

**TOWN OF RICO
ORDINANCE NO. 2018-07**

AN ORDINANCE OF THE TOWN OF RICO REPEALING ORDINANCE 2008-02, ORDINANCE 317 AND ORDINANCE 299 AND ENACTING RATES, RULES AND REGULATIONS CONCERNING RICO MUNICIPAL WATER SERVICES AND PROVIDING FOR PENALTIES FOR VIOLATION OF THE SAME

WHEREAS, the Board of Trustees of the Town of Rico (Board) has the power to regulate municipal water services pursuant to the Rico Home Rule Charter, 10.4 and C.R.S. 31-35-401(b), as amended;

WHEREAS, the Board desires to reduce the tap fees charged for water services as set forth in Ordinance 2008-02;

WHEREAS, tap fees were increased in Ordinance 2008-02 which repealed and replaced Ordinance 317, Section A and Ordinance 317 repealed and replaced Ordinance 299, Section 4, Paragraph A and E and Section 5, Paragraph A;

WHEREAS, Ordinance 299 repealed Ordinance Nos. 272, 282, 286, and 288 and any other ordinances concerning the supply, maintenance, and operation of the Rico municipal water; and

WHEREAS, the Board desires to repeal and replace all past ordinances regulating the Rico water services and update the same in this Ordinance.

THE BOARD OF TRUSTEES OF THE TOWN OF RICO ORDAINS, as follows:

SECTION 1. ORDINANCES REPEALED

Ordinance 2008-1, Ordinance 2008-02, Ordinance 317, 299, 272, 282, 286 and 288 and any other Ordinance regulating the Town of Rico municipal water services.

SECTION 2. ENACTMENT OF WATER SERVICES ORDINANCE

The Town of Rico enacts the following:

WATER SERVICES

1. POWERS OF THE BOARD OF TRUSTEES OF THE TOWN OF RICO

- A. The Board is vested with the power and authority to acquire, keep and perfect any and all water rights presently owned by the Town of Rico, and to acquire, keep and protect other water rights deemed necessary to provide adequate service for the inhabitants of the Town of Rico for the future increase in its municipal, domestic, irrigation and industrial needs. The Board shall be vested with full and complete power and authority to maintain, add to, provided for,

furnish, and deliver water to all water users in and about the Town of Rico as determined by the Board of Trustees.

- B. The Board is hereby vested with full power and authority to establish and provide for reasonable fees and charges, for furnishing the municipal water service, and for the maintenance, upkeep and additions to the Town's water supply, and to establish rules, regulations, resolutions and penalties for any violations of the this ordinance.
- C. The Board is hereby vested with such incidental or collateral power, as deemed necessary, to assist them in carrying out said obligations, and shall have all other incidental powers as enumerated by the state law of Colorado.

2. WATER RATES

- A. All water tap holders in the Town of Rico shall pay to the Town Clerk the sums set forth in the following schedule:
 - 1. Three Hundred Ninety-Six U.S. dollars (\$396) per year minimum for each residential tap holder within the Town of Rico. The \$396 per year minimum residential payment may be paid monthly at the rate of Thirty-Three dollars (\$33) per month. The minimum payment shall entitle each tap holder to the use of three thousand (3,000) gallons per calendar month.
 - 2. Seven Hundred Fifty-Six (\$756.00) per year minimum for each commercial tap holder within the Town of Rico. The \$756.00 per year minimum commercial payment may be paid monthly at the rate of Sixty-Three Dollars (\$63.00) per month. The minimum payment shall entitle each tap holder to the use of seven thousand (7,000) gallons per calendar month.
 - 3. Each residential tap holder shall pay in addition to the minimum monthly fee Five Dollars (\$5) per one thousand (1,000) gallons of water usage above the entitled three thousand (3,000) gallons of water usage for each calendar month.
 - 4. Each commercial tap holder shall pay in addition to the minimum monthly fee set forth above, Six Dollars (\$6.00) per thousand (1,000) gallons of water usage above the entitled seven thousand (7,000) gallons of water usage for each calendar month.
 - 5. Each tap holder outside the municipal limits of the Town of Rico shall pay fees for water service at the rate of one and one-half times the prevailing rates in the Town of Rico.
- B. Water fees shall begin the month that a water tap holder connects to Rico municipal water. The monthly fees for the initial month shall be assessed on a pro-rata per day basis and thereafter every month, on a calendar basis, that the water tap holder is connected to the Rico municipal water system.

3. WATER TAP FEES

A. The fees for a water tap shall be:

1. 3/4" water tap	\$ 5,000.00
2. 1" water tap	\$ 6,000.00
3. 1 1/4" water tap	\$ 7,000.00
4. 1 1/2" water tap	\$ 9,000.00
5. 2" water tap	\$10,500.00

B. Water tap fees shall be paid in full in connection with the issuance of a building permit and at no time shall a tap be purchased unless a building permit is issued. All costs associated with connection to the Rico water system shall be borne by the water tap holder and such costs shall be in addition to the Water Tap Fees in paragraph A of this Section. The Town of Rico shall have the exclusive authority to connect the water taps to the Rico municipal water system and to install all required valves, meters, and other equipment.

C. A water user or water consumer shall be the same as a water tap holder and shall include any individual, partnership, corporation, limited liability company, or other association or entity which owns a water tap connected to the Rico municipal water system, whether or not said person uses or consumes water from said system. The tap holder shall be responsible for the tap and tap fees regardless of whether tap holder rents premises to others, or whether or not the tap holder owns the premises.

D. The right to Rico municipal water shall vest upon the issuance of the building permit associated with the tap but may be revoked if a Certificate of Occupancy is not issued within five years of the issuance of the building permit. Money paid for revoked tap fees shall be refunded. The Town reserves the right to deny connection to the Rico municipal water system based upon capacity issues.

4. METER READING AND BILLING PROCEDURES

A. Meters shall be read on a monthly basis and bills issued the month following the reading, except during periods of deep snow when meter reading may be impractical. During this period users will be billed a minimum monthly rate based upon that usage for the last 12 months divided by 12 and shall be adjusted when the readings are continued. Bills are payable at the office of the Town Clerk. Bills are delinquent 25 days after the bill is issued by the Town Clerk. A delinquency charge of \$2.00 per month to defray the cost of additional accounting and record keeping plus 12% annual interest on the total outstanding balance, compounded monthly, will be charged on all delinquent accounts. Any and all reasonable costs associated with collection of water fees shall also be included in the water bill, including but not limited to: charges for returned checks and reasonable legal fees.

- B. Water service to a tap holder shall be discontinued by the Town when the water assessment for such tap holder is 60 days delinquent unless the Board of Trustees decides otherwise pursuant to paragraph D of this Section. All past due assessments, interest thereon, and a \$30 reconnect fee shall be paid prior to reconnection of water service.
- C. After 24 months of non-payment, the Board of Trustees may declare the water tap in default after holding a public hearing thereon and providing 15 days written notice by certified mail to the water tap holder. Such notice shall state the time and place where the Board of Trustees will hold a hearing to determine whether a default exists.
- D. The Board of Trustees may waive any water fee due, or portion thereof, after holding a public hearing thereon, if the Board of Trustees finds that such waiver promotes the overall intent and purpose of this Ordinance and relieves undue hardship. Reasons to allow waiver of fees include, but are not limited to, reasonable failure to detect a leak causing excessive usage and water usage to flush lines of debris and sediment.

5. UNPAID WATER FEES A LIEN

- A. All water assessments and fees, including the minimum monthly charge, shall be a lien against the premises to which said water was delivered from the date the same becomes delinquent until paid and the property owner shall be liable for all water delivered to or taken and used upon that premises. Said 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 premises and sell the same to satisfy said lien. Tenants in possession shall not relieve the owner or tap holder from any obligation to pay water assessments, and the same shall be the sole responsibility of the property owner. The Town shall not be required to look to any person or entity other than the property owner for the payment of these charges. 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 attorney's fees and costs of collection and litigation.
- B. In its sole discretion, the Town may certify the amount of any water monies owed, penalties and interest owed as set forth in Paragraph A above or Section 10 below to the County Treasurer as a delinquent charge to be collected as property taxes against such property.

6. OWNERSHIP OF THE WATER SYSTEM

The Town shall own each and every part of the water supply and distribution system at all times and shall further own all service lines from the Town's water main to the property lines and/or cutoff and meter. Individual water tap holders shall be responsible for the maintenance of their pipe from the

cutoff and meter vault and shall be solely liable for any damage caused by the failure to maintain the same. Individual users shall install their own water line from the meter to their premises at their sole expense.

7. DEPTH OF ALL WATER LINES

The top of any and all water lines of all kinds shall be installed at a minimum depth of six feet below the surface of shall be spaced a minimum 10 feet from any sewer line unless a smaller separation is approved by the Colorado Department of Health and Environment. The lines of all Rico municipal water users shall at least the same minimum depth and manner except for outlet facilities.

8. WATER USERS OUTSIDE CORPORATE LIMITS

In addition to the provision found elsewhere in this Ordinance, any service furnished to Rico municipal water users outside the corporate limits shall be by written contract, which contract shall state that the Town may furnish said service so long as the Town does not reasonably need the use such water to service users within the corporate limits of the Town.

9. UNLAWFUL ACTS

- A. It shall be unlawful for any person to tamper with any meter, or to install or use any bypass or other device whereby Rico municipal water may be drawn from the service pipe without being registered by the meter. It shall also be unlawful for anyone other than a Town employee to remove or open any meter vault lid, to lock or seal any meter shutoff or meter vault lid. It shall be unlawful to service more than one dwelling, premises or building with one meter unless permitted by the Board of Trustees.
- B. All meter shall be furnished, set, placed and kept in repair by the Town of Rico and shall remain the property of the Town and under its control.
- C. It shall be unlawful for any person to tamper with, climb upon or commit any form of trespass upon any structure or facility of the Town water works, including the diversion tunnel, chlorinating structure and water tanks, or commit any act that could disrupt or contaminate the municipal water supply.
- D. It shall be unlawful for any person to drive motor vehicles upon any section of water line right-of-way from the intake to the supply tank, when the same is posted against such use.
- E. It shall be unlawful for any person to place, dump, throw, discharge or deposit any material which will in any manner pollute or contaminate the waters of Silver Creek above the intake of the Town of Rico water system, or to allow any polluting or contaminating substance to remain in such a position that such substance may be carried by natural causes into Silver

Creek, or fail to comply with any regulations placed in effect by the United States Forest Service for the protection of the municipal watershed.

- F. It shall be unlawful for any person, partnership, corporation or other entity to sell, offer for sale, grant option to sell or to lease, rent, encumber or in any manner, dispose of or transfer a water tap separate and apart from the real estate and appurtenant buildings which the water tap services.
- G. Failure to have the water tap connected within one year of the issuance of the building permit associated with the water tap shall result in a forfeiture of any and all amounts paid pursuant this Ordinance.
- H. It shall be unlawful for any person, partnership, corporation, limited liability company, or entity to violate any provision of this Ordinance.

10. PENALTIES

- A. The violation of any provision of this Ordinance, except non-payment of water fees according to Section 3, is declared to be a misdemeanor and shall be punished by a fine not to exceed \$1,000 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.
- B. The Town may, in its discretion, also proceed against any violation or violations of this Ordinance by any person, partnership, corporation, limited liability company, or entity, in a civil action for abatement, injunction, remedies, and these remedies shall be in addition to the criminal penalties provided in this section. damages, specific performance or by a lien, foreclosure, or through other equitable remedies, and these remedies shall be in addition to the criminal penalties provided in this section.

SECTION 3. SEVERABILITY

If any provision of this ordinance or portion thereof is held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provision which can be given effect without the invalid portion.

SECTION 4. EFFECTIVE DATE

This Ordinance shall take effect upon adoption and passage of the second reading.

INTRODUCED, READ, APPROVED AS INTRODUCED, AND ORDERED PUBLISHED on first reading by Town of Rico Board of Trustees this 15th day of August, 2018.

READ, APPROVED AND ADOPTED BY FINAL READING by Town of Rico Board of Trustees this 17 day of September, 2018

TOWN OF RICO, COLORADO


Zach McManus, Mayor

ATTEST:


Linda Yellowman, Town Clerk