

WATER, SEWER

(Excerpted from the ULCT Powers and Duties Handbook)

One of the traditional public services of a Utah municipality is that of supplying culinary water. Any city or town may acquire, purchase, or lease all or any part of any water, waterworks system, water supply, or connected property. This can, if necessary, be done by condemnation. The power to condemn for this purpose is limited. If, within thirty days after the passage and publication of a resolution or ordinance for the purchase or lease or condemnation of water facilities, one-third of the resident taxpayers of the city or town, as shown by the assessment roll, protest against the purchase, lease or condemnation proceedings contemplated, the proposed purchase, lease or condemnation must be referred to a special election. If a majority approve of the proposal, it can go forward; if not, it is void. A city has specific authority to incur bonded indebtedness to acquire water and sewer facilities.

Cities and towns may also construct and operate sewer systems, sewage treatment plants, culverts, drains, sewers, catch basins, manholes, cesspools, and all systems, equipment and facilities necessary to the proper drainage, sewage, and sanitary sewage disposal requirements of the city or town.

Any city or town may, for the purpose of defraying the cost of construction or operation of any sewer system or sewage treatment plant, provide for mandatory hookup where the sewer is available and within 300 feet of any property line with any building used for human occupancy and make a reasonable charge for the use. The city or town may not, however, make it mandatory to hookup property farther than 300 feet. In order to enforce the mandatory hookup to the sewer where available and the collection of any such charge, any city or town operating a waterworks system may make one charge for the combined use of water and the services of the sewer system, including the services of any sewage treatment plant operated by the city or town, and may provide by ordinance that application for service from such combined system be made in writing, signed by the owner desiring such service or his authorized agent.^[1]

In case any person shall fail to hookup to the sewer or to pay for the service furnished according to the rules and regulations prescribed by the ordinances of such city or town, then the city or town may cause the water to be shut off from the premises.

Cities and towns may sell and deliver from the surplus capacity of any system or facility not required by the municipality or its inhabitants to others beyond the limits of the municipality.

No city or town, which is the owner or in control of a system for furnishing water to its inhabitants, is required to furnish water for use anywhere, unless an application for water and sewer, if available, is made in writing, signed by the owner of the property or his duly authorized agent. The application may require the owner to agree that he will pay for all water and sewer furnished. If an application for furnishing water shall be made by a tenant of the owner, the city or town may require as a condition of giving water that the application contain an agreement signed by the owner stating that in consideration of the granting of the application the owner will pay for all water furnished such tenant, or any other occupant of the place named in the application.^[2]

In the case the owner or occupant of any of the premise fails to pay for water or sewer furnished, according to the ordinances, rules, or regulations enacted or adopted, the city or town can shut off the water. It is not required to turn the water on again until all arrears for water furnished shall be paid in full. Since city water systems are not regulated by the Public Service Commission, rules regarding utility shut off that may apply to the private gas and power companies regarding

winter shut off, or hardships, do not apply. A city must be careful, however, to adopt reasonable procedures for billing and notice of intent to shut off water and follow these procedures in a nondiscriminatory manner.

In the event of scarcity of water, the mayor of any city or of any town may, by proclamation, limit the use of water for any purpose other than domestic purposes to such extent as may be required for the public good in the judgment of the city or town council.

All authorized persons connected with the waterworks of any city or town have the right to enter upon any property furnished with water by the city or town to examine the apparatus, the amount of water used, and the manner of use, and the right to make the necessary shut-off for vacancy, delinquency, or violation of the ordinances, rules, or regulations enacted or adopted by such city or town.

Every city and town may enact ordinances, rules, and regulations for the management and conduct of the waterworks system owned or controlled by it.

Cities have some extra-territorial jurisdiction to protect their water. They may construct or authorize the construction of waterworks within or without the city limits, and for the purpose of maintaining and protecting them and the water from pollution, their jurisdiction extends over the territory occupied by the works; and over all reservoirs, streams, canals, ditches, pipes, and drains used in and necessary for the construction, maintenance, and operation of the system; and over the stream or source from which the water is taken for fifteen miles above the point from which it is taken; and for a distance of three hundred feet on each side of such stream and over highways along such stream or watercourse within the fifteen miles and the three hundred feet.^[3]

In cities of the first class, the jurisdiction is over the entire watershed, except that livestock is permitted to graze beyond one thousand feet from any stream or source; and provided further, that each city of the first class must provide a highway in and through its corporate limits, and so far as its jurisdiction extends, which is not to be closed to cattle, horses, sheep, or hogs driven through the city.

Cities also have broad powers to control the water courses leading to the city and their water sources. They may also act to prevent pollution of their sources and supplies. This power is in addition to various state and federal laws and regulations in these areas. Where a specific state or federal law or regulation is in conflict with this local power, the state or federal regulation will be preeminent.

^[1] Utah code section 10-8-38.

^[2] Utah code section 10-7-10.

^[3] Utah code section 10-8-13.

