



SOUTHWEST HARBOR WATER ORDINANCE
REGULATION OF WATER USE
FOR THE TOWN OF
SOUTHWEST HARBOR

Amended Through May 3rd, 2011

Beatrice D. Grinnell, Town Clerk

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I. INTRODUCTION

A. Title, Authority, and Administration

1. This Ordinance shall be known and may be cited as the "Southwest Harbor Water Ordinance: Regulation of Water Use for the Town of Southwest Harbor".
2. This Ordinance is adopted pursuant to the provisions of Title 30-A, MRSA, Section 3001, Home Rule.
3. This Ordinance is consistent with the Rules and Regulations of the Maine Public Utilities Commission.
4. This Ordinance shall be administered by the Southwest Harbor Water Department, hereinafter referred to as the Utility.

B. Purpose

1. The Southwest Harbor Water Ordinance seeks to provide an orderly procedure for all applicants that will ensure timely review and acceptance of properly constructed public waterworks utility extensions and connections.
2. Specifically, these procedures seek to ensure that existing users do not sacrifice any standard of service at the benefit of new users connecting to the system. Any reductions in service created by expansion into new areas will be evaluated considering the total impact on the entire system. Where an impact causes any potential reduction in the standards of service to existing users, new users requesting connections will be required to complete such system improvements as are necessary to eliminate any such impacts as a condition for obtaining a water connection permit.

C. Effective Date

The effective date of this Ordinance is May 1, 1995, or as amended thereafter. A certified copy of this Ordinance is filed with the Town Clerk and is available to any member of the Public. Copies may be purchased at the Town Office or viewed online at no cost.

D. Validity

Should any section of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

E. Conflicts

Should any section of this Ordinance be found in conflict with any other section or provision of this Ordinance or any other Ordinance or regulation, the more restrictive shall prevail.

II. DEFINITIONS

Billing Unit – 100 cubic feet

Customer - Any person, firm, corporation, or governmental division who has applied for and is granted service, or who is responsible for payment of the service.

MPUC - Maine Public Utilities Commission

Main - a water pipe owned, operated, and maintained by the Utility, which is used to transmit or distribute water but is not a water service.

Minimum Charge – is the minimum amount billed regardless of water usage.

Service pipe - the pipe running from the main to the premises of the customer.

Utility - the Southwest Harbor Water Department

III. TERMS AND CONDITIONS

- A. The terms and conditions specified in this Ordinance constitute a contract between the customer and the Utility. Any failure to comply with these rules and regulations, or requirements referenced herein, may be cause for refusal or discontinuance of service.
- B. The customer is further referred to the Utility's:
 - Construction/Technical Specifications (attached)
 - Cross Connection Control Program
 - Material Specifications (attached)
- C. The current Maine State Plumbing Code is considered the minimum requirement for areas not specifically addressed by this document or by reference.
- D. The Utility is further governed by the Southwest Harbor Water Department Terms and Conditions, which have been filed with the Maine Public Utilities Commission.

IV. APPLICATION FOR SERVICE

- A. **Application.** Application for service on an existing service line shall be made at the Town Office, Southwest Harbor.
- B. **Charge to Establish Service.**

Application Fee: If it is not necessary for the Utility to visit the premises, the fee will be \$10. If it is necessary for the Utility to visit the premises the fee is \$50 during normal business hours, 8:30 am through 5:00 pm, Monday through Friday and \$105 during holidays and other than normal business hours.

Note: Applicant will be responsible for all other costs; e.g. materials, etc.

- C. **Unauthorized Use of Water/Tampering with Utility Property.** Use of water is confined to the premises named in the service application. There shall be no tampering with or operating of Utility property - including but not limited to hydrants, standpipes, valves (main line), service line valves or meter/remote readers - without the authorization of the Utility. If a customer supplies a contractor with water for building purposes, the customer is responsible for metering arrangements, backflow prevention, and all charges. Unauthorized use of water is considered theft of services. Damages resulting from such tampering will be charged to the Customer.
- D. **Authorized Use of Hydrants.** Fire hydrants, including private hydrants, may not be used for any purpose other than to extinguish fires unless prior permission is given by the Utility. In any case, fire hydrants may not be opened by any person other than an agent of the Utility, a duly authorized representative of the Town or as authorized by the Utility. Damage resulting from unauthorized use will be charged to the customer.
- E. **Service Interruption.** The Utility will provide notice of any planned shut-off to affected customers at least twenty-four (24) hours in advance of the interruption of service. The Utility will give notice of any unplanned shut-off when practicable.
- F. **Liability.** The Utility is not responsible for damage caused by discolored or unsatisfactory water service which may be caused by cleaning of pipes, reservoirs, standpipes, the opening and closing of any valves or hydrants, or any abnormal condition, unless caused by a lack of reasonable care by the Utility. The Utility will not be responsible for meeting unusually high water quality standards for specialized customers.

V. **NEW SERVICES**

- A. **Town Authorization.** A "Request for Water Service - Town Authorization" form must be completed and signed by the authorized Town officials before the utility will supply service to new account/applicants. At that time, applicants shall pay the established application and service fees for new connections/accounts.
- B. **Prior to the Start of any Work.**
 - 1. The Contractor shall provide to the Town evidence that all State and Local regulations are being complied with:
 - a. The Contractor shall present any and all permits issued to him. These shall include but are not limited to any State or Local road opening permits, Local building permits, or water use permits. Permits shall be present on the job site before and during the job.
 - b. The Contractor shall be responsible for ensuring that all State and Local regulations are complied with throughout the term of the job.
 - c. The Contractor must show proof of all necessary insurances.

2. All taps of 2" or less shall be made by the Utility without exception. Should the job require a tap larger than 2", the Contractor shall be responsible for securing other resources to make the actual tap. Prior to the commencement of the job, the Contractor shall present the name and qualifications of the persons contracted to make the tap to the Director of Public Works of the Town for approval.
3. The Contractor shall submit all documentation required to the Town Office no fewer than three (3) working days prior to the day that the Contractor wishes the work to begin.
 - a. All work will be scheduled on a regular working day for the Utility (Monday through Thursday) and shall not be scheduled on either a weekend day or an observed holiday.
 - b. All work will be done so that the starting time of the job will be no earlier than 7:00 a.m. and the job will be completed no later than 2:00 p.m. unless prior arrangements have been made with the Public Works Director.

C. During the Installation of the New Water Service.

1. A Utility representative shall be present during the connection from the main to the curb box.
2. The Utility representative will:
 - a. locate and mark the location of the main and mark the area that requires excavation up to the point where the curb box will be located; and
 - b. note to the Contractor the depth and any other details of the installation as may be required and is available.
3. The Contractor shall:
 - a. be responsible for any and all excavation required;
 - b. be required to expose the main fully and provide access to the point at which the curb box will be located (the excavation will be accomplished in such a way as to provide the Utility representative a safe area to make the main tap and subsequent installation of the service line to the curb box); and
 - c. cut any pavement required to prepare for the actual digging.
4. The curb box will be placed by the Utility representative in such a location so as to not cause any hazard or inconvenience to either State or local roadway operations including traffic flow, snow removal or water runoff.
5. Once the Utility representative has made his connection to the curb box, the installation of the service line from the curb box to the customer's structure shall be the responsibility of the Contractor. (The Utility shall

only assume responsibility of the service connection between the main and the curb box).

6. After all connections have been made, all excavations will be filled as required by State and Local regulations including the replacement of any pavement removed.
7. All service lines shall be at a minimum depth of five (5) feet. If conditions are such that five (5) feet is not possible, the line shall be insulated with Styrofoam at the direction of the Director of Public Works or a designated representative. Insulation shall be closed cell foam, R-75, of a thickness and configuration approved by the Utility.

D. Winter Construction. No new service or extension of mains will be installed for the convenience of a customer during winter conditions between November 1 and April 1. Special cases will be considered by the Director of Public Works--such as service lines not crossing paved areas.

E. Private Fire Protection. Customers requiring private fire protection must contact the Utility to determine the availability of fire service at their location. Fire service, if available, will be installed at the customer's expense, within the bounds of the public way or right-of-way. The fire service line, after installation, will be owned and maintained in the public right-of-way by the Utility. The Utility does not guarantee any quantity of water or pressure available through a fire protection system and shall not be held liable for the lack thereof. The owner of the service shall determine, from time to time, the adequacy of the supply through the fire service by conducting tests of the private system. Timely notice must be given to the Utility so a representative of the Utility can be present to observe the test. The fire service line must be a separately dedicated line and must not be connected to the regular building water service line.

F. Inadequate Water Pressure. In services where the normal operation pressure could be expected to fall below twenty (20) pounds per square inch, a "Limited Service Contract" as approved by the MPUC is required. Whenever water pressure at any fixture in a maximum flow condition (based on Hunters Curve) after allowing for friction, elevation and other pressures, is less than fifteen (15) pounds per square inch, a hydro-pneumatic pressure -variable speed pump or other means which will provide said fifteen (15) pounds pressure shall be installed. Services utilizing a booster pump or other means to provide fifteen (15) pounds or greater shall be equipped with an approved double check valve assembly located between the stop and waste valve and the water meter, unless a variance is requested and approved.

G. Excessive Water Pressure. When water pressure is in excess of eighty (80) pounds per square inch, an approved type of pressure regulator preceded by an adequate strainer shall be installed by the customer and the pressure reduced to eighty (80) pounds per square inch or less. The pressure reducing valve shall be located between the stop and waste valve and the water meter unless a variance is granted by the Director of Public Works.

- H. **Fluctuation in Pressure Caused by Customer.** A customer may not install or use any device which will affect the Utility's pressure or water quality without prior Utility authorization.
- I. **Safeguarding Direct Pressure Devices.** Customers must install vacuum, temperature, and pressure relief valves or cutouts to prevent damage to a direct pressure water device or secondary system supplied by an automatic feed valve.

VI. **WATER LINE EXTENSIONS**

- A. **Town Constructed Water Line Extension** - Water line extensions may be constructed by the Town under public contract if, in the opinion of the Board of Selectmen, the number of properties to be served by such extension warrants its cost. Under this arrangement the property owner shall pay for the installation of the water service from the property line to the residence or place of business in accordance with the requirements of this Ordinance. Property owners may propose water line extensions within the Town in accordance with the following procedures:
 - 1. When abutting property owners wish to have public water facilities extended beyond the existing service area, a majority of the property owners must petition the Board of Selectmen by written petition.
 - 2. The signed petition must be presented to the Board of Selectmen at a regular or special meeting of the Board for their consideration.
 - 3. Upon receipt of the petition, the Board of Selectmen shall request recommendation on the proposed project from the Department of Public Works.
 - 4. The Department of Public Works will prepare a report concerning the feasibility as well as an estimated cost of the construction which shall be submitted to the Board of Selectmen.
 - 5. The Board of Selectmen shall, if they deem the project feasible both from a construction and a financial standpoint, request the Town Manager to submit a recommendation for financing.
 - 6. The Board of Selectmen, when in agreement with the proposed financing, shall request the Town Assessor in conjunction with the Department of Public Works to prepare a list of the abutters to be benefited, and to submit this list to the Town Manager for mailing of the estimated assessment. The estimated assessment will be based upon 100% of the estimated project costs to serve the total number of benefited property owners. Benefited shall mean any property abutting the new water line, whether or not requesting service.
 - 7. The Board of Selectmen shall set the annual simple interest rate to be charged on those assessments which are desired to be paid on a term basis.

8. The Town shall send notices of the estimated assessments and the interest rate to be charged on the assessments paid over an extended period of time to all abutting property owners to be benefited by the proposed project. Benefited property owners may choose to pay their assessment in a lump sum or over an extended period of time not to exceed five (5) years, or some other period of time agreeable to the Board of Selectmen. The assessment plus interest shall be payable in four equal payments per year at the rate previously set by the Board of Selectmen. The Manager shall require all benefited property owners who choose to pay their assessment over an extended period of time to execute an agreement which shall be filed at the Hancock County Registry of Deeds and at the office of the Southwest Harbor Town Clerk.
9. The Board of Selectmen will authorize the construction of the project when 75% of the estimated assessments have been signed and returned by the benefited property owners.
10. A Public Hearing will be held by the Board of Selectmen at which time the actual assessment will be considered legally established and any benefited property owner's grievances will be heard.
11. The Department of Public Works will have final plans and specifications prepared and will determine if the project can be done by Town forces or by contract. (If by contract, the usual bidding procedure will be followed as required by Maine Municipal Law.)
12. Once the project is complete, the Director of Public Works will determine the actual project cost, to include design and inspection fees, if appropriate, and notify the Board of Selectmen that the project is complete and usable.
14. The Town will prepare and mail the actual amount of the assessments to be made to each benefited property owner. The assessment shall be based upon 100% of the actual project cost. The benefited property owner assessment shall be calculated as follows:

Total project cost divided by the number of potential benefited abutting property owners. Non-residential properties shall be assessed a percentage based on projected water usage, but not to be less than the residential share of total cost, as determined by the Director of Public Works. Subsequent hook up to the water line beyond initial benefited abutting property owners will decrease the user share to cost ratio with pro-rated refunds to those benefited abutting property owners who have already paid and subsequent payment to other benefited abutting property owners will be reduced proportionately.
15. Benefited property owners shall make their applications for water connection at the Town Office. Upon application, the benefited property owner shall pay to the Town the water connection fee in addition to the water extension assessment fee. All benefited property owners shall have connected to said water line extension within two (2) years after the water line is deemed usable.

16. The Town will make water line extension assessment refunds without interest, if additional benefited property owners are connected to the requested water line extension. The water line extension assessment refunds will be made to the benefited property owners of record at the time of the connection.
17. No benefited property owner refunds will be made after a period of ten (10) years from the date the Board of Selectmen deem the water line extension complete and usable.

B. Private Water Line Extensions Constructed Within Public Ways - If the Town does not elect to construct a water line extension under public contract, the developer (property owner, building contractor, etc.) may construct the necessary extension, if such extension is approved by the Board of Selectmen in accordance with the requirements. Said developer must pay for the entire installation, including all expenses incidental thereto. The design of the water line extension shall be as specified in this Ordinance. The installation of the water line extension shall be subject to periodic inspection by the Department of Public Works or its designated agent. The decision of the Department of Public Works shall be final in matters of quality and methods of construction. The cost of water line extensions thus made shall be totally absorbed by the developer. Private systems constructed within public ways will remain privately owned until such time as at least one other customer requests connection to the private system and all appropriate easements have been filed and other requirements have been met.

1. The developer shall prepare a detailed report with substantiating data included concerning the estimated cost of the proposed water line extension construction.
2. The Assessor in conjunction with the Department of Public Works shall prepare a list of abutters to be benefited by the proposed private water line extension. In the case of the water being extended in a public road for connection to the existing Town main, persons or properties abutting the new line along said road, and having an adequate, functioning water system shall not be required to connect to the new line.
3. Upon receipt of the report from the developer, the Board of Selectmen shall schedule a Public Hearing on the proposed water line extension. The Town shall send notices of the Public Hearing by registered mail stating the reason, date, time and location for the hearing.
4. The Board of Selectmen, when in agreement with the proposed private water line extension construction, the proposed construction specifications, and the proposed construction costs, and any requirements they wish to apply as a part of their approval, will authorize the construction of the project.
5. The developer shall notify the Town when the private water line extension project has started and when it is complete. The Department of Public Works shall make periodic inspection of the construction project and prepare a report to the Board of Selectmen stating the status of the project

and whether the water line extension has been installed and constructed in conformity with the Town specification.

6. The developer shall prepare and execute all necessary documents to the Board of Selectmen's satisfaction for the dedication of the privately constructed water line to the Town.
7. Upon receipt of the executed dedication documents and a satisfactory report from the Department of Public Works regarding its final inspection, the Board of Selectmen shall accept said water line extension and deem the water line extension usable.
8. Benefited property owners requesting connection to the water line extension shall make application for connection to the water line at the Town Office. Benefited property owners shall pay, upon application, the Water Connection Fee and a Water Line Extension Assessment Fee. The Water Line Extension Assessment Fee will not be charged after a period of ten (10) years from the date the Board accepted the water line extension from the developer.
9. The Water Line Extension Assessment Fee shall be as calculated in Section VI.A.14 and 19.
10. The Town shall make Water Assessment Fee refunds to the developer when benefited property owners are connected to the water line extension. The Water Assessment Fee collected by the Town shall be paid to the developer.
11. No Water Extension Assessment Fee refunds will be made after a period of ten (10) years from the date the Board of Selectmen accepted the dedication of said water line extension from the developer.

C. Privately Constructed. If the Town does not elect to construct a water line extension under public contract, the property owner, builder, or developer may construct the necessary water line extension, if such extension is approved by the Board of Selectmen in accordance with the requirements. The cost of water line extensions thus made, including all building water lines, shall be absorbed by the developers or property owners. Each building water line must be installed and inspected as previously required and the inspection fees shall be paid by the Owner(s) or developer. Design of the water lines shall be as specified in the Construction/Technical Specifications referenced in this Ordinance. The inspection by the Public Works Director, or his agent, and the expenses for this inspection shall be paid for by the owner, builder or developer. The Public Works Director's decisions shall be final in matters of quality and methods of construction.

VII. OWNERSHIP OF SERVICE

A. Utility Ownership. The Utility shall own, and maintain, the service pipe, including the curb stop within the limits of the highway. Applicants for new services will be responsible for the cost of the installation of this section of the service pipe.

- B. **Customer Ownership.** The owner shall, at his or her own expense, also install, own and maintain the service pipe between the curb stop and the water meter. To avoid potential problems regarding the location of the service pipe, the customer is required to consult with the Utility prior to the installation or renewal of their service pipe.

VIII. PIPE AND FITTINGS

- A. The customer is referred to the Utility's Material Specifications (attached).*
- B. **Stop and Waste Valves.** Additionally, the service pipe will be equipped with water stop and waste valves located on both sides of the meter. These valves are installed, owned, and maintained by the owner. The service pipe is to be equipped with adapters supplied by the owner compatible with the meter couplings which are supplied by the Utility. These adapters are installed, owned and maintained by the customer.

IX. SERVICE PIPE AND INSTALLATION

- A. The customer is referred to the Utility's Construction/ Technical Specifications (attached).*
- B. **Valve Box Location.** Valve boxes for water mains and services shall be at least five feet from all structures and at least two feet from all shrubs and trees.

X. METERING

- A. **Service Pipe.** The owner's service pipe is to be located such that the water meter can be installed within two (2) feet of the point of entry of the building served as measured along the water pipe.
- B. **Meter Size.** The Utility will determine the size of the meter to be installed (both temporary and permanent).
- C. **Additional or auxiliary meters.** Meters for showing subdivision of water use must be furnished, installed, read, and maintained at the customer's own expense.
- D. **Installation.** The customer or his agent may have a water meter installed after contacting the Utility or by making an appointment to be present if deemed necessary.
- E. **Separate Shut-Offs.** Except as provided in Chapter 810, each unit of a multi-unit structure will shall have its own meter. The Utility requires separate, external shut-offs in acceptable locations always accessible to the Utility.
- F. **Remote Meters.** All new services will be equipped with remote-read meters furnished by the Utility. All existing services will be refitted with remote-read meters as Utility funding allows. These remotes will be installed at Utility expense.
- G. **Mobile Homes.** Meters for mobile homes will be installed either inside the unit or an approved pit will be constructed at the Owner's expense.

- H. **Pit Meters.** Meters installed in pits will be remote-read meters.
- I. **Synchronization.** Remote readers and their respective meters must be read and compared for synchronization at least once every eight (8) years by the Utility.
- J. **Location of Reader.** Remote readers will be installed in a protected outside area accessible at all times. The owner is responsible for the care of, and any damage to, the remote reader.
- K. **Condition of and Access to Fixtures.** A customer must maintain the plumbing and fixtures within his/her premises in good repair and protect them from freezing. The meter shall be located in a warm, clean, dry, and accessible area such that it can be serviced and read during normal business hours. The owner is responsible for all labor, overhead, material and equipment costs associated with repairing damaged or frozen water meters. Painting of meters constitutes damage.
- L. **Repair of Damaged Meters.** The charge for the repair of all meters damaged due to improper care by the customer will be the present price of the replacement meter as charged to the Utility by its supplier and any other costs incurred, to include the cost of labor for removal and reinstallation.
- M. **Meter Testing.** The utility will test its water meters according to the schedule and standards in Chapter 620. Upon customer request, the Utility will test the customer's water meter at no charge unless the customer requests more than one test in 18 months. If the customer requests a test more frequently, the Utility may require the customer to pay a deposit to cover the cost of the tests. If a meter tested at the customer's request does not conform to standards, the Utility will adjust the customer's bill according to the provisions of Chapter 620. If the meter conforms to standards, the Utility may continue to use the meter at the customer's premises and retain the deposit.
- N. **Charge for Testing Meters at Customer's Request.** The customer will be charged the cost to the Utility to have the meter tested at a certified testing facility.

XI. **BILLING**

- A. **Billing Period.** The Utility bills its customers on a quarterly basis.
- B. **Terms of Payment.** All bills are due and payable upon presentation, and are considered past due ninety (31) days from the billing date. Payments are to be made at the Town Office. Failure of the customer to receive a bill or disconnection notice does not relieve him/her of the obligation of its payment nor from the consequences of non-payment.
- C. **Returned Checks.** The utility charges a fee over and above the amount of the check, for any check returned by the bank. The charge is the greater of \$5.00 per check or the amount the bank charges the utility, not to exceed \$15.00. The utility will furnish the customer with proof of any bank charges in excess of \$5.00.

XII. DISCONNECTION AND RECONNECTION OF SERVICE

- A. Credit and Collection Procedures.** Procedures are based upon Chapter 810 (residential) or Chapter 860 (non-residential) of the MPUC regulations.
- B. Collection Trip Fee.** If Utility personnel must visit a customer to disconnect for non-payment and, in lieu of actual disconnection, the customer pays or makes a payment arrangement, a collection trip fee of \$20.00 will be charged.
- C. Reconnection Fee.** The Utility will charge a reconnection fee of \$50.00 during normal work hours - and \$105.00 at any other time to restore water service, if the service was disconnected for: non-payment of bills; violation of any of the terms and conditions in this Ordinance; fraudulent use of water; dangerous conditions; violation of Commission rules; or upon customer request if the disconnection is for more than five (5) days.
- D. Fire Services.** Customers wishing to cancel fire service protection must notify the Utility in advance and in writing, and must have permission in writing from the appropriate Fire Department Official. Physical shut-off of the fire service and/or private hydrant(s) will not be made by the Utility until the prescribed notice has been made.

XIII. CROSS-CONNECTION CONTROL PROGRAM

- A.** The customer is referred to the Utility Cross-Connection Control Program for additional information.
- B. Compliance.** All customers - both new and existing - will comply with all provisions of the Utility approved Cross-Connection Control Program regarding installation, inspection, maintenance, and testing of approved backflow prevention devices. All requirements of the Utility's cross-connection control program must be met before water service will be supplied to new accounts.
- C. Containment Approach.** The program utilizes a containment approach requiring installation of an approved backflow prevention device at the water service entrance. The customer is responsible for installation, maintenance, and - as necessary - testing of the backflow prevention device.

XIV. ACCESS AND AVAILABILITY

- A. Access.** An employee of the Utility, having properly identified himself, shall have free access during regular business hours to all premises supplied with water to permit reading of the water meter and/or inspection of the plumbing system.
- B. Availability.** Routine work (initial turn-on, set-remove meter, etc.) requires a minimum twenty-four (24) hour notice. Routine scheduling shall be 8 a.m. - 2:30 p.m. Monday - Friday (excluding holidays). Twenty-four (24) hour emergency service will continue as usual.

XV. FUNDING SOURCES

- A.** Capital and Infrastructure Expenses - Debt service incurred on or after May 4, 2010 for Capital Expenditures and Infrastructure Expenditures shall be financed using the Town's general fund. All debt service existing prior to May 4, 2010, as well as any debt service incurred on or after May 4, 2010 for purposes other than Capital Expenditures and Infrastructure Expenditures shall be financed through a water service charge.
- B.** Operational Expenses - The source of revenues needed for Operational Expenditures shall be a water service charge.

For purposes of this section, the following definitions shall apply:

1. Capital Expenditures: An outlay of funds for the acquisition or improvement of a fixed asset with an expected useful life of at least twenty (20) years which extends the life or increases the productivity of the asset, and for which the expense is generally capitalized and depreciated over the estimated useful life of the asset.
2. Infrastructure Expenditures: An outlay of funds for the basic facilities, equipment, installations and appurtenances (e.g. distribution lines) needed for the functioning of the Water Department and having an expected useful life of at least twenty (20) years.
3. Operational Expenditures: An outlay of funds required to allow the Water Department to meet expenses incurred in the ordinary course of operating the Water Department and the public water system.