Re: 772: A

ORDINANCE NO. 645

AN ORDINANCE DECLARING ITS PURPOSE TO BE TO PROTECT AND IMPROVE THE PUBLIC HEALTH OF ITS CITIZENS, TO REQUIRE MANDATORY CONNECTION TO SANITARY SEWER, ESTABLISHING DOMESTIC RATES AND COMMERCIAL RATES INSIDE THE CITY, ESTABLISH CONNECTION FEES, ESTABLISH RULES FOR CONNECTION, ESTABLISHING DOMESTIC RATES AND COMMERCIAL RATES OUTSIDE THE CITY; ESTABLISHING BILLING PERIODS; ESTABLISHING BILLING PROCEDURES; ESTABLISHING DUE RATES AND PROCEDURES FOR THE COLLECTION OF DELINQUENT ACCOUNTS OR DISCONTINUANCE OF WATER SERVICE IN THE EVENT OF DELINQUENCY; PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE; SETTING FORTH THE MANNER IN WHICH ITS PROVISIONS SHALL BE ENFORCED; REPEALING ORDINANCE NO. 638 AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE PUBLICATION HEREOF; AND THE ESTABLISHMENT OF AN EFFECTIVE DATE.

WHEREAS, the City of Rexburg, Idaho, the "City" herein, under and pursuant to the powers vested in it by Title 50, Chapter 3, Section 50-304, Idaho Code, in order to promote the public health and welfare, deems it necessary to make and place into effect certain rules and regulations to provide efficient service of the public water and sewer system of the City; and

WHEREAS, the City, pursuant to Section 50-1030(e), Idaho Code, has the power to prescribe and collect rates, fees, tolls or charges for the use of the public water and sewer system of the City, and it is necessary and expedient that such rates, fees, tolls or charges be established to provide for the repayment of City indebtedness for the construction and installation of the system and for its efficient maintenance and operation, and in establishing such rates and charges the City has taken into account the cost and value of the system, operation and maintenance expenses, possible delinquencies, proper allowance for depreciation, contingencies and any amounts necessary to retire all bonds payable from net revenues and the reserve therefor, and

WHEREAS, the City deems it necessary to protect and improve the public health and general welfare of the citizens of the City to require mandatory connection of homes or other facilities within the City to the public sewer and water

system, and the City has the power to require such mandatory connection, and

WHEREAS, the exercise of all such powers vested in the City is approximately exercised by the passage of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF REXBURG, IDAHO:

SECTION I. Short Title. -- This ordinance shall be known and may be cited as the "Sanitary Sewer System Ordinance" of the City of Rexburg, Idaho.

SECTION II. Connection to Sanitary Sewer Required. -- Every parcel of land or premises within the boundaries of the City of Rexburg, improved for occupancy and occupied or used by any person or persons, or as a commercial business, shall be connected to the public sanitary sewer system. Provided, however, connection to the sanitary sewer system from inflow (storm drain or non-sewage source) sources into the sanitary sewer system shall neither be required nor permitted. The owner or person in charge of such land shall make or cause to be made, such connection within sixty (60) days after receiving official notice from the City to so connect. All charges associated with the laying of pipe from the home or facilities to be served to the City's mains and all other costs incurred in connecting to said mains shall be borne by the property owner. All such connections to the City's mains shall be properly designed and constructed in conformity with requirements specified by the City. If a parcel of land is not within 300 feet of a sewer, connection is optional.

SECTION III. Domestic and Commercial Rates (Inside City). --

General - This is a user charge system for a small community which follows model number one in Appendix B of the Federal Register, dated 9/27/78. This treatment works is primarily flow dependant and will utilize a winter time culinary water volume basis to establish sewer rates.

A sewer user charge shall be levied on all users of the sewage collection and treatment facilities, to cover the actual or estimated cost of operation, maintenance, replacement and financing of this facility. The user charge system shall distribute these costs to each user in proportion to such user's contribution to the total waste water load of such facilities.

Basis for Rates - The sewer user rates for each user shall be based on a delivery flow rate determined by the size of the culinary water meter and the user's measured contribution to the total flow at the treatment facilities based on culinary water usage during October, November, December, January, February, March and April.

Surcharge for Excessive Strength - When any user contributes wastewater having an average BOD and/or suspended solids loading in excess of the designated allowable limits hereinafter designated, a surcharge shall be levied against such user. Said surcharge shall be based on the average degree of excess loading, and applied as a percentage of the basic user charge. The BOD and suspended solids loadings shall be determined from estimates or tests made by city officials or its engineer. The user's monthly surcharge shall be computed by use of the following equation:

$$US = [(\frac{b}{B} - 1) + (\frac{s}{S} - 1)] \ (UMC), \text{ where}$$

"US" represents the user's monthly surcharge to be added to the basic user's monthly charge,

"UMC" represents the basic user's monthly charge.

"b" represents the average BOD loading above which is a user's wastewater contribution, expressed in parts per million,

"B" represents the allowable limit of BOD loading above which a user's surcharge shall be levied, hereby designated as being 200 parts per million,

"s" represents the average suspended solids loading

of the user's wastewater contribution, expressed in parts per million, and

"S" represents the allowable limit of suspended solids loading above which a user's surcharge shall be levied, hereby designated as being 200 parts per million.

A copy of the list of users surcharged, the characteristics of their sewage, and the surcharge for each shall be kept on file at all times in the office of the City Clerk.

Review and Revision of Rates - The sewer user charges shall, as a minimum, be established by the Council by Resolution upon the passage of this ordinance and be reviewed annually and updated by Resolution of the Council, to reflect actual costs of operation, maintenance, replacement, and financing of the sewage collection and treatment facilities. Any revisions of the user charges shall be based on actual operation, maintenance, replacement, and financing expenses, the total daily flow, the total daily BOD, and/or the total daily suspended solids. The City may install flow-measuring devices and/or collect wastewater samples at any time in any user's service line to determine actual usage as a basis for revision of the user's charge. Revisions due only to changes in expenses and user class shall be made by the City. Revisions involving user's flow, BOD and/or suspended solids shall normally only be made upon the recommendation of a registered professional engineer. All changes in user charges applicable to this ordinance shall be computed by the methods outlined herein.

User Request for Rate Change - Any sewer user, who feels his user charge is unjust and inequitable as applied to his premises within the spirit and intent of the foregoing provisions, may make written application to the City Council requesting a review of his user charge. Said written request shall, where necessary, show the actual or estimated average flow and strength of his wastewater in comparison with the

values upon which the charge is based, including how the measurements or estimates were made. Any flow measurements and/or testing of wastewater shall be approved in detail by the City and/or its engineer. Review of the request by the City Council shall determine if it is substantiated or not, including recommended further study of the matter for the City and/or user by a registered professional engineer.

SECTION IV. Sewer Connection Fee. -- For a period of two months after the date of this ordinance there shall be no increased sewer connection fee. Thereafter the fee shall be as follows:

Size of Sewer Connection	Connection Fee
4"	$ 300.00
8"	500.00

Any special connections not covered by the above schedules shall have fees set by the Mayor and City Council in each individual situation.

The foregoing fees are for the privilege of connecting with the City Sewer and all work necessary for making proper connection shall be done to the satisfaction of and under the supervision of the City Inspector and shall be paid for by the person desiring such connection, and such person shall pay a permit fee of $10.00 and an inspection fee of $15.00.

SECTION V. Rules Governing Connection Fees. --

1. Any applicant for a sewer connection to any lot abutting on a street, alley or other right-of-way containing a main sewer line shall pay the full connection fee therefore.

2. In case two or more dwellings exist on any lot under the same ownership, and if any of such dwellings is located to the rear of the other or is at least 75 feet from the property line abutting on any street, alley or right-of-way containing a main sewer line, the rear dwelling shall be charged one-half the applicable full connection fee where the

owner thereof requested only one stub for dwellings on such lot and the same service lateral is used for all such dwellings.

3. In any "Business Block", or shopping center containing more than one adjoining business or commercial establishment under one ownership, where more than one such establishment is connected with the same lateral, but separate applications for service are made and separate billings requested, one of such establishments shall pay the applicable full connection fee and each additional establishment shall pay one-half the applicable connection fee required for connection of similar size.

4. Any person owning unimproved real property which does not abut a street, alley or right-of-way containing a main sewer line and who subdivides the same for construction of dwellings, shall install collection lines acceptable to the City and connect the same to an existing City main sewer line at a place to be determined by the City Council all at the cost and expense of said subdivider. Each lot in the subdivision when developed shall also be required to pay the connection fee.

SECTION VI. Domestic and Commercial Rates (Outside City.) -- The domestic and commercial rates for the use of the sewer systems outside of the City shall be established on an individual user basis by resolution of the Council, and may be changed from time to time by resolution of the Council.

SECTION VII. Billing Periods. -- All regular billing periods shall be on a monthly basis, unless otherwise determined by the Council. Domestic or commercial premises occupied a period of less than one (1) month shall be charged the full fee.

SECTION VIII. Billing procedures and Due Date. --

1. Water and sewer bills shall be combined and billed on a regularly established day of each and every month, in the month succeeding the month in which the service was rendered. Bills shall be payable as of the date mailed, and

shall be deemed delinquent if not paid before the sixteenth day thereafter. Water and/or sewer consumers and users should be notified of this delinquency and if the bill is not paid in full within fifteen days after service of this notification on the water and/or sewer consumer and user, the right to water and sewer services shall cease and terminate unless the water and/or sewer consumer and user requests a pre-termination hearing. Should the water and/or sewer consumer and user not request a pre-termination hearing or if an adverse decision is rendered against the water and/or sewer consumer and user as a result of the pre-termination hearing, the City of Rexburg may require the water and/or sewer consumer and user to pay the delinquent water and/or sewer bill attributable to his own use, plus a turn-on charge to be determined by Resolution of the Council as a condition of receiving water and sewer service again.

2. The City of Rexburg, in its delinquency notice to all water and/or sewer consumers and users shall inform in writing all water and/or sewer consumers and users of their right to a pre-termination hearing, with such hearing to be held with the due process protection described below; and the City will not discontinue water and/or sewer service to any water and/or sewer consumer and user prior to a fair and impartial hearing, after timely and adequate notice and an opportunity to confront witnesses, to personally appear with or without retained counsel, to be judged on facts adduced at the hearing and to otherwise be heard and defend the claim made by the City of Rexburg, if a pre-termination hearing is requested by any water and/or sewer consumer and user. The City Council shall have the responsibility of holding pre-termination hearings. The City Council shall make a record of any pre-termination hearing. The City Council shall render its decision in writing, giving the reasons for its determination. In decisions adverse to the water and/or sewer consumer and user, the City Council will inform the water and/or sewer

consumer and user of the right to appeal the decision pursuant to the Idaho State Administrative Procedures Act.

3. The City of Rexburg shall not initially deny or discontinue water and/or sewer service to any water and/or sewer consumer and user because of any delinquent water and sewer bill on that premises that is attributable to the prior water and sewer use of another water and/or sewer consumer. Provided further that the City of Rexburg shall not initially deny water and/or sewer service to any water and/or sewer user for whatever reason without informing the water and/or sewer consumer and user of the right to a hearing before the City Council on the issue of whether the City of Rexburg can initially deny water and/or sewer services. In the case of an initial denial of water and/or sewer service, the City of Rexburg is not required to provide water and/or sewer service pending a hearing. However, a hearing upon request of a water and/or sewer consumer and user initially denied water and sewer services shall be held as expeditiously as possible and held in the manner and in accordance with the procedures for pre-termination hearings delineated above. In case such water service is discontinued for delinquency, it shall not be restored until such delinquency is paid, or arrangements for payment satisfactory to the City have been made, and a fee of $25.00 for discontinuing and restoring service has been paid.

SECTION IX. Metered Service. -- Whenever the Council shall deem it appropriate and in the best interests of the City and its citizens to require a user to have the sewer and/or water service to his facilities metered to more appropriately determine the amount of service provided such user by the system, the Council may by resolution require the said user to install a meter and/or meters which will accurately measure the service provided; and the Council may further establish by resolution the rates to be charged for such service as will properly pay the fair share of the services provided such user.

The cost of the meter and its installation shall be borne by the user.

SECTION X. Penalties for Violation. -- Any person who shall violate any provision of this ordinance upon conviction shall be deemed to be guilty of a misdemeanor, and shall be fined not to exceed $300.00 or by imprisonment in the City/County jail not to exceed six (6) months, or by both. Any violation of any or all provisions of this ordinance for any one day shall constitute a separate offense.

SECTION XI. Enforcement Upon Violation Of This Ordinance Or Any Amendment Thereto. -- The proper local authorities of the City, County or State, in addition to other remedies, may institute any appropriate action or proceedings to correct or abate any violations of this ordinance.

SECTION XII. Ordinance No. 638 and all other ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION XIII. This ordinance shall take effect immediately upon its passage, approval and publication.

PASSED by the Council and APPROVED by the Mayor this 17th day of February, 1982.

John C. Porter

Mayor.

ATTEST:

Rose Bagley

City Clerk.