



MERRIMACK VILLAGE DISTRICT

BY-LAWS

MERRIMACK VILLAGE DISTRICT
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ARTICLES

Article I – Name

Section 1: The Name of this District shall be MERRIMACK VILLAGE DISTRICT, Merrimack, NH.

Article II – Object

Section 1: The object and purpose of the District shall be to provide water for domestic, mercantile, commercial, industrial and fire protection usages.

Section 2: The boundaries of the Merrimack Village District includes all the area of the town of Merrimack. A franchised area has been granted to Pennichuck Water Works as follows:

“On the south by the boundary line between the Town of Merrimack and the City of Nashua; on the west by the F.E. Everett Turnpike; and on the north by a line running at a right angle to the Merrimack River and extending from the Merrimack River to the F.E. Everett Turnpike through a point on the Daniel Webster Highway located on the northern boundary of the Anheuser-Busch Corp. property.”

Article III - Eligibility of Services

Section 1: The services of the Merrimack Village District shall be available only to those people in the District and in accordance with the Terms and Conditions contained in the Merrimack Village District By-Laws.

Section 2: Notwithstanding Section 1 of this Article, the Commissioners upon proper application may furnish water outside the District for bona fide emergencies providing such service does not make the District a Public Utility as defined by RSA 362:2 and RSA 362:4.

Article IV - Officers

Section 1: The officers of the District shall be one Moderator, one Clerk, one Treasurer and five Commissioners.

Section 2: The terms of office shall be two years for the Moderator, three years for the Clerk and three years for the Treasurer. The terms of office of the Commissioners shall be for three years.

Section 3: These officers shall be elected annually by legal voters of the District at the Annual District Meeting.

Article V – Elected Officials/Assistants

Section 1: The Moderator, Clerk, Treasurer and Commissioners shall severally qualify and possess the same powers and perform the same duties in respect to the District's meetings and business affairs that the Moderator, Clerk, Treasurer and Selectmen of towns respectively possess and perform in respect to like matters in town.

Article VI - Meetings

Section 1: The annual meeting of the Merrimack Village District shall be held on the last Tuesday in March of each year.

Section 2: Special meetings may be called at any time between annual meetings as deemed necessary by the Commissioners in order to conduct the affairs of the District.

Article VII - Check Lists

Section 1: The check list as prepared by the Town Supervisors of the check list shall be used and only those voters legal in the District shall be permitted to vote on District matters.

Article VIII - Auditing of the Books

Section 1: The financial statements of the Merrimack Village District shall be audited by a certified public accountant within ninety (90) days after the end of each fiscal year.

Article IX - Terms and Conditions

Section 1: The terms and conditions of the District will govern the operation of the District for applications, contracts, deposits, charges and payments, meters, service connections, customer premises, line extensions, rates and other general conditions that may apply to managing the affairs of the District.

Article X - Chapter 52

Section 1: The provisions of Chapter 52 (RSA), State of New Hampshire, and any amendments thereto, with exceptions as outlined herein, shall govern the District.

Article XI - Amendments

Section 1: These By-Laws may be amended at any annual or special meeting by a majority vote of the registered legal voters of the District at such meeting.

MVD TERMS AND CONDITIONS

1. Application and Contract

- A.** Application for water services will be made at the Water District Office during regular office hours, Monday through Friday.
- B.** Whether or not a signed application for service is made by the customer and accepted by the District, the rendering of the service by the District and its use by the customer, shall be deemed a contract between the parties, subject to all provisions of the tariff applicable to the service.
- C.** The District reserves the right to reject any application for service, if the amount and nature of the service applied for or the distance of the premises to be serviced from an existing suitable main, or the difficulty of access thereto, is such the estimated income from the service applied for is insufficient under any of the District's applicable rates, to yield a reasonable return to the District, unless such application is accompanied by a cash payment or an undertaking satisfactory to the District guaranteeing a stipulated revenue for a definite period of time or both.
- D.** All customers must adhere to the odd/even water ordinance which state: MVD customers with street addresses that end in an odd number can water only on odd-numbered days of the month, while residents with even-numbered addresses can water on even-numbered days. On the 31st of March, May, July, August and October, all residents may water outside, but only from 5AM to 8AM. (See also 2.D and 2.K (penalties/fines))

2. Deposits, Charges and Payments

- A.** On all services after April 1, 2008 a one-time fee will be charged to all new domestic, mercantile and industrial accounts before the meter will be installed and turned on. (The current "Schedule of Rates" as established by the Board of Commissioners will apply)
- B.** Charges for service under rates in the tariff are predicted upon billing monthly which, as far as practicable, will be one month apart and "due upon presentation". Should any MVD bill remain unpaid after 30 days from the date of the invoice, the District may discontinue service as well as apply a carrying charge on the overdue account, if proper payment or arrangements have not been made. Further, the District may record a Notice of Lien in the Hillsborough County Registry of Deeds stating the name of the owner of the property, the address and the amount due pursuant to the District By-laws and Terms and Conditions. This lien shall be removed when the overdue account plus all costs and fees authorized by the District By-laws and Terms and Conditions have been paid together with reasonable costs and attorney's fees associated with the recording of such lien. By accepting water service from the District, the customer, his transferees, successors and assignees, together with any record lien holders of the customer, agree that this lien shall have priority over all liens except real estate tax liens.
- C.** Disconnected services will be connected or reconnected during regular working hours, Monday through Friday. (For after hours, weekends and holiday rates see "Schedule of Rates").
- D.** When service has been disconnected for nonpayment the District will restore service upon payment of all past due charges plus the service charge rate to reconnect the disconnected service.
- E.** Charges for service furnished under this tariff or under any agreement between the District and the customer, will continue to the end of the term and thereafter until such time as the District shall receive reasonable notice from the customer to terminate the service.
- F.** On all services connected after January 1, 1956 a charge will be made to cover the costs to the District for tapping the main, fittings, labor, pipe and shutoff for the service. An additional charge will be made when frost or ledge is encountered.
- G.** A fire protection charge applies to all buildings within six hundred (600) feet of a hydrant. This charge will apply whether or not the customer has a water service provided by MVD.

- H. Automatic drive-by meter registers will be installed on all new construction, and properties to which are not accessible to District personnel. The automatic drive-by meter registers measuring one inch (1”) and under will be provided without charge by the District, subject to provisions of the Merrimack Village District’s Terms and Conditions, paragraph 2.I. (For meters over one inch (1”), see Merrimack Village District By-law 3 Article B).
- I. It shall be unlawful for any person or corporation to tamper with Merrimack Village District property. Any person or corporation found tampering with Merrimack Village District property shall be subject to a fine not exceeding \$100.00 (one hundred dollars) for each such offense and may be ordered to make restitution. (An increase passed by the BOC on 6/20/05 changes this amount to \$250.00. See “Schedule of Rates” for current charges)

Also, State Law (RSA 637:8) states in part:

RSA 637:8 Theft of Services

- I. A person commits theft if he obtains services, which he knows are available only for compensation by deception, threat, force or any other means designed to avoid the due payment therefore, “Deception” has the same meaning as in RSA 637:4, II and “threat” has the same meaning as in RSA 637:5.
- II. A person commits theft if, having control over the disposition of services of another to which he knows he is not entitled, he diverts such services to his own benefit or to the benefit of another who he knows is not entitled thereto.
- III. As used in this section “services” includes, but is not necessarily limited to, labor, professional service, public utility and transportation services, restaurant, hotel, motel, tourist cabin, rooming house and like accommodation, the supplying of equipment, tools, vehicles, or trailers for temporary use, telephone or telegraph service, gas, electricity, water or steam, admission to entertainment, exhibitions, sporting events or other events for which a charge is made.
- J. It shall be unlawful for any person or corporation to violate a Merrimack Village District outside water ban. The MVD Board of Commissioners has the authority under RSA 38:26 to issue a partial or full water ban at its discretion as well as fine for any violation to preserve the safety and integrity of the system. Any person found violating such restriction/ban shall first receive a warning letter delivered in person or via certified mail, return receipt requested, restricted delivery and if observed violating the water ban again, service may be terminated and a violation fee of \$125.00 may be imposed to restore service. This fee must be paid in full prior to reestablishing service. On all subsequent violations, the reconnection fee will double (i.e. \$250.00, \$500.00, \$1000.00, etc.). (See also 1.D.).
- K. An entrance application must be filled out and a fee will be charged to each customer requesting new water service. The water will not be turned on until all paperwork is filled out correctly and all fees are paid in full.
- L. The District will approve the use of credit cards for the payment of Merrimack Village District water services and fees in accordance with RSA 80:52-C. An outside service provider is used for this procedure.

3. Meters

- A. It is the purpose of the District to provide each customer as defined herein with proper metering equipment subject to the practicability and the ability of the District to obtain the same.
- B. Under all rates and classes, the District will have the option to meter according to the situation, class of service and requirements of the District By-Laws. The cost of meters in excess of one (1) inch will be borne by the applicant. (See “Schedule of Rates” for current charges)
- C. If a meter fails to register the full amount of water consumed, the amount of the bill will be estimated by the District, based upon the use recorded during the previous months.

- D.** There will be a charge for moving meters in the following cases:
 - Where a meter is moved at the request of the customer from one permanent location to another on the same premises.
 - Where a meter is taken out temporarily at the request of or for the convenience of the customer.
- E.** No intent for permission to re-meter or resell water by re-metering is given or implied to any person or persons.

4. Service Connections

- A.** The customer shall pipe to the point of his property line designated by the District, at which point the District will connect its service.
- B.** The customer's service from the District shut-off to the meter shall be a kind, type and size approved by the Commissioners.

5. Customers Premises

- A.** The customer's installation shall comply with the rules and regulations of all authorities having jurisdiction.
- B.** The District shall not be liable for any loss, cost, damage or expense to any person and/or property resulting from the use or presence of water for the service upon the customer's premises.
- C.** The District shall not be liable for any loss, cost, damage or expense to any customer occasioned by any failure to supply water according to the Terms and Conditions of the District or any interruption of the supply of water, if said failure or interruption shall be due to war, flood, wind, storm, drought, strike or any cause beyond the control of District or any cause except willful default or negligence on its part.
- D.** The District shall, at all reasonable times, have access to its meters and other property and shall have right-of-way for its pipes and other equipment on the customers premises.
- E.** The District shall, at all reasonable times, have the right of entry to the customers' premises for the purpose of erecting, inspecting, connecting, disconnecting, reading, repairing, replacing or removing any or all of its apparatus used in connection with the supply of water, and for said purpose the customer shall authorize and request his landlord, if any, to permit the District to enter said premises.
- F.** The customer shall provide for safe keeping of the meter and equipment of the District and shall not permit interference therewith except by authorized employees of the District or licensed plumbers with specific written permission from the District. In case of loss or damage to the property supplied by the District, the customer shall pay to the District the value of such property or the cost of repairs.
- G.** If the customer has a private water system, or is connected to a system other than that of the District, the piping must be such that the water cannot feed back into the District water system. The District reserves the right to inspect premises at any time for compliance of this regulation.

6. Compliance with Terms and Conditions

- A.** The District shall have the right to discontinue its service in case the customer fails to comply with or perform any of the requirements or obligations of these Terms and Conditions or of any other agreements or if the equipment and apparatus of the customer interferes unduly with services to other customers of the District.

7. Extensions to the Present Water Main System

- A.** Extensions will be made to the main line of the System upon application of the prospective customer(s) to the Water District Office and will be subject to all rules and regulations of the District. The District may require the developer/contractor to extend the water line to an existing portion of the system to provide better service to the areas to be served (i.e. completing a loop in the system). This is to be determined by the District's engineer and at the developer's cost.

- B. All pipeline extensions proposed by an applicant/developer shall require approval of the District Commissioners including approval of individuals or companies installing same. Upon satisfactory completion of the work, the water line shall be the property of the District, unless approved otherwise.
- C. Before construction is started, the customer(s) will remit mainline extension fees based on the Merrimack Village District's "Schedule of Rates" as adopted by the Board of Commissioners. These fees are intended to cover the District's administrative, plan review, inspections, bacterial testing and other costs associated with application and construction of the main line. This fee represents the minimum amount to be paid. In addition to the main line extension fees additional charges such as engineering, legal and/or overtime may be assessed to cover costs to the District. The main line extension fee shall be in addition to the System Development Charge (SDC) and all other applicable charges.
- D. The District will not allow construction of extensions intended to be owned and maintained by MVD on other than public ways unless the prospective customer shall provide, without expense to the District, the necessary plans, permits, consents or easements for satisfactory right-of-way for the construction, maintenance and operation of a water main including the right to cut and dispose of necessary trees and bushes. Further, extensions into subdivisions will be accomplished only after subdivision plans have been submitted, reviewed and accepted by MVD and a certified copy of the approved subdivision plan furnished to the District.
- E. Highways and streets in which an extension is to be made must have been laid out, lines and grades established, rough graded and dedicated to public use.
- F. The size of the extension piping will be determined by the Board of Commissioners in accordance with conditions in and around the site of the new extension, possible future extensions and fire protection requirements.
- G. The cost of fire hydrants necessary for fire protection will be paid by the District. (Schedule of Rates passed by the BOC on 6/20/05 assesses this charge to the developer or party extending any mainlines)
- H. If during the period of seven years, immediately following the original construction as additional customers are connected to the end of the extension or laterally, a fee of \$300.00 per unit; or for commercial or industrial a fee of \$.30 per square foot shall be paid by the connector to the Merrimack Village District and same refunded to the original petitioners; the sum total of which will not exceed seventy-five percent of the total cost, additional fees will go back to the Merrimack Village District. The above funds are non-transferable.
- I. All contracts in existence prior to the date of this revision of the by-laws will be honored according to their terms.
- J. Letters of availability of water to developers, contractors and individuals are valid for one year only.

8. Rates and Rate Classification

- A. There will be three distinct classes of water users in the Merrimack Village District. Determination of the class of usage to which a customer will be vested in the Board of Commissioners and binding upon the customer. The determination of class will be based on usage of the water by the petitioner. Changes to the class may be made upon application to the Water District stating the reasons for such change and requesting a different type of billing class.
- B. The three classes are:
 - Domestic
 - Mercantile
 - Industrial
- C. The domestic class is defined as users in individual urban, rural and farm residences. When piped for connection to the same meter, such service shall include the primary residence and any other habitable subdivision of the residence as well as the connecting and/or adjacent buildings used exclusively for non-commercial purposes.

For billing purposes, the primary residence will be charged according to the meter reading and any other subdivision – including separate apartments or living areas within the primary residence shall pay the monthly minimum residential billing rate. For the purposes of this paragraph “non-commercial purposes” shall include the rental of residential property for residential purposes.

The use of pumps at a customer’s premise, which pumps are connected in any way to the District water service is prohibited except upon the prior written consent of the District. In no instance shall any pump use be allowed to interfere with the quality of service to other District customers and where the possibility of damage to piping of the District or other customers could occur.

- D.** The mercantile class is defined as users in small commercial enterprise, such as stores, beauty shops, garages, filling stations, trailer parks, home industries or apartments with two or more apartments and the like. The restriction of pump use as stipulated under the domestic class applies to the mercantile class as well.
- E.** The industrial class is defined as users in industrial, commercial (large) and manufacturing enterprises. Pump usage as defined under domestic users shall apply to the industrial class users as well.
- F.** The rates for all services provided by the Merrimack Village District shall be established by the Merrimack Village District Board of Commissioners as provided under RSA 38:28 which “Schedule of Rates” shall be available at the District office. The “Schedule of Rates” may be modified from time to time by the Board of Commissioners after at least one posted public hearing.
- G.** All sprinkler systems shall have testable backflow devices, with the exception of flow through systems. All backflow protection devices shall be registered with the district and tested biannually or annually depending on the degree of hazard, by the district at the owner’s expense, as per NH Code of Administrative Rules (Env – Ws 364.01-11).
- H.** Charges for Special Hook-ups: The Merrimack Village District Commissioners shall establish reasonable charges for special water hook-ups including, but not limited to the filling of swimming pools and ice rinks. Such charges shall include a meter hook-up charge, together with a water charge, labor and other charges as outlined in the MVD’s current “Schedule of Rates.”
- I.** To add a surcharge not to exceed \$125.00, to a customer’s water bill if customer fails to allow the District to change their current mechanical meter to a new radio-read meter. This surcharge would compensate the District for the cost of reading the mechanical meter.

9. Definitions

As used herein, the following shall be defined as follows:

Customer Subject to Water Charges: All owners of residential, commercial, and industrial structures, building or condominium units, or separate units within buildings or structures whether occupied or unoccupied, including, but not limited to, condominium units, whether or not separately metered shall pay the District’s minimum water service charge and the District’s fire protection charges as outlined in the MVD’s current “Schedule of Rates.”

Residential Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Commercial or Industrial Unit: A single, commercial or industrial unit, whether rented or owned by the business or occupant, which has independent ingress and egress or has common ingress and egress with other units within a building or structure, but with separate commercial and industrial facilities. Examples may include, but are not limited to, stores located in shopping centers, separate offices or condominium units within a single building or structure.

Water Service: The providing of water to a customer, whether or not through an individual meter, as well as fire protection charges for structures, building, or units within a six hundred (600) foot radius of a hydrant.

Customers: Any person, Firm, Trust, Association, Corporation, Limited Liability Company, or Partnership that is provided water service or fire protection by the District.