CHAPTER ___ PUBLIC WATER SYSTEM

SECTION 1. AUTHORITY

Pursuant to NCGS Chapter 160D, and other applicable laws, Caldwell County hereby establishes this Ordinance.

SECTION 2. APPLICABILITY

This Ordinance shall apply to the public water system owned, operated, and maintained by Caldwell County.

SECTION 3. DEFINITIONS

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Application for Service means a written County application submitted by the prospective User to the Water Department prior to paying any fees and connecting to the water system.

Board means the Caldwell County Board of Commissioners.

Building Connection means any privately-owned water line which extends from the County-owned, operated and maintained service connection, interconnected with the service connection and capable of being used by a Customer for water service.

County means Caldwell County, North Carolina.

Cross-Connection means a connection from the County Water System carrying potable public water to any secondary system, the water supply source of which is distinct from and unrelated physically to that of the potable public supply. Cross-Connection shall also be defined as any connection from an authorized metered-service line of a water user to the plumbing system of an unauthorized user, as well as private wells and natural springs, the purpose of which is to evade the legitimate processes for obtaining water.

Customer, Consumer or User means the actual user of record, on the billing account, of the water service.

Development means a portion of land, including any land from single-family property to a subdivision, which is being improved to the extent water service is desirable.

Disconnection of Service means the stoppage of water service to a property as a result of a request by a Customer for stoppage, or for any other reason set forth in this Chapter. Disconnection of Service may be accomplished by removal of water

service connection or by locking, sealing, capping, or other action to affect water service connection.

Fire Service Connection means the portion of the water line beginning at the water main and terminating at the edge of the street right-of-way, the purpose of which is the provision of fire protection.

Fixture Unit Demand means the amount of water required to properly operate the water fixtures installed in the plumbing system of the structure.

NCGS means the North Carolina General Statutes.

Oversized Mains means a water main which is sized larger than required for servicing future demands.

Owner means the Person holding legal title to the serviced premises.

Person means any individual, corporation, firm, partnership, association, or other legal entity.

Petition means a written request on a County form submitted by the prospective users to the Water Department requesting water services be extended to their properties.

Plumbing means all pipes, fittings, and appurtenances interconnected with the delivery side of service connection, beginning at the public right-of-way, and extending to, and including, all structural plumbing, the purpose of which is the delivery of water.

Plumbing Inspector means a duly authorized employee or agent of the County, delegated with the responsibility for ensuring building connections are installed in compliance with NC building codes.

Public Water Line means a water line, installed, or acquired, owned, operated, and maintained by the County.

Publicly Dedicated Easement means a portion of land across private land, on which the Owner has given written permission for the County to install, operate, and maintain a public water line.

Reconnection Fee means a non-refundable fee charged by the County for restoration of service to a property where a disconnection of service has occurred, and where no transfer of service from one Customer to another is involved.

Reconnection of Service means any action by the County to restore water service to a property where service has been disconnected.

Renter means any Person occupying a property, other than the Owner.

Service Line means the water line from the distribution main to the meter box, and other appurtenances installed, owned, operated, and maintained by the County.

State Law means the laws, regulations, and rules of North Carolina.

Subdivision means the division of a tract of land into 2 or more lots in compliance with the County's Unified Development Ordinance.

Transfer of Service Fee means a non-refundable fee charged for the transfer of a billing account for water service from one Customer's name to another, regardless of whether a physical reconnection of the service is involved.

Water Service Connection (TAP) means all County-owned, operated and maintained appurtenances, including the service line, meter and/or curb box, and metering appurtenances, the purpose of which is the delivery of water service from the County's water system to a Customer.

SECTION 3. FACILITY LOCATION

No water facilities shall be installed and accepted for ownership and maintenance by the County unless they are in a dedicated public right-of-way, dedicated public street, or dedicated public easement.

SECTION 4. OWNERSHIP OF WATER FACILITIES AND APPURTENANCES

All water facilities and appurtenances, when installed or accepted by the County, shall become, and remain the property of the County; and no person, by payment of a charge or fee, or by any construction of facilities accepted by the County, may acquire any interest or right in any of these facilities or any portion thereof, other than for the privilege of having property connected for water service.

SECTION 5. RIGHT TO REFUSE SERVICE

(a) The payment of any costs or fees, the submittal of any petition or any other act of requesting water service does not guarantee the commencement of service. The County has the right to refuse to extend service upon any reasonable grounds; specifically, for any use considered detrimental to the water system, nonpayment of required fees, or in the sole determination of the County it is not economically feasible to do so.

(b) The County has the right to refuse service to any Person who was a previous Customer of the County water system, with an unpaid balance remaining on an account, until payment in full of the unpaid balance has been paid.

SECTION 6. WATER BILLING AND RATES

The reading of meters, billing frequency, and water rates are established by the Board. A water bill is deemed to be correct if no appeal is filed within 10 days from the date of billing.

SECTION 7. BILL ADJUSTMENT(S)

(a) A meter reading and/or billing error by the County resulting in an incorrect bill will be adjusted without penalty to the Customer. An adjustment to make a correction is based upon verification of the actual amount of water consumed by the Customer during the billing period. If the error is due to failure of the metering device(s) and results in incorrect recording of consumption and no accurate verification is possible, the bill for that month will be adjusted to the average consumption for the Customer over the most recent 11-month period. If less than 11 months' history is available, the average of the total history for the Customer determines the amount to be billed. If overpayment has occurred, the correction is applied as credit to the Customer's account.

(b) If a Customer receives a correct bill for unusually high consumption resulting from a leak in the building connection plumbing, upon request, the bill will be adjusted based on submitted evidence, including parts and/or labor invoices of repairs made to correct the leak. Upon verification of a leak occurred, and repairs made to correct the leak, the County will compute the average water consumption over the most recent 11-month period, excluding the period when the leak occurred, noting the average charges for that amount. Excess gallons above the average consumption are calculated at the actual cost to the County to purchase or produce the water. The sum of these 2 calculations determines the adjusted amount to be charged. This adjustment is limited to 1 event per 5-year period.

SECTION 8. WATER SERVICE CONNECTION APPLICATION

All water service connection applications must be completed through the County Water Department, or at any other County sites authorized to accept applications. Applications for service must be made a minimum of 10 working days prior to desired service date. Once the service connection is made, billing begins at the rate in accordance with the County's Fee Schedule.

SECTION 9. WATER SERVICE CONNECTION FEES

All service connections are charged in accordance with the County's Fee Schedule. All standard, fixed service connection fees must be paid in full at the time of application.

SECTION 10. MANIFOLD CONNECTIONS

The Owner of the property is billed, as follows:

(a) The person in whose name the account is billed, is charged the standard minimum monthly charge of the nonresidential rate, multiplied by the total number of single-family units on the property, less a unit in which the person in whose name the account is billed resides, if applicable;

(b) The single-family unit water charge is in the County's Fee Schedule; and

(c) The monthly bill is the greater of the actual charge for water consumed, or the amount of the standard minimum monthly charge, when multiplied by the total number of single-family units on the property.

SECTION 11. RENTER; TRANSFER OF SERVICE / RENTER DEPOSIT / CHARGES

A person renting or leasing a property where a service connection is in place, and where a billing account has previously been established, and the account is being placed under the renter's name, may obtain service by paying the applicable fee, and by advancing a standard (refundable) renter's deposit. The County, as a guarantee of payment for water used, holds the renter's deposit. The deposit may be applied toward payment of the final water bill. The remainder, if any, is refunded to the person who made the deposit. A renter may not be charged any portion of a previous renter's unpaid account balance.

SECTION 12. TRANSFER OF SERVICE FEE / CHARGES

(a) A property where a County-owned service connection is in place and an account has been established, becomes a new Customer, and obtains service by paying a nonrefundable transfer of service fee. The new Customer may not be charged any unpaid balance of the previous owner.

(b) A person purchasing a property where a service connection is not in place must complete a Tap application and pay the applicable fee.

SECTION 13. DISCONNECTION OF WATER SERVICE BY REQUEST

(a) No Person, other than the Person in whose name an account is billed, may request a disconnection of service.

(b) A request for disconnection of the water service must be made to the County at least 3 working days prior to the date termination of service is desired. The bill includes all water consumption of water used to the time of disconnection. No liability is assumed by the County for damage to a Customer's property resulting from disconnection of the service.

SECTION 14. DISCONNECTION OF WATER SERVICE FOR NON-PAYMENT

A delinquent water bill of 45 days or more constitutes grounds for disconnection of water service. To have the service reconnected, the applicable fee, along with any past due balance, must be paid.

SECTION 15. UNAUTHORIZED WORK OR ACCESS ON SYSTEM

(a) No unauthorized person shall tamper with, work on, or in any way alter or damage any County water facility.

(b) Unauthorized work includes the opening or closing of valves, operating fire hydrants, breaking a lock or seal on a County-owned appurtenance, or causing any water not legally paid for (bypassing) to flow from the system. No Person, except those authorized by the County, shall cut into or make any connection to the system. A Person violating this Section is responsible for all costs associated with the illegal tampering and is subject to all penalties by County Code and State Law.

(c) Absent the consent of the County, or applicable city, it shall be unlawful for any Person to tap any water or sewer pipe, or water or sewer main for the purpose of taking or using water, or to take or use any water from any water pipe, water main or water hydrant belonging to the County or applicable city, or to utilize a sewer system in any manner without the consent of the applicable city and the payment of required fees.

SECTION 16. MAINTENANCE BY CUSTOMER

(a) The Customer is responsible for the maintenance of all building connection plumbing, from the discharge side of the service connection into and including the structural plumbing. The County has the right to disconnect service to any property where the plumbing is not properly maintained, or where applicable codes are violated.

(b) The Customer is responsible for the installation and maintenance of all devices and appurtenances necessary to increase or decrease the pressure from the County water system.

SECTION 17. LIABILITY OF COUNTY

The County shall not be liable to consumers, owners or any Person for the failure to furnish water for any reason; for the quantity (pressure and/or volume) of the water furnished; or for any damage resulting from the shutting off or turning on of water from the mains or reservoirs, or opening or closing of valves and/or hydrants, even though no notice of the shutting off or turning on of water has been given. All permits and contracts for the use of water from the County water system are expressly made subject to the provisions of this Chapter.

SECTION 18. METERING DEVICES

All metering devices must be installed, owned, operated, and maintained by the County, and the County reserves the right to remove, test, seal and interfere with a metering device for any cause(s) deemed necessary without notice.

SECTION 19. BYPASS

(a) No bypass around any metered service connection shall be installed unless approved by the County in writing. The installation must be performed and inspected by the County; and where these devices exist, the use shall be regulated by the County.

(b) Unauthorized use of any bypass may result in disconnection of service as well as all other penalties, civil and/or criminal, as provided by law.

SECTION 20. CROSS-CONNECTIONS

Cross-connections are expressly prohibited and may result in removal of the service connection supplying the cross-connection, as well as all other penalties, civil and/or criminal, as provided by State Law, including the inter-connection of a well water supply with a potable public water supply. Upon discovery of a cross-connection upon

any property being furnished water through the County water system, the owner of the property will be notified the cross-connection must be shut off immediately and physically disconnected within 24 hours and a failure to remove or correct the cross-connection within 24 hours will result in the disconnection of service. If the correction is not made within the 24-hour period, the service will be disconnected and not be reconnected without payment of the applicable fee.

SECTION 21. INSPECTION OF PLUMBING

The County reserves the right to make a meter reading(s) and inspect the plumbing on a customer's property without notice. This may be done in the case of an abnormally large water bill, use of water considered detrimental to the County system, or for any other reason, as deemed necessary by the County.

SECTION 22. REFUSAL TO ACCEPT REDUCED-CHARGE SERVICE CONNECTION

Following action taken by the Board, should any person pay a reduced service connection charge during a sign-up period, and refuse to permit or allow a service connection to be installed at the time the water line is installed, and refuse to pay the minimum rate from the date water becomes available through the line, the Person is refunded the service connection charge. Thereafter, to receive water, the Person must pay the standard service connection charge.

SECTION 23. DISCONNECTED SERVICE

The County may disconnect the water service for any Customer due to a violation of this Chapter, for nonpayment of bills, or for any reason which may be detrimental to the system. Service will not be reinstated until the conditions bringing about disconnection have been rectified. These costs may include, but are not limited to, delinquent water bills, reconnection fees and any damage to the water system. If a disconnected service is reinstated without authorization, the service connection will be removed, an additional charge levied, and the owner or Person responsible for the unauthorized reinstatement of service is subject to all penalties provided by this Chapter or State Law.

SECTION 24. EXTENSION BY PETITION

A petition on a County form is required for a request for extension of water service. The petition must be filed with the County Water Department and specify the name, mailing address, block and lot numbers, name of person responsible for payment of water billing, if different than that on the petition, and type of service required. Each petitioner must agree to be responsible for the standard service connection fee, as a minimum, and not less than the minimum monthly water charge from the time water becomes available through a service connection.

SECTION 25. PROCESSING OF PETITIONS

Upon receipt of a petition, a cost estimate is calculated to determine the feasibility of installing the requested water mains. If it is determined a petition is not feasible, the petition is kept on file for later consideration. By the petitioner's signature, the petitioner

agrees to accept a service connection when or if the requested lines are installed, and to pay not less than the minimum monthly charge for a period of 7 years, after becoming a County Water Customer.

SECTION 26. RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SUBDIVISION EXTENSIONS

(a) All existing subdivisions which have been previously developed and which are no longer under single ownership, shall follow the extension policy by petition. Developers of new subdivisions shall be responsible for all line extensions within the subdivision. A registered professional engineer licensed to practice in the State of North Carolina shall engineer the extension(s).

(b) The extensions shall be engineered in accordance with the County's Standard Technical Specifications for Water Line Construction, using sound engineering principles and in adherence to all local, state, and federal regulations. The cost of the design, state approval fees, materials and construction of the water lines and appurtenances shall be borne by the developer, except where monetary and/or in-kind participation by the County has been authorized by administrative action or policy. If during review of the design for any proposed water line extension the County decides to oversize or enlarge the line, then the County shall bear all cost differences between the original and new design.

SECTION 27. EXTENSION OF RIGHT-OF-WAY

Should it be necessary for a developer or any Person to extend the County water system along an existing street in order to reach a property or subdivision, a sign-up period of not more than 30 days may be designated, during which time a property owner(s) may obtain a service connection at the standard price, or at a reduced or surcharged price, provided the Board has taken action to reduce or increase the price.

SECTION 28. FIRE PROTECTION CONNECTIONS

(a) All fire service connections installed for the purpose of providing large quantities of water to sprinkler heads or other appurtenances, if installed by the County, shall be paid for on an actual cost basis including materials, labor, and equipment rental plus 15%.

(b) Owners may have a fire connection installed by any contractor licensed to perform water line construction in the state, after first having the plan approved in writing by the authorized agent of the County.

SECTION 29. UNAUTHORIZED USE OF WATER THROUGH FIRE CONNECTION

No water service, other than for fire protection, is permitted through the fire connection. Any use of water through an unmetered fire service is unlawful.

SECTION 30. LIABILITY OF COUNTY FOR FIRE PROTECTION

The County shall not be liable to Consumers, owners, or any person for failure to furnish water for fire protection for any purpose or under any conditions, or for the quantity

of the water furnished, or for the damages that may result from the shutting off or turning on of water from the mains, reservoirs, valves, or hydrants, even if no notice is given. All permits and contracts for the use of water from the water system of the County are expressly made subject to the provisions of this Chapter.

SECTION 31. FIRE CONNECTION INSPECTION

The County reserves the right to inspect any fire connection and the complete fire system, to ensure the system was constructed as planned and creates no hazard to public health.

SECTION 32. VIOLATIONS AND PENALTIES

(a) Any person who creates, causes to be created or maintains a cross-connection with the County Water System; any person who performs or causes to be performed any bypass or unauthorized work on system as defined under State Law; and any person who obtains water through an unmetered fire connection shall be liable to the County for a civil penalty in the sum of $1,500 for each violation; which civil penalty shall be in addition to any and all compensatory damages that the County may be entitled to recover for damage caused to the County Water System by the violation(s).

(b) Any person who is cited by the County for a violation must cease the violation and demonstrate to the County the violation has ceased within 24 hours after the citation is served. Failure to cease the violation and/or to demonstrate the violation has ceased within 24 hours after service of the citation shall result in an immediate disconnection from the County water system and the imposition of an additional $1,500 civil penalty. The County may initiate litigation in the appropriate court to enjoin the violation, to collect civil penalties and to recover compensatory damages for damage caused to the County water system.

(c) In lieu of assessing a civil penalty, the County may, in its discretion, cause any person who commits a violation to be prosecuted for violation of this Chapter pursuant to State Law, and upon conviction, shall be guilty of a Class 3 misdemeanor and shall be fined not more than $500.00, or imprisonment for not more than 30 days, or both. Each day a violation continues, after the offender has been notified of the violation, shall constitute a separate occurrence. A third conviction within a 5-year period shall constitute a Class 1 misdemeanor, with a maximum penalty of 120 days in jail and a discretionary fine, as provided by law. Each 30 days of continued violation shall be considered a separate offense.