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CHAPTER 50: GARBAGE AND REFUSE

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GENERAL PROVISIONS

§ 50.01 DUMPING OR BURNING TRASH.

It shall be unlawful for any person to dump or burn any trash and/or garbage within the town limits.

(’75 Code, § 9-2) Penalty, see § 50.99

§ 50.02 DISPOSAL OF WASTE.

(A) No solid waste collector, or other person, shall dispose of solid waste except by one of the following methods:

(1) Sanitary landfill that has been approved by the Division of Health Services as meeting all the requirements of the Division of Health Services “Rules and Regulations Providing Standards for Solid Waste Disposal”.

(2) Incinerator that meets all requirements of the local, state, and federal air pollution standards.

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(3) By any other method including reclaiming or recycling processes that have been approved by the town. Provided that this section shall not be construed to prevent any person from properly disposing of solid waste from his own residence on his property in a safe and sanitary manner approved by the town.

(B) Hazardous waste shall be disposed of in compliance with applicable state laws, rules, and regulations.

(C) Any other disposal of solid waste is expressly prohibited.

(1) If any object of refuse is discovered upon any lands or waters other than an approved sanitary landfill or other proper receptacle (upon the permission of the other person owning or leasing the receptacle), and the refuse bears the name, address or other means of identification of a person or persons, the person(s) so identified shall be assumed to have disposed of the refuse in violation of this chapter. Reasonable attempts shall be made by an officer of the town to contact the persons. The officer shall, upon contact with such person, request him or her to remove the refuse and such additional refuse as the officer may specify to an approved sanitary landfill, and to return to the officer within 10 days of the contact date with a receipt from the landfill indicating deposit of the refuse in same. If the officer is unable after reasonable attempts to contact the person(s), or if the person(s) does not comply with the terms of this division, then the officer may proceed under § 50.03. The officer shall inform such persons by a written statement sent by certified mail or hand delivered, of the maximum penalty which may be imposed for a violation of this chapter pursuant to § 50.03, in the event such person chooses not to comply with the aforementioned request.

(2) Bags, boxes, bins, cartons and other containers used to carry food, clothing, and other goods and printed matter purchased, rented or otherwise obtained from a restaurant, supermarket, store, or other place of business or organization, which containers or printed matter bear the logo, name, and address or other means of identification of the place from which the goods were obtained, shall not be considered as a means of identification for purposes of this section.

(D) No person shall place, throw, or otherwise deposit upon any street or sidewalk of the town, glass bottle, can, or fragments thereof, or any broken glass or crockery of any kind, or nails, tacks, brickbats, or any article or object likely to injure barefoot persons using such streets or sidewalks, or to injure or puncture the tires of vehicles traveling upon the same.

(E) No person shall leave outside of any building or dwelling, or in any place accessible to children, any abandoned, unattended, or discarded icebox, refrigerator, or other container of any kind which has an airtight snap lock or other similar device thereon without first moving the snap lock from such icebox, refrigerator, or other container which is crated, strapped, or locked to such an extent that it is impossible for a child to gain access to any of its airtight compartments.

(Ord. 0-91-05, passed 8-12-91) Penalty, see § 50.99

(F) No person shall throw, sweep, rake or otherwise dispose of any garbage, trash, leaves, yard waste, debris, industrial waste, hazardous waste, or other type of non-acceptable

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refuse onto any street, street right-of-way, storm drain, ditch, manhole, median strip or other publicly owned or publicly maintained property.

(Ord. 0-02-12, passed 10-14-02)

§ 50.03 ADMINISTRATION.

The Town Zoning Administrator along with the Police Department shall be responsible for the administration and enforcement of this chapter. Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the Town Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.

(Ord. 0-91-05, passed 8-12-91)

COLLECTION PROCEDURE

§ 50.10 COLLECTION AND DUMPING.

All trash and garbage collected within the town limits shall be collected by the town dump truck and delivered to the dumping ground provided by the town located outside the town limits.

§ 50.11 STORAGE OF WASTE.

(A) Solid waste shall be stored in a sanitary manner approved by the town. Garbage shall be stored in a container of a type approved by the town. Every such container shall be constructed of a durable material in such a manner to be strong, watertight, not easily corrodible, fly and rodent proof; shall have a capacity of not more than 32 gallons (if hand collected) or as specified by the detachable container collector (if collected by detachable container equipment); shall have handles designed for lifting; and shall have tight-fitted covers which shall be kept in place at all times, except when garbage or solid wastes are being deposited in or removed from such containers. A sufficient number of containers shall be provided to hold at least one week's accumulation (no more than eight containers if hand collected by the town's sanitation contractor). Containers shall be kept clean so that no insect breeding, odor, or other nuisance will exist.

(B) Other refuse may be stored as above, but shall be stored in such manner that it will not provide harborage to rats, cause fire or safety hazard, or become windblown.

(C) No person shall damage, deface, or remove any receptacle provided for garbage or other solid waste, nor shall any person scatter, throw, or otherwise distribute the contents thereof. Collectors shall exercise every reasonable care in the handling of garbage and refuse receptacles.

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(D) Cardboard boxes, cartons, and crates may be used as refuse receptacles only when used to contain other refuse, and when properly secured by tying or taping. Cardboard boxes, crates, or other cartons used as refuse receptacles shall have a one-time use only and shall be collected along with the refuse contained in them.

('75 Code, § 9-16) (Ord. 0-91-05, passed 8-12-91) Penalty, see § 50.99

§ 50.12 TRANSPORTATION OF WASTE.

(A) No solid waste shall be transported except in conformance with this chapter. The vehicles or containers used for the collection and transportation of solid wastes shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered when necessary to prevent the blowing of materials from out of the vehicle. These vehicles shall be cleaned when necessary to prevent insect breeding, odor, or other nuisance, and shall be maintained in good repair. Materials spilled by the hauler shall be picked up immediately by the hauler and returned to the vehicle or container, and the area property cleaned.

(B) This section shall not prevent the use of a private car or truck in transporting property contained wastes to a landfill, provided the hauler insures that the solid wastes will be covered during transportation and that no spillage or leakage occurs.

(Ord. 0-91-05, passed 8-12-91) Penalty, see 50.99

§ 50.13 PLACEMENT OF TRASH FOR COLLECTION AT BUSINESSES.

All persons doing business within the town are hereby required to deposit all garbage, trash, waste, and other refuse, daily, in a receptacle to be placed in front of the place of business so that the same may be carried away by the sanitary department of the town.

('75 Code, § 9-17) Penalty, see § 50.99

§ 50.14 COLLECTION FEES FOR BUSINESS.

Fees for collection of garbage and trash at commercial establishments, restaurants and other business places may be set from time to time by the governing body.

('75 Code, § 9-18)

§ 50.15 GARBAGE OF NON-RESIDENTS.

(A) Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

RESIDENCE. Any single or multi-family dwelling.

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COMMERCIAL ESTABLISHMENT. Any retail, wholesale, institutional, religious, or governmental establishment, exclusive of residences as described above, which may generate garbage or other refuse.

GARBAGE. Any waste from packaging or office waste, exclusive of manufacturing, industrial waste, or any yard trash, tree or shrubbery trimmings.

REFUSE. Any waste from packaging or office waste, exclusive of manufacturing, industrial waste, or any yard trash, tree or shrubbery trimmings.

TRASH. Leaves, tree, lawn and shrubbery trimmings.

HARD GOODS. Appliances, hot water heaters, and the like.

CONSTRUCTION MATERIALS. Any waste from packing exclusive of manufacturing, industrial waste, and building materials.

TOWN. The town of Black Mountain.

EMPLOYEE. Any employee, agent or officer of the town or any contractor who has contracted with the town for the pick-up and removal of trash or garbage, or the contractor's employees.

ENFORCEMENT AGENCY. The Police Department.

(B) Prohibition. It shall be unlawful for any person, business or corporation to bring garbage, refuse, trash, hard goods or construction materials into the town limits for the purpose of having those items picked up and removed by an employee of the town at the town's expense. Further, it shall be unlawful for any resident or commercial establishment within the town limits to knowingly allow the placement of garbage, refuse, trash, hard goods or construction materials on their property within the town limits for pick-up by town employees.

(C) Enforcement.

(1) Upon discovery of violation of this section by any police officer, he shall issue a citation, or warrant, charging the person violating this section, by ordinance number and name, as being the charge against the person, and shall require the person cited to appear in the District Court for the county on the officer's next court day, to face prosecution for violation of this section.

(2) Upon finding sufficient evidence to determine the identity of any person who has violated this section but who is not a resident of the town, a member of the enforcement agency shall take such evidence and cause to be issued by the magistrate's office of the county a warrant for the violation of this section.

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§ 50.16 BUSINESS REGULATIONS.

(A) Commercial, industrial, and institutional property.

(1) The owner, proprietor, or person in charge of any commercial, industrial, or institutional building, parking lot or other site, shall be obligated both jointly and severally to keep driveways, yards, parking lots, and areas adjacent thereto and under his control clean at all times; and to place sweepings, litter, refuse, and other debris in an approved receptacle to prevent dispersal by wind, rain, animals or other causes shall be kept on any street or sidewalk, parking lot or other area, except that such containers may be placed out for collection on the day of such collection.

(2) The owner, proprietor, or person in charge of any commercial, industrial, or institutional building, parking lot, or other site shall be obligated, jointly and severally, to provide solid waste receptacles of sufficient size and quantity. Specifically, but not exclusively, the requirement for such containers shall apply to shopping centers, supermarkets, convenience stores, fast food and other restaurants, service stations, and other similar establishments; and shall likewise apply to industries, commercial establishments, schools, churches and other institutions. Spillage and overflow from such containers shall be cleaned up by the establishment immediately as it occurs.

(B) Construction and demolition sites. All property owners and construction and demolition contractors, both jointly and severally, shall be required to provide on-site refuse receptacles, bulk containers or detachable containers for loose debris, paper, waste building materials, scrap building materials and other solid waste produced by those working on the site. All such sites shall be kept in a reasonable clean and litter-free condition. Dirt, mud, construction materials or other debris deposited upon any property outside the construction or demolition site shall be removed by the contractor as soon as practically possible, but no later than the end of the workday.

(Ord. 0-91-05, passed 8-12-91) Penalty, see § 50.99

§ 50.17 ASSISTED BAGGED LEAF COLLECTION PROGRAM

Individuals who are over the age of 70 and have a property tax valuation under \$200,000 or who are disabled and have a property tax valuation under \$200,000 are eligible to participate in the Town of Black Mountain's Assisted Bagged Leaf Collection Program. Certification of age or disability and property tax value are required.

During the peak leaf times of October 1 through January 31, the Town will contract with a private hauler to bag leaves for disposal twice during the season once the leaves have been brought to the curb. After the leaves are brought to the curb, the individual must call Town Hall in order to schedule a time for bagging and collection.

(Am. Ord. 0-04-07, passed 9-13-04, Am. Ord. 0-06-10, passed 9-11-06)

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§ 50.99 PENALTY.

A violation of this chapter shall constitute a misdemeanor from which the maximum penalty shall be the maximum penalty for violation of local ordinances provided by the North Carolina Statute, G.S. § 14-4. Each day that any violation continues shall constitute a separate and distinct offense.

Section

Sewer Connections

51.01 Connection to metropolitan sewer system

Rates and Charges

51.10 Sewer service charges

51.99 Penalty

SEWER CONNECTIONS

51.01 CONNECTION TO METROPOLITAN SEWER SYSTEM.

All owners of improved property within the corporate limits shall be required to connect with the Buncombe County Metropolitan Sewerage District sewer system, or other approved system.

('75 Code, Sec. 17-1) Penalty, see Sec. 51.99

RATES AND CHARGES

51.10 SEWER SERVICE CHARGES.

For those persons whose property is connected to the Metropolitan Sewerage District of Buncombe County system, sewer service charges will be assessed in accordance with the current rate schedule adopted by the Metropolitan Sewerage District and in force. Those charges will be added to the water bill and shall be payable at the appropriate water company.

('75 code, Sec. 17-18)

51.99 PENALTY.

Except where otherwise provided in this chapter, whoever violates any provision of this chapter shall be subject to the penalties provided in Sec. 10.99.

((Am. Ord. 0-95-01, passed 1-9-95)

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Section

General Provisions

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Water Connections

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GENERAL PROVISIONS

52.01 TAMPERING WITH FIRE HYDRANTS OR OTHER WATER CONNECTIONS.

It shall be unlawful for any person to interfere with the hydrants, plugs or sidewalk cut offs.

(*'75 Code, Sec. 17-4*) Penalty, see Sec. 10.99

WATER CONNECTIONS

52.10 RIGHT OF TOWN TO MAKE NECESSARY CONNECTIONS.

In the event of failure of any person to connect with an approved water system, the Town may go upon the premises and connect the improved properties with the water system. All expenses incurred shall immediately be a first and prior lien against the properties for the amount of amounts so expended in connecting the properties with the water system.

(*'75 Code, Sec. 17-2*) Penalty, see Sec. 10.99

52.11 DEPTH OF WATER LINES.

All water lines installed within the Town on public or private property, and all water lines elsewhere that are to be connected with water mains belonging to the Town, shall be at least 30 inches deep.

(*'75 Code, Sec. 17-5*) Penalty, see Sec. 10.99

52.12 OPEN DITCHES.

All ditches dug for the purpose of laying water pipe shall be left open and uncovered until inspected by a Town representative.

(*'75 Code, Sec. 17-6*) Penalty, see Sec. 10.99

WATER TAPS AND USE

52.20 CLASSIFICATION OF SERVICE.

All services are classified under one category to include residential, commercial, and institutional users.

(*Ord. O-82-2, passed 5-10-82; Am. Ord. O-82-7, passed 6-14-82*)

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52.21 APPLICATION FOR SERVICE.

(A) Customers will make application for service, in person, at the office of the Town and at the same time pay the service charge required in Sec. 52.23.

(B) Water service applied for on rental property will only be supplied to the responsible renter, with confirmation in writing from the landlord or agency renting the property.

(C) Individual and Master Meters.

1. After the effective date of this ordinance, each new residential, industrial or commercial building or unit, under one roof (including shopping centers, condominiums and apartment buildings), whether or not under common ownership, shall have one water meter for each building or unit. Variations from this regulation shall be by written permission from the water department only.

2. Mobile Homes. Mobile homes that occupy a single lot or area or a mobile home park or trailer park shall have an individual water meter. A mobile home occupying a lot with another house may not be served from that house. Areas designated as mobile home parks or courts shall be served by individual water meters.

(D) The Town may reject any application for service in areas where adequate service is not available or other requirements are not met.

(E) The Town may reject any application for service when the applicant is delinquent in payment of bills incurred for service previously supplied at another location.

(F) Service will be supplied only to those who have filled out the required application and paid the required tap fee and service charge.

(Ord. O-82-2, passed 5-10-82; Am. Ord. O-82-7, passed 6-14-82)

52.22 RATE SCHEDULE AND TAP-ON FEES.

(A) Rate Schedule:

(1) Water rates for the Town are set out at length in Sec. 52.51.

(2) Multi-residential users, such as trailer courts and duplex apartments, served through one meter will be billed at the Town's regular published rates.

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(B) Tap-on Fees

(1) Prior to construction and after completion of the facility, the regular tap-on fee will be:

<u>Meter Size</u>	<u>Cost Inside Town Limits</u>	<u>Cost Outside Town Limits</u>
<u>3.4''</u>	<u>\$800.00</u>	<u>\$1,200.00</u>
<u>1''</u>	<u>\$1,000.00</u>	<u>\$1,500.00</u>
<u>1 1/2''</u>	<u>\$2,000.00</u>	<u>\$3,000.00</u>
<u>2''</u>	<u>\$2,500.00</u>	<u>\$3,750.00</u>
<u>4''</u>	<u>\$8,000.00</u>	<u>\$12,000.00</u>
<u>6''</u>	<u>\$16,000.00</u>	<u>\$24,000.00</u>

(C) Partial tap-on fees; partial tap-on fees shall equal thirty percent (30%) of the full tap-on fee.

(1) A partial tap-on fee shall be offered only in cases where a property owner has an existing water tap supplying multiple dwellings when a new tap or taps are required to supply each dwelling with separate meters.

(D) In cases where the town must incur additional costs in order to provide water service for water taps of 2'' or larger, a water availability cost reimbursement fee will be charged (in addition to the regular tap fee) in the amount necessary to reimburse the town for the actual cost of the additional work that had to be completed in order to provide the service. This fee will be due and payable after the water tap has been made.

(E) Water Service Impact Fee

(1) Each new applicant for residential water service from the Town of Black Mountain shall pay at the time of application for water service, in addition to tap fees and other charges, an initial impact fee in the amount of \$700.00, which amount may be adjusted by the Board of Aldermen without further amendment of this ordinance.

(2) New commercial or business users shall be assessed an impact fee equal to \$700.00 for each 12,000 gallons, or any portion thereof, of anticipated monthly water usage, payable at the time application is made for water service, which base amount may be adjusted by the Board of Aldermen without further amendment of this ordinance. For commercial and business users, the impact fee shall be based upon the anticipated monthly water usage as estimated by the applicant, but shall be subject to review after twelve full months of water service at which time an additional assessment will be imposed if the actual monthly water usage exceeds the estimate provided by the applicant.

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(3) A new applicant or user is an applicant for water service to a property, home or business which requires a new connection to the public water system that does not replace a previous connection.

(4) This Ordinance shall become effective on the first day of the month immediately following its adoption.

(Ord. O-82-2, passed 5-10-82; Am. Ord. O-82-7, passed 6-14-82, Am. 8/94; Ord. O-95-01, passed 1-9-95, Am. Ord. 0-97-02, passed 1-13-97, Am. Ord. 0-06-02, passed 2-13-06)

52.23 SERVICE CHARGE

(A) All customers will make a non-refundable service charge of **\$25.00**.

(B) The individual in whose name the service charge is paid shall be responsible for payment of all bills incurred in connection with the service furnished.

(C) A separate service charge is required for each meter installed or used.

(Ord. O-82-2, passed 5-10-82; Am. Ord. O-82-7, passed 6-14-82)

52.24 MINIMUM BILLING CHARGE AND BOND FEE.

(A) The minimum billing charge, as provided in the rate schedule, along with any bond fee, shall be made for each meter installed, regardless of location. Each meter requires a separate meter number and each meter number shall cover a separate and individual account.

(B) Where service is furnished to a consumer during certain months only, the minimum billing charge for service for the period of non-use shall be the regular billing charge as set out in the published rates of the Town and any bond fee, unless water is turned off, in which case no charge for service will be made while the water is off.

(Ord. O-82-2, passed 5-10-82; Am. Ord. O-82-7, passed 6-14-82)

52.25 TOWN'S RESPONSIBILITY AND LIABILITY.

(A) The Town shall run a service line from its distribution line to the property line where the distribution line runs immediately adjacent and parallel to the property to be served, and for which a tap-on fee then in effect for each size of meter will be charged.

(B) The Town may install its meter at the property line or, at the Town's option, on the consumer's property or in a location mutually agreed upon.

(C) When two or more meters are to be installed on the same premises for different

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consumers, they shall be closely grouped and each clearly designated to which consumer it applies.

(D) The Town does not assume the responsibility of inspecting the consumer's piping or apparatus and will not be responsible therefore.

(E) The Town shall not be liable for damage of any kind whatsoever resulting from water or the use of water on the consumer's premises, unless such damage results directly from negligence on the part of the town. The Town shall not be responsible for any damage done by or resulting from any defect in the piping fixtures or appliances on the consumer's premises. The Town shall not be responsible for negligence of third persons or forces beyond the control of the Town resulting in any interruption of service.

(F) Under normal conditions, the consumer will be notified of any anticipated interruption of service by means of newspaper publication and/or radio broadcast.

(Ord. O-82-2, passed 5-10-82; Am. Ord. O-82-7, passed 6-14-82) Penalty, see Sec. 10.99

52.26 CONSUMER'S RESPONSIBILITY.

(A) Piping on the consumer's premises must be so arranged that the connections are conveniently located with respect to the Town's lines or mains.

(B) If the consumer's piping on consumer's premises is so arranged that the Town is called upon to provide additional meters, each place of metering will be considered as a separate and individual account.

(C) Where meter is placed on premises of a consumer, a suitable place shall be provided by consumer for placing such meter unobstructed and accessible at all times to the meter reader.

(D) The consumer shall furnish and maintain a private cutoff valve on the consumer's side of the meter; the Town to provide a cutoff valve on the Town's side of such meter.

(E) The consumer's piping and apparatus shall be installed and maintained by the consumer at the consumer's expense in a safe and efficient manner and in accordance with the Town's rules and regulations and in full compliance with the sanitary regulations of the North Carolina Department of Human Resources.

(F) The consumer shall guarantee proper protection for the Town's property placed on the consumer's premises and shall permit access to it only by authorized representatives of the Town.

(G) In the event that any loss or damage to the property of the Town or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the consumer, his agents or employees, the cost of the necessary repairs or replacements shall be paid by the consumer to the Town; and any liability otherwise resulting shall be assumed by the consumer.

(H) The amount of such loss or damage or the cost of repairs shall be added to the consumer's bill; and if not paid, service may be discontinued by the Town. If meters are purposefully

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damaged by the consumer, the consumer shall pay three times the cost of the meter as damages.

(Ord. O-82-2, passed 5-10-82; Am. Ord. O-82-7, passed 6-14-82) Penalty, see Sec. 10.99

52.27 EXTENSIONS TO MAINS AND SERVICES

(A) Water distribution lines to serve proposed subdivisions within the Town Limits will be handled as follows:

(1) The developer will submit plans for review and approval by the town, its engineer and the State of North Carolina Department of Environment and Natural Resources.

(2) Lines will be installed by the developer in accordance with the approved plans.

(3) The developer will be responsible for the operation and maintenance of such systems for a period of one year following the acceptance of the system by the Town.

(4) The Town will not accept or maintain any water system, which does not contain a pressure of 30 p.s.i. base upon the existing main tank level.

(5) All water taps shall be made by the Town and the Town shall collect all fees for the installation of all water taps.

(a) Any unauthorized tap made to the Black Mountain water system shall result in the termination of services.

(6) The Town may require the installation of increased line sizes if it is determined that such increase is necessary to serve adjacent property.

(7) The Town will not assume ownership of or responsibility for any additional equipment deemed necessary by the Town to provide adequate water pressure from the tap, but may elect to enter into written maintenance with the owner/developer for the maintenance of such equipment.

(B) Other Extensions. Extension of water lines within the service areas inside the Town Limits will be handled as follows:

(1) The plans for the extension will be submitted for review and approval by the town, its engineer and the State of North Carolina Department of Environment and Natural Resources.

(2) The lines will be installed in accordance with the approved plans.

(C) Limitations of Service

(1) Water service will not be provided at any location where a minimum of 30 pounds per square inch at the meter cannot be maintained under normal conditions.

(a) Property above the service line may be provided a tap according to the

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Towns fees, but the property owner must provide any additional equipment that is deemed necessary by the Town to provide adequate water pressure from the tap.

(2) Any natural or manmade obstruction that impedes the extension of water lines such as, creeks, rivers, railroads, interstates, etc., will not be crossed.

(D) Water service outside the Corporate Limits of the Town.

(1) Requests for water service to a single-family residence where water service is available may be granted upon the approval of the Public Works Director

(2) **Requests for water service to areas contiguous to the Corporate Limits of the Town (excluding item (D)(1) above).** Any developer or property owner wishing to make application for water service to property that is contiguous to the Town Limits must petition for voluntary annexation into the Town Limits before being considered for water service. The Town of Black Mountain has the option to accept or reject the annexation petition based on what is in the best interest of the Town. If rejected for annexation by the Town, the developer or property owner may request service under the terms outlined for non-contiguous property.

(3) **Requests for water service to areas that are not contiguous to the Corporate Limits of the Town (excluding item (D)(1) above).** Any developer or property owner wishing to make application for water service to property that is not contiguous to the Town Limits must agree to comply with all the restrictions and requirements of the Black Mountain Zoning and Subdivision regulations by placing deed/land covenants on the property.

(4) Before any area outside the Town Limits can be considered for water service it must be determined by the Public Works Director that the Town's current twelve-hour water pumping capacity meets or exceeds one and one-quarter (1 ¼) the water system's average daily usage.

(Ord. O-82-2, passed 5-10-82; Am. Ord. O-82-7, passed 6-14-82)

52.28 ACCESS TO PREMISES.

(A) Duly authorized agents of the Town shall have access at all reasonable hours to the premises of the consumer for the purpose of installing or removing town property, inspecting piping, reading or testing meters or for any other purpose in connection with the Town's service and facilities.

(B) By making application for water service, each consumer does grant or convey or shall cause to be granted or conveyed, to the Town a perpetual easement and right of way across any property owned or controlled by the consumer wherever said perpetual easement and right of ways necessary for the Town water facilities and lines so as to be able to furnish service to the consumer.

(Ord. O-82-2, passed 5-10-82; Am. Ord. O-82-7, passed 6-14-82) Penalty, see Sec. 1099

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52.29 CHANGE OF OCCUPANCY.

- (A) Not less than three days notice must be given in person or in writing, at the Town office, to discontinue service for a change in occupancy.
- (B) The outgoing party shall be responsible for all water consumed up to the time of departure or the time specified for departure, whichever period is longer.

(Ord. O-82-2, passed 5-10-82; Am. Ord. O-82-7, passed 6-14-82)

52.30 METER READING; BILLING AND COLLECTING.

- (A) Meters will be read and bills rendered monthly; but the Town reserves the right to vary the dates or length or period covered, temporarily or permanently if necessary or desirable.
- (B) Bills for water will be figured in accordance with the Town's published rate schedule then in effect and will be based on the amount consumed for the period covered by the meter readings.
- (C) Charge for service commences when meter is installed and connection made, whether used or not. Sixty (60) days may be allowed for hookup on initial installation of the water system.
- (D) Readings from different meters will not be combined for billing, irrespective of the fact that said meters may be for the same or different premises, or for the same or different consumers, or for the same or different services.
- (E) Bills are due twenty (20) days from the date of billing and become delinquent thereafter.
- (F) A customer's account that is delinquent and not paid by the twentieth of each month shall be subject to a penalty charge of five percent (5%) per month on the unpaid balance.
- (G) If a bill is not paid within thirty (30) days from the billing date, a cut-off notice shall be issued for non-payment. The Town may discontinue service ten (10) days after the postmark on the cut-off notice.
- (H) Failure to receive bills or notices shall not prevent such bills from becoming delinquent or relieve the consumer from payment.

(Ord. O-82-3, passed 5-10-82, Am. Ord. O-82-7, passed 6-14-82)

52.31 SUSPENSION OF SERVICE.

- (A) During regular working hours, a **thirty-five dollar (\$35.00)** fee must be paid to reconnect meters after they have been disconnected for non-payment. After regular working hours, on

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weekends and on holidays, a **fifty-dollar (\$50.00)** fee must be paid to reconnect meters after they have been disconnected for non-payment.

(B) When it becomes necessary for the Town to discontinue water service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid and any deposit or reconnect charge has been paid.

(C) It is the policy of the town to discontinue water service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The Town's billing form and all notices of intent to disconnect water services for nonpayment shall contain clearly visible and easily readable provisions to the effect:

(1) That all bills are due and payable on or before the date set forth on the bill; and

(2) That if any bill is not paid by or before that date, the Town may discontinue water service without further notice.

(D) Any customer disputing the correctness of his bill shall have the right to a hearing at which time he may be represented in person and by counsel or any other person of his choosing and may present orally or in writing his complaint and contentions to the Town official in charge of water billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make final determination of the customer's complaint. The Town Manager shall designate the official who will hear such complaints and make the determination as provided in this section.

(E) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified.

(F) The Town may, in addition to prosecution by law, permanently refuse service to any consumer who tampers with a meter or other measuring device.

(G) The Town reserves the right to discontinue its service without notice for the following additional reasons:

1. To prevent fraud or abuse.
2. Consumers willful disregard of the Town's rules.
3. Emergency repairs
4. Insufficiency of supply due to circumstances beyond the Town's control.
5. Legal procedures.
6. Direction of public authorities.
7. Strike, riot, fire, flood, accident or any unavoidable cause.

(H) A **twenty-five dollar (\$25.00)** fee will be charged to seasonal customers each time a meter is disconnected or reconnected during regular working hours. A **fifty dollar (\$50.00)** fee will be charged for this service if it is requested after regular working hours or on weekends or holidays.

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(I) A **twenty-five dollar (\$25.00)** fee will be charged to customers requesting an emergency cut off of water service at the Town's side of the meter. A **fifty dollar (\$50.00)** fee will be charged for this service if it is requested after regular working hours or on weekends or holidays. (*Ord. O-82-3, passed 5-10-82, Am. Ord. O-82-7, passed 6-14-82; Am. Ord. O-82-9, passed 8-9-82; Am. Ord. O-91-11, passed 9-9-91*) Penalty, see Sec. 10.99

52.32 COMPLAINTS, ADJUSTMENTS.

(A) If the consumer believes his/her bill to be in error, the claim shall be presented in person at the Town's office before the bill becomes delinquent. Such claim if made after the bill has become delinquent shall not be effective in preventing discontinuance of service as heretofore provided. The consumer may pay such bill under protest and said payment shall not prejudice his/her claim.

(B) If the seal of a meter is broken by other than the Town's representative or if the meter fails to register correctly or is stopped for any cause, the consumer shall pay an amount estimated from the record of his/her previous bills and/or from other proper data.

(C) The Town shall have the discretion to adjust billing charges to any customer as follows:

(1) Account Adjustments. Accounts will be adjusted when a numerical error as determined by the Tow is made in the account, crediting payments, calculating charges and the like.

(2) Leakage Adjustments. Billing charges on the accounts of metered service may be adjusted by the Town if the meter registers water usage not actually consumed because of a leak on the customer's side of the meter. If the Town determines that there is no fault on the part of the customer precipitating the leakage, a billing adjustment not to exceed seventy-five percent (75%) of all water usage in excess of the customer's normal water usage may be made. No billing adjustment will be made in cases where the total adjustment will result in an amount equal to or less than ten dollars (\$10.00). A "customer's normal water usage" shall be calculated on the basis of the customer's average water consumption for the lesser of:

- a. the twelve (12) month period preceding the month in which the leak occurred, or
- b. the period commencing with the month when the meter was installed and a bill issued up to the month in which the leak occurred.

Said adjustment in the billing charges is conditioned upon a repair of the leak by the customer within thirty (30) days of detecting the leak and a return to normal of the consumption rate. The Town may require proof that the leak has been repaired. The billing adjustment is limited to a sixty (60) day period maximum, which sixty (60) days period shall consist of thirty (30) days prior to the detection of a leak and thirty (30) days after the detection of a leak.

(3) Adjustments for Meter Inaccuracy. If a meter shall have become inaccurate as

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determined by the Town, water service shall be charged based on estimated consumption calculated on the basis of the previous consumption for the lesser of twelve (12) months or the length of time said meter was in place. The account adjustment shall apply for the period during which it may appear to the Town such meter inaccuracy may have been continued.

(4) No Cause or Reason Found for Error. If the Town cannot determine what the cause or reason is for the billing error, then the Town may adjust the billing charges in such amounts as the Town may deem to be fair under all the circumstances, but not less than a charge based on a customer's normal water usage as that term is defined in subsection 2. above.

(Am. Ord. 0-00-18, passed 12-11-00)

52.33 ABRIDGMENTS OR MODIFICATION OF RULES

(A) No promise, agreement or representation of any employee of the Town shall be binding upon the Town except as it shall have been agreed upon in writing, signed and accepted by the acknowledged officers of the Town.

(B) No modification of rates or any of the rules and regulations shall be made by any agent of the Town.

WATER SHORTAGES

52.40 RESTRICTIONS ON USE OF WATER.

At any time it appears to the Mayor and Board of Aldermen that a shortage of water prevails and that it is necessary for the health of the citizens and the community that the use of water be curtailed, the Town Clerk or other designated officer shall notify all service stations, garages and other citizens of the community to discontinue the use of water for the purposes of washing cars, sidewalks, watering lawns and for any other unnecessary purposes.

(*'75 Code, Sec. 17-26*)

52.41 PROCLAMATION DECLARING WATER SHORTAGE.

At any time that it appears there is a shortage of water in the Black Mountain water system, a proclamation of the above restrictions shall be published in the Black Mountain News and/or other legal publication, signed by the Mayor and attested by the Clerk, restricting the use of water as set forth in Sec. 52.40.

(*'75 Code, Sec. 17-72*)

52.42 USE OF WATER RESTRICTED.

(A) An emergency has been created by a shortage in Town water supply, and now exists, threatening the health and safety of the citizens.

(Reprinted 6/00; 11/01, 1/02, 2/03, 3/04, 3/05, 6/06, 3/07, 10/07)

TITLE V: PUBLIC WORKS

(B) It shall be unlawful for any person, firm or corporation to use or permit the use of water from the water system of the Town for any of the following purposes, until such time as this section shall be amended or repealed:

- (1) To wash any automobile or other motor vehicle.
- (2) To water or sprinkle any lawns, shrubs, yards, streets, sidewalks, or to use water for any similar purpose.
- (3) To add water in private swimming pools.
- (4) To use water in any decorative pool, fountain, or pond.
- (5) To draw water from the Town water system other than for domestic purposes, human consumption, the preparation of food, and for fire protection.

(C) The Town may require water customers that have high consumption to reduce consumption, or close businesses with high water consumption, if it is determined that the shortage in Town water supply threatens the health and safety of the citizens.

(Ord. O-77-14, passed 8-24-77, Am. Ord. O-81-16, passed 7-24-81)

RATES AND CHARGES

52.50 TURNING WATER ON AND OFF.

(A) In all cases where necessary, water shall be cut off and turned on by the Water Department or by some person authorized by the Town authorities. If after it is so turned off and it shall be turned on by any other person, such person shall be guilty of a misdemeanor.

('75 Code, Sec. 17-3) Penalty, see Sec. 10.99

TITLE V: PUBLIC WORKS

52.51 WATER RATES

(A) Users of water where such water is measured through a water meter shall pay for the water and use of the meter as set forth in **Appendix A** as attached and made a part of this ordinance.

(B) Bond. The required bond for both inside and outside rates shall be \$2.82.

(C) Billing Charge. The initial billing charge for both inside and outside water customers shall be \$2.70, which is the net cost after MSD billing reimbursement. The billing charge will be applied when second notices are necessary at the full billing cost of \$4.17. The billing charge may be adjusted on an annual basis and is calculated on actual billing costs.

(D) Water formulas. The formulas for determining inside and outside water rates as listed below:

(1) Inside Town Limits.

Usage < 750,000 gallons - \$4.64 for each 1,000 gallons of water used.

Usage > 750,000 gallons - \$2.11 for each 1,000 gallons of water used.

(2) Outside Town Limits.

Usage < 750,000 gallons - \$7.62 for each 1,000 gallons of water used.

Usage > 750,000 gallons - \$3.39 for each 1,000 gallons of water used.

(Am. Ord. 0-95-01, passed 1-9-95, Am. Ord. 0-00-09, passed 6-12-00)

(Amended rates at special Board of Aldermen meeting on 8-14-02, to be effective 9-01-02)

(Am. Ord. 0-03-06, passed 9-8-03, amended water rates, 7-01-04; amended water rates, 7-01-05; amended water rates 3%, 7-01-06; amended water rates 3%, 7-01-07)

Town of Black Mountain - Title V Public Works

Appendix A

INSIDE RATES

GALLONS	WATER	BILL FEE	BOND	TOTAL
100	0.48	2.78	2.82	6.08
200	0.96	2.78	2.82	6.56
300	1.44	2.78	2.82	7.04
400	1.92	2.78	2.82	7.52
500	2.40	2.78	2.82	8.00
600	2.88	2.78	2.82	8.48
700	3.36	2.78	2.82	8.96
800	3.84	2.78	2.82	9.44
900	4.32	2.78	2.82	9.92
1000	4.80	2.78	2.82	10.40
1100	5.28	2.78	2.82	10.88
1200	5.76	2.78	2.82	11.36
1300	6.24	2.78	2.82	11.84
1400	6.72	2.78	2.82	12.32
1500	7.20	2.78	2.82	12.80
1600	7.68	2.78	2.82	13.28
1700	8.16	2.78	2.82	13.76
1800	8.64	2.78	2.82	14.24
1900	9.12	2.78	2.82	14.72
2000	9.60	2.78	2.82	15.20
2100	10.08	2.78	2.82	15.68
2200	10.56	2.78	2.82	16.16
2300	11.04	2.78	2.82	16.64
2400	11.52	2.78	2.82	17.12
2500	12.00	2.78	2.82	17.60
2600	12.48	2.78	2.82	18.08
2700	12.96	2.78	2.82	18.56
2800	13.44	2.78	2.82	19.04
2900	13.92	2.78	2.82	19.52
3000	14.40	2.78	2.82	20.00
3100	14.88	2.78	2.82	20.48
3200	15.36	2.78	2.82	20.96
3300	15.84	2.78	2.82	21.44
3400	16.32	2.78	2.82	21.92
3500	16.80	2.78	2.82	22.40
3600	17.28	2.78	2.82	22.88
3700	17.76	2.78	2.82	23.36
3800	18.24	2.78	2.82	23.84
3900	18.72	2.78	2.82	24.32
4000	19.20	2.78	2.82	24.80
4100	19.68	2.78	2.82	25.28
4200	20.16	2.78	2.82	25.76
4300	20.64	2.78	2.82	26.24
4400	21.12	2.78	2.82	26.72
4500	21.60	2.78	2.82	27.20
4600	22.08	2.78	2.82	27.68
4700	22.56	2.78	2.82	28.16
4800	23.04	2.78	2.82	28.64
4900	23.52	2.78	2.82	29.12
5000	24.00	2.78	2.82	29.60

OUTSIDE RATES

GALLONS	WATER	BILL FEE	BOND	TOTAL
100	0.78	2.78	2.82	6.38
200	1.56	2.78	2.82	7.16
300	2.34	2.78	2.82	7.94
400	3.12	2.78	2.82	8.72
500	3.90	2.78	2.82	9.50
600	4.68	2.78	2.82	10.28
700	5.46	2.78	2.82	11.06
800	6.24	2.78	2.82	11.84
900	7.02	2.78	2.82	12.62
1000	7.80	2.78	2.82	13.40
1100	8.58	2.78	2.82	14.18
1200	9.36	2.78	2.82	14.96
1300	10.14	2.78	2.82	15.74
1400	10.92	2.78	2.82	16.52
1500	11.70	2.78	2.82	17.30
1600	12.48	2.78	2.82	18.08
1700	13.26	2.78	2.82	18.86
1800	14.04	2.78	2.82	19.64
1900	14.82	2.78	2.82	20.42
2000	15.60	2.78	2.82	21.20
2100	16.38	2.78	2.82	21.98
2200	17.16	2.78	2.82	22.76
2300	17.94	2.78	2.82	23.54
2400	18.72	2.78	2.82	24.32
2500	19.50	2.78	2.82	25.10
2600	20.28	2.78	2.82	25.88
2700	21.06	2.78	2.82	26.66
2800	21.84	2.78	2.82	27.44
2900	22.62	2.78	2.82	28.22
3000	23.40	2.78	2.82	29.00
3100	24.18	2.78	2.82	29.78
3200	24.96	2.78	2.82	30.56
3300	25.74	2.78	2.82	31.34
3400	26.52	2.78	2.82	32.12
3500	27.30	2.78	2.82	32.90
3600	28.08	2.78	2.82	33.68
3700	28.86	2.78	2.82	34.46
3800	29.64	2.78	2.82	35.24
3900	30.42	2.78	2.82	36.02
4000	31.20	2.78	2.82	36.80
4100	31.98	2.78	2.82	37.58
4200	32.76	2.78	2.82	38.36
4300	33.54	2.78	2.82	39.14
4400	34.32	2.78	2.82	39.92
4500	35.10	2.78	2.82	40.70
4600	35.88	2.78	2.82	41.48
4700	36.66	2.78	2.82	42.26
4800	37.44	2.78	2.82	43.04
4900	38.22	2.78	2.82	43.82
5000	39.00	2.78	2.82	44.60

05/17/2000, Reprinted 11/01
 3% increase effect. 7-1-02
 20% increase effect. 9-1-02

3% increase effect. 7-1-03
 3% increase effect. 7-1-04
 3% increase effect. 7-1-05

3% increase effect. 7-1-06
 3% increase effect. 7-1-07
 3% increase effect. 7-1-08

Town of Black Mountain - Title V Public Works

Appendix A

INSIDE RATES

OUTSIDE RATES

GALLONS	WATER	BILL FEE	BOND	TOTAL
5100	24.48	2.78	2.82	30.08
5200	24.96	2.78	2.82	30.56
5300	25.44	2.78	2.82	31.04
5400	25.92	2.78	2.82	31.52
5500	26.40	2.78	2.82	32.00
5600	26.88	2.78	2.82	32.48
5700	27.36	2.78	2.82	32.96
5800	27.84	2.78	2.82	33.44
5900	28.32	2.78	2.82	33.92
6000	28.80	2.78	2.82	34.40
6100	29.28	2.78	2.82	34.88
6200	29.76	2.78	2.82	35.36
6300	30.24	2.78	2.82	35.84
6400	30.72	2.78	2.82	36.32
6500	31.20	2.78	2.82	36.80
6600	31.68	2.78	2.82	37.28
6700	32.16	2.78	2.82	37.76
6800	32.64	2.78	2.82	38.24
6900	33.12	2.78	2.82	38.72
7000	33.60	2.78	2.82	39.20
7100	34.08	2.78	2.82	39.68
7200	34.56	2.78	2.82	40.16
7300	35.04	2.78	2.82	40.64
7400	35.52	2.78	2.82	41.12
7500	36.00	2.78	2.82	41.60
7600	36.48	2.78	2.82	42.08
7700	36.96	2.78	2.82	42.56
7800	37.44	2.78	2.82	43.04
7900	37.92	2.78	2.82	43.52
8000	38.40	2.78	2.82	44.00
8100	38.88	2.78	2.82	44.48
8200	39.36	2.78	2.82	44.96
8300	39.84	2.78	2.82	45.44
8400	40.32	2.78	2.82	45.92
8500	40.80	2.78	2.82	46.40
8600	41.28	2.78	2.82	46.88
8700	41.76	2.78	2.82	47.36
8800	42.24	2.78	2.82	47.84
8900	42.72	2.78	2.82	48.32
9000	43.20	2.78	2.82	48.80
9100	43.68	2.78	2.82	49.28
9200	44.16	2.78	2.82	49.76
9300	44.64	2.78	2.82	50.24
9400	45.12	2.78	2.82	50.72
9500	45.60	2.78	2.82	51.20
9600	46.08	2.78	2.82	51.68
9700	46.56	2.78	2.82	52.16
9800	47.04	2.78	2.82	52.64
9900	47.52	2.78	2.82	53.12
10000	48.00	2.78	2.82	53.60

GALLONS	WATER	BILL FEE	BOND	TOTAL
5100	39.78	2.78	2.82	45.38
5200	40.56	2.78	2.82	46.16
5300	41.34	2.78	2.82	46.94
5400	42.12	2.78	2.82	47.72
5500	42.90	2.78	2.82	48.50
5600	43.68	2.78	2.82	49.28
5700	44.46	2.78	2.82	50.06
5800	45.24	2.78	2.82	50.84
5900	46.02	2.78	2.82	51.62
6000	46.80	2.78	2.82	52.40
6100	47.58	2.78	2.82	53.18
6200	48.36	2.78	2.82	53.96
6300	49.14	2.78	2.82	54.74
6400	49.92	2.78	2.82	55.52
6500	50.70	2.78	2.82	56.30
6600	51.48	2.78	2.82	57.08
6700	52.26	2.78	2.82	57.86
6800	53.04	2.78	2.82	58.64
6900	53.82	2.78	2.82	59.42
7000	54.60	2.78	2.82	60.20
7100	55.38	2.78	2.82	60.98
7200	56.16	2.78	2.82	61.76
7300	56.94	2.78	2.82	62.54
7400	57.72	2.78	2.82	63.32
7500	58.50	2.78	2.82	64.10
7600	59.28	2.78	2.82	64.88
7700	60.06	2.78	2.82	65.66
7800	60.84	2.78	2.82	66.44
7900	61.62	2.78	2.82	67.22
8000	62.40	2.78	2.82	68.00
8100	63.18	2.78	2.82	68.78
8200	63.96	2.78	2.82	69.56
8300	64.74	2.78	2.82	70.34
8400	65.52	2.78	2.82	71.12
8500	66.30	2.78	2.82	71.90
8600	67.08	2.78	2.82	72.68
8700	67.86	2.78	2.82	73.46
8800	68.64	2.78	2.82	74.24
8900	69.42	2.78	2.82	75.02
9000	70.20	2.78	2.82	75.80
9100	70.98	2.78	2.82	76.58
9200	71.76	2.78	2.82	77.36
9300	72.54	2.78	2.82	78.14
9400	73.32	2.78	2.82	78.92
9500	74.10	2.78	2.82	79.70
9600	74.88	2.78	2.82	80.48
9700	75.66	2.78	2.82	81.26
9800	76.44	2.78	2.82	82.04
9900	77.22	2.78	2.82	82.82
10000	78.00	2.78	2.82	83.60

05/17/2000, Reprinted 11/01
 3% increase effect. 7-1-02
 20% increase effect. 9-1-02

3% increase effect. 7-1-03
 3% increase effect. 7-1-04
 3% increase effect. 7-1-05

3% increase effect. 7-1-06
 3% increase effect. 7-1-07
 3% increase effect. 7-1-08