

**Ordinance 95-1
Town of Ophir**

Ophir Water and Trash Fee Ordinance

AN ORDINANCE OF THE TOWN OF OPHIR, COLORADO, REPEALING ORDINANCE NUMBERS 78-3, 80-5, 83-4, AND 92-3; REPEALING ANY PREVIOUS ORDINANCE CONCERNING THE SUPPLY, MAINTENANCE, AND OPERATION OF THE WATER SYSTEM OF THE TOWN OF OPHIR; ENACTING AN ORDINANCE TO GOVERN THE INSTALLATION, MAINTENANCE, AND OPERATION OF THE OPHIR WATER SYSTEM AND OPHIR TRASH COLLECTION AND REMOVAL SYSTEM; AND PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE.

WHEREAS, the provision of sufficient potable water supplies and sufficient fire protection water supplies is necessary for the preservation and promotion of the health, safety and welfare of the Ophir community;

WHEREAS, the Town of Ophir, Colorado, has operated a public water system, throughout the Town of Ophir;

WHEREAS, the Town of Ophir has implemented and is operating the collection and removal of trash and household rubbish; and,

WHEREAS, it is the duty and obligation of the General Assembly to set and establish rates and charges for the Town's Water System and Trash Collection and Removal System in an amount sufficient to pay for the operation, maintenance, and expansion of such systems;

NOW, THEREFORE, BE IT ORDAINED BY THE GENERAL ASSEMBLY OF THE TOWN OF OPHIR the following:

Section 1 Ordinances Repealed

Ordinance Nos. 78-3, 80-5, 83-4, and 92-3 any other ordinance concerning the supply, maintenance, and operation of the Ophir water system, are hereby repealed in their entirety.

Section 2 Power of the General Assembly

A. The General Assembly of the Town of Ophir, Colorado, is vested with the power and authority to acquire, keep and perfect any and all water rights presently owned by the Town of Ophir, and to acquire, keep and protect other water rights deemed necessary to provide adequate service for the inhabitants of the Town of Ophir for the future increase in its municipal, domestic, irrigation and industrial needs. The General Assembly shall be vested with full and complete power and authority to maintain, add to, provided for, furnish, and deliver water and trash removal service to all users in and about the Town of Ophir as determined advisable by the General Assembly.

B. The General Assembly is hereby vested with full power and authority to establish and provide for fees, charges, and penalties determined reasonable for furnishing said water and trash service, and for the maintenance, upkeep and addition to the Town's water system and trash collection system, and to establish rules, regulations, and resolutions determined necessary to carry out and fulfill the General Assembly's power and authority hereunder.

C. The General Assembly 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.

Section 3 Water and Trash Fee Rates

A. All water tap holders in the Town of Ophir shall pay to the Town Clerk the sums set forth in the following schedule:

1. Water Fee: Two Hundred and Forty U.S. Dollars per year minimum for each tap holder within the Town of Ophir. The \$240 per year minimum payment may be paid quarterly at the rate of sixty dollars (\$60) per quarter.
2. Trash Fee: One Hundred and Twenty-Nine and sixty-nine cents U.S. Dollars per year minimum for each water tap holder within the Town

of Ophir. The \$129.60 per year minimum payment may be paid quarterly at the rate of thirty-two dollars and forty cents (\$32.40) per quarter.

B. Water and Trash Fees shall begin the quarter that a water tapholder connects to the Ophir's water system. The minimum quarterly fees shall be assessed in full for the first quarter, on a calendar basis, that the water tapholder connects to the Ophir water system.

C. The General Assembly may adjust Water and Trash Fees by Resolution by a cumulative maximum amount of 10% for each calendar year. Such adjustments shall take effective during the subsequent quarter after passage of the Resolution. Greater adjustments shall be by Ordinance.

Section 4 Water Tap Fees

A. The Water Tap Fees for all new water taps shall be \$2750.00.

B. Water Tap Fees shall be paid in full before connection to the Ophir water system and shall be payable upon the issuance of a building permit. All costs associated with connection to the Ophir 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. Water meters shall be installed as per Town specifications will all new water connections.

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

D. The General Assembly may adjust water tap fees by Resolution by a cumulative maximum amount of 10% for each calendar year. Greater adjustments shall be by Ordinance.

Section 5 Unpaid Water and Trash Fees a Lien, Billing Procedures

A. All water and trash assessments and fees, including the minimum quarterly charge, shall be a lien against the premises to which said water and trash service was delivered from the date the same becomes delinquent until paid, whether or not tapholder is identical with the owner, and the owner of every building, premises, lot or house shall be liable for all water and trash service 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 Ophir 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 owner or tapholder. The Town shall not be required to look to any person or entity other than the Water Tapholder 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 attorneys fees and costs of collection and litigation.

B. Bills are payable at the office of the Town Clerk. Unpaid bills, or any unpaid portion of any bill or any amount due pursuant to this ordinance, are delinquent 60 days after bills are sent by the Town Clerk. A delinquency charge of 2% per calendar month on the entire amount due, compounded monthly, will be charged on all delinquent accounts.

Section 6 Ownership of the Water System

A. 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 curbstop. Individual water tapholders shall be responsible for the maintenance of their pipe from the curbstop and/or property line, whichever is closer to the serviced structure, 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.

Section 7 Depth of All Water Lines

A. 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. The lines of all users shall at least the same minimum depth and manner except for outlet facilities.

Section 8 Unlawful Acts

A. It shall be unlawful to service more than one dwelling, premises or building with one water tap unless permitted by the General Assembly.

B. 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 chlorinating structure and water tanks, or commit any act that could disrupt or contaminate the municipal water supply.

C. 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.

D. 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 water supply of the Town of Ophir, or to allow any polluting or contaminating substance to remain in such a position that such substance may be carried by natural causes into the Town of Ophir's water supply, or fail to comply with any regulations placed in effect by the United States Forest Service for the protection of the municipal watershed.

E. 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 without the permission and approval of the General Assembly.

F. It shall be unlawful for any person, partnership, corporation or other entity to place or dispose of any construction rubbish, or other trash not produced by residential activity, in the Town dumpsters, except as may be permitted by the

General Assembly during special trash collection, removal, and/or disposal events.

G. It shall be unlawful for any person, partnership, corporation, limited liability company, or entity to violate any provision of this Ordinance.

Section 9 Penalties

A. The violation of any provision of this Ordinance, except non-payment of water and trash 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, 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 10 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 11 Immediate Preservation of Public Health and Safety

Ensuring the financial ability of the Town of Ophir to provide sufficient potable water supplies, sufficient fire protection water supplies, and adequate trash collection and removal is immediately necessary for the preservation and promotion of the health, safety and welfare of the Ophir community.

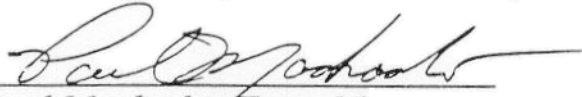
Section 12


Effective Date

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

First Reading Introduced, Read, and Adopted on the 17th day of January, 1994.

Second Reading Adopted on the 21st day of February, 1994.

By: 
Paul Machado, Town Manager

Attest: 
Lawrence Van Hoey, Town Clerk