

**ORDINANCE NO. 2005-5
TOWN OF RICO
ESTABLISHING THE SEWER ENTERPRISE**

WHEREAS, the Board of Trustees finds that the provision of wastewater service for the Town of Rico will promote the health, safety and general welfare of the Rico community, and,

WHEREAS, the Rico Regional Master Plan, Waste Water Treatment states as *Objectives*

1. Discontinue all individual sewage disposal systems that do not comply with the State Individual Sewage Disposal Act.
2. Avoid contamination of the Dolores River or the human environment by inadequately treated waste water.
3. Construct a cost effective, centralized waste water treatment system that meets or exceeds state and federal water quality discharge permit limitation requirements.
4. Adopt a waste water treatment plan that can serve the entire Town of Rico and is capable of expanding service to future annexation developments as envisioned in the Rico Regional Master Plan.
5. Seek state and federal grant funding to reduce the per household cost of a centralized waste water treatment system.

WHEREAS, the Town has received grant and loan financing from USDA Rural Development, EPA and Department of Local Affairs; and,

WHEREAS, the Board of Trustees desires to establish the sewer system as an enterprise, enact fees and connection policies, and enact such regulations required by various financing agencies;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO, COLORADO, the following:

Section 1. RICO SEWER ENTERPRISE. The Rico Sewer Enterprise is hereby established pursuant to the Town of Rico's Home Rule Authority, C.R.S. §31-35-401 *et. seq.* SEWER AND WATER SYSTEMS, other municipal authority under Colorado law and general police powers. The Rico Sewer Enterprise shall be referred as the "Rico Sewer Enterprise" or "RSE".

Section 2. ENTERPRISE STATUS. The Rico Sewer Enterprise is established as a "water activity enterprise" as defined in C.R.S. §37-45.1-101 *et. seq.* and is excluded from the provisions of section 20 of article X of the Colorado constitution. The Rico Sewer Enterprise shall at all times and in all ways conduct its affairs so as to continue to qualify as a "water activity enterprise" within the meaning of C.R.S. §37-45.1-102, and as an "enterprise" within the meaning of Article X, Section 20, of the Colorado constitution. **Specifically, but not by way of limitation, the Rico Sewer Enterprise, shall not receive more than ten percent (10%) or more of its annual revenue in grants from all Colorado state and local governments combined.** No revenues of the Rico Sewer Enterprise may be used for any municipal purpose unrelated to sewerage facilities; however, revenues may be used to pay proportionate costs for any town expense directly or indirectly related to the planning, design, construction and operation of

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sewerage facilities, including but not limited to: general office expenses, use of town equipment, accounting, insurance, proportionate salaries of town employees, and general utility expenses. Temporary transfers from the Rico Sewer Enterprise to other Town funds within a calendar year are allowed with approval by the Board of Trustees provided such funds are transferred back in full by the end of the calendar year.

Section 3. GOVERNING BOARD. The governing board of the Rico Sewer Enterprise shall be the Board of Trustees of the Town of Rico, referred to herein as the “Board”.

Section 4. POWERS. The Rico Sewer Enterprise shall have all powers cited in C.R.S. §31-35-401 *et. seq.*, including but not limited to acquisition of property and easements for the construction of a sewer by gift, purchase, dedication, lease or exercise of eminent domain; to construct collection lines, lift stations, treatment plants, and all other facilities and improvements related to sewerage facilities; to operate the system for public and private consumers, both in and out of the municipal boundaries of Rico; to accept loans and grants from the United States and State of Colorado for all costs related to the planning, design, construction and operation of sewerage facilities; to prescribe, revise and collect user fees, tap fees, connection policies, availability charges, and penalties and fines for delinquencies; to issue revenue bonds; and, to execute all contracts, instruments and do all things necessary, convenient, or incidental in the conduct of the business and furtherance of the purpose of the Rico Sewer Enterprise.

Section 5. PROPERTY TAX. The property tax of 3.939 mills approved in November of 2000 is hereby pledged to the Rico Sewer Enterprise. Any tax increase for sewerage facilities purposes may only be proposed as a property tax increase of the Town of Rico and shall require prior voter approval in the Town of Rico in accordance with Section 20 of Article X of the Colorado Constitution.

Section 6. DEBT, LOANS AND BONDS. The Town shall be authorized to incur debt and execute all loan and/or bond documents in accordance with C.R.S. §31-35-401 *et. seq.* SEWER AND WATER SYSTEMS.

Section 7. CONNECTION POLICIES. The following connection policies are established:

- A. Required Connection/Initial Construction.** Connection to the system of sewer collection lines shall be required for all improved properties currently connected to the Town’s water system within forty five days after both (1) installation of a sewer collection line in a public right-of-way abutting such property, and (2) mailing written notice from the Town of Rico, sent via first class US mail to the last known address according to the records of the Dolores County Assessor. The cost of connection to public collection lines shall be borne by the property owner or developer.
- B. Required Connection/Exceptions.** All new development in the Town of Rico with water use or otherwise requiring waste water treatment shall connect to the sewer collection lines unless the Board approves a temporary individual disposal facility. The cost of connection to public collection lines shall be borne by the property owner

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or developer. The process for reviewing an application for a temporary individual disposal facility shall follow the procedures and public hearing requirements of the Variance process in the Rico Land Use Code. Reasons for approving a temporary individual disposal facility include, but are not limited to:

- (1) Extension of service line to the public collection line system is more than four hundred feet and would create an unreasonable financial burden on the property owner.
- (2) The proposed use could create excessive seasonal flows or could create an effluent that would adversely affect or disproportionate burden the wastewater treatment system.
- (3) The property owner agrees in writing (a) to connect to the public collection line system when a collection line is constructed within four hundred feet of such property, (b) to pay all costs and fees as established by the Rico Sewer Enterprise at the time of connection, (c) agrees to participate and approve any special improvement district that may be proposed in the future to extend sewer collection lines and assess individual properties on a fair and roughly proportionate basis, (d) agrees that such agreement shall be a covenant that runs with and burdens the property, (e) agrees to recording the agreement/covenant in the Dolores County Clerk and Recorder's Office, and (f) agrees to pay all costs incurred by the Town in the preparation, consideration and execution of any such agreement.

C. **Denial of Connection - Capacity.** The designated official or public body reviewing a development application and request for sewerage service may deny a request for connection to the RSE collection lines and sewerage facility if the proposed use could create excessive seasonal flows or could create an effluent that would adversely affect or disproportionate burden the wastewater treatment system, or could exceed the treatment capacity of the RSE or otherwise result in violation of discharge permit limitations or degrade water quality standards.

D. **Denial of Connection – Floodplain.** Connections to the collection lines and provision of sewer service by the RSE shall be denied for all new private development in the 100 year flood plain constructed after adoption of the revised flood plain regulations on 16th day of April, 2003. Water users with improved properties that existed prior to April 16th, 2003, may connect to the collection and receive sewer service. Connection to the collection and provision of sewer service by the RSE shall be denied in the 500 year flood plain for (1) facilities which produce, use or store highly volatile, flammable, explosive, toxic, or water reactive materials, (2) schools, hospitals, and nursing homes which are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood and storm events, (3) emergency operation centers or data storage centers which contain records

or services that may become lost or inoperative during flood and storm events, and (4) multi-family facilities designed primarily (over 50 percent) for individuals with disabilities.

- E. **New Development.** The construction of new subdivisions, annexations, extensions of roads and utilities to existing platted lots, shall be required to extend collection lines to such new development and all new buildings that require water use or wastewater treatment. Such extensions shall be at the cost of the developer and shall meet the specifications for collection lines as determined by the Board. The cost of connection of new development to public collection lines shall be borne by the property owner or developer. Unique costs attributable to new developments, such as lift stations, shall be borne by the property owner, developer or owner's association as such may be proposed by the applicant and approved by the Board.
- F. **Service Line Physical Connection.** The property owners shall be responsible for constructing the entire length of his service line from the building to the point of connection with the public collection line. The property owner shall submit plans for the design, construction and location of such service line which shall be reviewed and approved in the discretion of the Town prior to commencement of construction. Every service line shall have constructed, at the sole expense of the property owner, one or more clean-outs of the same diameter as the service line and such clean-outs shall constructed in accordance with specifications adopted by RSE. The property owner shall notify the Town prior to commencement of construction and such service line installation shall remain open for inspection by the Town at all reasonable times. The property owner shall provide as built drawings of the service line.

Section 8. CONNECTION TAP FEES/ASSESSMENTS. The connection tap fee shall be used for the cost of construction and expansion of the sewage system, including repayment of any debt for such construction or expansion, and shall not be used for operation and maintenance of the sewer system. Connection tap fees may also be used for any system replacement reserve account or required reserve account for debt repayment.

- A. **Residential Tap Rate for Existing Water Users.** The tap rate for existing residential water users shall be one thousand six hundred dollars (\$1,600.00) for each single family residential property as defined by the Rico Land Use Code. Such tap fee shall be due within forty five days after both (1) installation of a sewer collection line in a public right-of-way abutting such property, and (2) mailing written notice from the Town of Rico, sent via first class US mail to the last known address according to the records of the Dolores County Assessor. The cost of connection to public collection lines shall be borne by the property owner. Accessory dwelling units that comply with the Rico Land Use Code shall not require an additional or increased sewer tap fee.

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- B. Tap Rate for Existing Non-Residential Water Users. The Tap Rate for existing non-single family residential water users, including commercial, industrial, and public facilities, shall be one thousand six hundred (\$1,600.00) plus an additional four hundred dollars (\$400.00) per each five hundred (500) square feet of floor area above two thousand square feet (example: a 3,000 sq.ft. commercial building, mixed use building, or multi-family building would pay \$2,400.00).
- C. Payment by Assessment. A property owner may elect to pay the sewer tap fee by a monthly assessment, which shall be amortized over a period not to exceed ten years, which shall bear interest at a rate not less than six percent (6%), and which may be paid off in full at any time without penalty, fee or additional interest. The election to pay the tap fee by monthly assessment shall be made in writing at the time connection is required on a form provided by the Town.
- D. New Residential Construction, Uses and Development. The tap rate for all new single family residential construction shall be five thousand eight hundred dollars (\$5,800.00). Accessory dwelling units that comply with the Rico Land Use Code shall not require an additional or increased sewer tap fee.
- E. New Commercial, Industrial and Non-Single Family Residential Construction and Development. The base tap rate for all new commercial, industrial, non-single family residential, mixed use and attached multi-family residential buildings and construction shall be five thousand eight hundred dollars (\$5,800.00). The base tap fee shall apply up to the first two thousand square feet of construction. An additional connection tap fee shall be charged in accordance with the following formula:

$$\begin{aligned} & \text{(Actual building square footage - 2,000 sq.ft.)} \\ & \quad \text{divided by 500 sq.ft.} \\ & \quad \text{times base connection tap fee} \\ & \quad \text{times .25)} \end{aligned}$$

EXAMPLE: The base tap fee is **\$5,800.00**
Applicant builds a **5,000** sq.ft. commercial building.
5,000 sq.ft. minus 2,000 sq.ft. equals **3,000** sq.ft.
3,000 sq.ft. divided by 500 sq.ft. equals **6**
The base connection tap fee of \$5,800 times .25 is **\$1,450.00**
6 times \$1,000.00 = **\$8,700.00** = the amount of the additional
connection tap fee
The total connection tap fee is **\$14,500.00**. (The \$5,800.00 base
fee plus the \$8,700.00 additional connection fee)

- F. Calculations of Square Footage. For the purposes of calculating the connection tap fees for non-single family residential construction and development, the method of calculating square footage in the Rico Land Use Code shall be used.

Section 9. PRE-PAID CONNECTION TAP FEES/AVAILABILITY CHARGE. Any property owner in the Town of Rico may pre-pay a sewer tap. The pre-payment of a sewer tap shall be assigned to a specific property in the Town of Rico and shall be subject to liens for collection of delinquencies as set forth in SECTION 11. A pre-paid connection tap fee may be paid at an initial base rate of three thousand two hundred dollars (\$3,200.00) for all properties abutting the initial sewer collection line system in accordance with the planned service area in the Rico Community Wastewater Project Preliminary Engineering Report, dated June 24th, 2005, or as such service area is finalized when engineered construction plans are prepared and adopted. The payment of a pre-paid sewer tap at the initial base rate of \$3,200.00 shall be paid no later than forty five days after both (1) installation of a sewer collection line in a public right-of-way abutting such property, and (2) mailing written notice from the Town of Rico, sent via first class US mail to the last known address according to the records of the Dolores County Assessor. For non-single family residential properties, the amount of a pre-paid sewer connection tap fee shall be credited toward the property for the amount of square footage of construction as such formula is set forth in SECTION 8.B. A property owner may elect to pay to pre-pay a sewer connection tap fee by a monthly assessment in accordance with the terms set forth in Paragraph C. of Section 8 above. Property owners shall pay an availability charge of fifteen (\$15) dollars per month for each prepaid sewer connection tap. Any transfer of a pre-paid sewer connection tap fee may only be approved by the Board.

Section 10. USER RATES. The sewer user rate for all users shall be thirty dollars (\$30.00) per month for the first three thousand gallons of water usage in a month's time and four dollars and fifty cents (\$4.50) for each one thousand gallons of additional water usage in a month's time for all non-single family uses.

Section 11. BILLING, DELINQUENCIES, LIENS.

- A. Billing. Billing shall be on a monthly basis and coordinated with the water bills and water usage meter reading as established by ordinances governing the water system.
- B. Delinquencies. Bills are delinquent sixty (60) days after the bill is sent by the Town Clerk. A delinquency charge of one percent (1%) per month will be charged on all delinquent accounts. Water service to a sewer tap holder shall be disconnected by the Town with the account is sixty (60) days, or more, delinquent, unless the Board decides otherwise after conducting a hearing. All paid due account balances, interest thereon, and reconnection fee in accordance with water system regulations must be paid in full prior to reconnection of water service.
- C. Liens. All sewer assessments and fees, including the minimum monthly charge, shall be a lien against the property to which such sewer tap is assigned from the date such

account become delinquent until paid in full. Such lien shall be in addition to any other statutory or equitable lien to which the Town may be entitled. A lien attaching to said premises may be enforced by the Town of Rico in an action at law or in equity and the Town may foreclose such property and sell the same to satisfy such lien. In the event that legal action must be brought for the enforcement of this Ordinance, the foreclosure of any lien or action, the Town shall be entitled to reasonable attorneys fees and costs of collection and litigation.

Section 12. SPECIFICATIONS. The Board may approve any specifications for service lines; connections to collection lines; installation and extension of collection lines; quantity and quality of effluent; lift stations; and any other portion of the sewerage facility by motion after conducting a public hearing thereon with at least ten days posted notice.

Section 13. SERVICE OUTSIDE TOWN BOUNDARY. The Board may approve service outside the Town Boundary only by ordinance and after conducting a public hearing thereon. Service outside the Town Boundary shall only be considered when annexation is not possible, financial benefits are presented, or water quality concerns would be addressed. The connection tap fee for the service outside the Town Boundaries shall be one hundred and fifty percent (150%) of the established connection tap fee in the Town Boundaries. Any provision of service outside the boundaries of the Town shall include a written agreement and covenant by the property owner to abide by all terms, conditions and enforcement procedures in this ordinance as well as other conditions approved by the Board.

Section 14. OWNERSHIP OF SYSTEM. The Town shall own each and every part of the sewerage facility and collection lines. Property owners shall be responsible for the entire service line from the collection main and shall be solely liable for any damage caused by the failure to maintain the same.

Section 15. UNLAWFUL ACTS. It shall be unlawful for any person to tamper with any portion of the sewerage facilities, including collection mains and any portion of a service line in a public right-of-way without first obtaining permission for excavation from the Town. It shall be unlawful to connect sewer service for more than one premise or building with approval by the Town. It shall be unlawful to trespass on the sewer treatment facility property or tamper with any portion of the sewerage facility, including manholes, collection lines, lift stations, or any other portion of the collection system, treatment system, and discharge facilities. It shall be unlawful to sell, convey, or attempt to sell or convey a sewer connection tap separate from the property to which it is assigned without prior approval by the Board.

Section 16. PENALTIES. The violation of any provision of this ordinance, except non-payment of connection fees, availability charges, and user fees, is declared to be a misdemeanor and shall be punished by a fine not to exceed one thousand (\$1,000.00) per day for each occurrence, or imprisonment for a term not exceeding ninety days, or by both such fine and imprisonment in the discretion of the Court. Unless otherwise indicated, each day or portion thereof in violation of this Ordinance shall constitute a separate offense.

Section 17. EFFECTIVE DATE. This Ordinance shall be effective immediately upon final adoption.

Section 18. POSTING AND PUBLISHING. This Ordinance shall be posted by title only at the Town Hall, Rico Post Office and posted in full on the Town's Website.

INTRODUCED, READ, APPROVED ON THE 27TH DAY OF JULY, 2005, BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO.

READ AND APPROVED ON SECOND AND FINALLY READ AFTER CONDUCTING A PUBLIC HEARING BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO ON THE 17TH DAY OF AUGUST, 2005.


By: Dave Kunz, Mayor Pro-Tem


Attest: Linda Yellowman, Town Clerk
[Town Seal]


Approved as to Form: Eric James Heil, Town Attorney