ John J. Linn Jr. _____
Clerk, Spring Creek/Cow Creek Sanitary District

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

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