

Title 8

UTILITIES AND SERVICES

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Chapter 8.04

WATER SERVICE SYSTEM GENERALLY

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ARTICLE I. GENERAL PROVISIONS

8.04.010 Applicability. All users of the Town’s water utilities shall be subject to the provisions of this Chapter. (Ord. 138 §2(part), 1982).

8.04.020 Connection Required. All properties which use water for any purposes other than irrigation shall be connected to the Town water utility system. (Ord. 138 §2(part), 1982).

8.04.030 Violation--Penalty. Unless otherwise specified, violation of any Section of this Chapter shall constitute a Class B municipal offense. (Ord. 138 §2(part), 1982; Amended Ord. 258 §12(part), 2001).

ARTICLE II. MONTHLY WATER USER CHARGES

8.04.040 Applicability. All users of the Town’s water utility shall be billed and shall pay water user charges as provided in this Chapter. User charges shall be billed and collected until such time as water service is disconnected by an employee of the Town as provided in Section 8.04.130. (Ord. 138 §2(part), 1982; Amended Ord. 146 §1, 1983).

8.04.050 Monthly Water User Charges and Availability Fees.

A. Monthly water user charges shall be assessed in an amount set forth by resolution of the Board of Trustees. (Amended Ord. 309 §14 (part), 2006).

B. Monthly water service user charges shall be the sum of the monthly minimum charge plus the monthly water volume charge as set forth by resolution of the Board of Trustees. The monthly minimum charge, in an amount set forth by resolution of the Board of Trustees, shall provide payment in full for use of the base gallons. (Amended Ord. 309 §15 (part), 2006).

(Ord. 142 §1, 1982; Ord. 146 §2(part), 1983; Ord. 160 §1, 1986; Ord. 195 §1, 1993; Ord. 202 §1, 1993)

C. For the purposes of this Chapter, a “commercial enterprise” is defined as a restaurant, café, laundromat or laundry service, car wash, food processing or canning enterprise, or other business carried out for profit which offers a service or prepares a product for resale to the general public using the Town’s water as integral to the service provided or product prepared.

D. The volume charge for each one thousand (1,000) gallons of water used shall be determined by water meter readings. The actual monthly charge assessed shall be prorated over the number of metered gallons actually used. Volume charges for non-metered water and water dispensed through the Town’s coin operated machine shall be charged as set forth by resolution of the Board of Trustees. (Amended Ord. 309 §16 (part), 2006).

E. Monthly water user charges shall be in addition to all other charges, tap fees and taxes lawfully assessed by the Town, including sewer use charges.

F. Vacant homes and residential units, vacant businesses, and commercial establishments to which a water service line has been extended and a water service meter installed shall be assessed an availability fee equal to one-half ($\frac{1}{2}$) of the monthly minimum water charge established by resolution of the Board of Trustees. (Amended Ord. 309 §17 (part), 2006).

(Amended Ord. 262 §1(part), 2001).

8.04.060 Billing. Monthly water user charges shall be billed as soon as practicable to the first (1st) day of each month. Such billings are due and payable on the twentieth (20th) day of the month in which billed.

Water user charges shall be billed jointly with the sewer user charges. Water and sewer charges shall be inseparable. (Ord. 138 §2(part), 1982).

8.04.070 Delinquent Payments. If the Town has not received payment for the monthly domestic water service, irrigation water service, sewer and refuse collection service user charges before the next month’s charges are billed, the previous monthly payment is delinquent and is subject to collection procedures as provided in Section 8.04.080. (Ord. 138 §2(part), 1982; Amended Ord. 309 §18 (part), 2006).

8.04.080 Delinquent Payments--Collection Procedures. All domestic water service, irrigation water service and sewer service user charges shall also constitute a lien upon any lot, land, building or premises served. In the event said charges become delinquent, domestic water, irrigation water and sewer services shall be subject to disconnection by the Town, without notice, by shutting off the domestic water and irrigation water supply. In addition to shutting off the domestic water and irrigation water supply, the Town Clerk may certify the delinquent charges to the County Treasurer, so that the delinquent charges shall be placed upon the tax assessment list for the current year to be collected in the manner as other taxes are collected with eighteen percent (18%) added thereto, to defray the cost of collection, and all laws of the State of Colorado for the assessment and collection

of general taxes, including the laws for the sale of property for taxes and redemption of the same shall apply. (Ord. 138 §2(part), 1982; Amended Ord. 309 §19 (part), 2006).

8.04.090 Reconnection After Delinquency. If the domestic water or irrigation water supply was shut off due to delinquent payment of domestic water service, irrigation water service and sewer service user charges, prior to reconnection of water and/or irrigation water service, all delinquent payments shall be made and the reconnection charge shall also be made.

The reconnection charge shall be equal to three (3) times the hourly rate of pay of the Town employee responsible for the operation of the water treatment plant or irrigation water system. (Ord. 138 §2(part), 1982; Amended Ord. 309 §20 (part), 2006).

8.04.100 Unlawful Reconnection. It is unlawful, after domestic water or irrigation water service has been disconnected by shutting off the domestic water or irrigation water supply or in any other manner, for any person to reconnect the same without the prior consent of the Town. (Ord. 138 §2(part), 1982; Amended Ord. 309 §21 (part), 2006).

8.04.110 Revenues Reserved. The funds received from the collection of the charges authorized by this Chapter shall be deposited into the income fund established by Section 24 of Ordinance No. 88 of the Town, so long as the Town water and sewer revenue bonds, Series 1973, are outstanding. (Ord. 138 §2(part), 1982).

8.04.120 Deposits. A. New Accounts. Prior to the initiation of domestic and/or irrigation water service, new system users shall place with the Town Clerk a deposit in an amount set forth by resolution of the Board of Trustees. Said deposit shall serve as a guarantee of payment of domestic water service, irrigation water service and sewer service use charges. After twelve (12) consecutive months of timely payments by the user, the deposit shall be returned to the user. In the event the user is delinquent in any payment of domestic water, irrigation water and sewer billings during the first twelve (12) consecutive months of service, the Town Clerk shall hold the deposit until termination of water service. At the option of the Town Clerk, the Town Clerk may apply the deposit, or any portion thereof, to any arrearage due and owing the Town for domestic water, irrigation water and sewer service charges. Upon the termination of domestic and/or irrigation water service, any remaining funds held on deposit shall be returned to the user within thirty (30) days following termination of such water service, after applying the funds on deposit to any delinquent water, irrigation water, sewer and refuse collection service charges.

B. After Shut-off Due to Delinquent Payments. The deposit required from users whose service has been disconnected due to delinquent payments shall be in an amount set forth by resolution of the Board of Trustees. Said deposit shall serve as a guarantee of payment of future domestic water, irrigation water and sewer service billings. In addition to the deposit, an amount equal to one-third (1/3) of the delinquent amount due the Town by the user shall be paid prior to service being reconnected. As a condition of reconnection, the user shall enter into an agreement with the Town providing that the user shall pay the second one-third (1/3) of the delinquent amount

plus the current billing within thirty (30) days from the date of reconnection. The agreement shall also provide that the user shall pay the final one-third (1/3) of the delinquent amount plus the current billing within sixty (60) days after the date of reconnection. After twelve (12) consecutive months of timely payments by the user, the deposit shall be returned to the user. In the event the user is delinquent in the payment of domestic water, irrigation water and sewer service billings during the first twelve (12) consecutive months of service following reconnection, the Town Clerk shall hold the deposit until termination of water service. At the option of the Town Clerk, the Town Clerk may apply the deposit, or any portion thereof, to any arrearage due and owing the Town for domestic water, irrigation water and sewer service charges. Upon the termination of domestic and/or irrigation water service, any remaining funds held on deposit shall be returned to the user within thirty (30) days following termination of such water service, after applying the funds on deposit to any delinquent domestic water, irrigation water, sewer and refuse collection service charges.

(Ord. 138 §2(part), 1982; Ord. 146 §3(part), 1983; Ord. 146-A (part), 1988; Ord. 185 §1, 1991; Ord. 235 §1, 1996; Amended Ord. 309 §22 (part), 2006).

8.04.130 User Requested Service Disconnection. A user may request that the Town disconnect water service by shutting off water service at the water meter. Upon such disconnection of water service, the water meter reading shall be recorded and the appropriate billing shall be made. While the water service is disconnected, no subsequent water billings shall be made.

It is unlawful for any individual other than a duly authorized employee of the Town to reconnect water service by turning water on at the water meter.

Upon reconnection of water service, the water meter reading shall be recorded. (Ord. 146 §4(part), 1983; Ord. 146-A (part), 1988).

ARTICLE III. REGULATION OF WATER UTILITY

8.04.140 Applicability. All persons shall be subject to the regulations provided in this Article. (Ord. 138 §2(part), 1982; Ord. 347 §1(part), 2007).

8.04.150 Construction and Repairs Performed by the Town. A. It is unlawful for any person to connect to the Town's water or sewer prior to obtaining a utility construction permit or the required building permit.

B. It is unlawful for any person to reconnect a property which has been disconnected due to delinquency of payment of monthly user charges.

C. The Town shall perform repairs, installation and construction of all water mains, water meters and service pipes connecting the water main to the water meter. It is unlawful for any person to repair, install or construct any such water mains, meter or service pipes.

(Ord. 138 §2(part), 1982).

8.04.155 Taking of Water Unlawful.

A. It shall be unlawful for any person to knowingly take or use any water from the Town's water supply system, or to aid or abet any person in such taking or using, other than in compliance with the requirements of this Chapter.

B. It shall be unlawful for any person to knowingly take any water from or open any fire hydrant, fireplug, stopcock, valve or hose pipe or other fixture appertaining to said works, or to shut off or turn on water for any service pipe without lawful authority or permission having been issued by the Town therefore .

(Ord. 347 §2(part), 2007; Amended Ord. 441 §2 (part), 2014)

8.04.160 Water Meters Required. All water shall be supplied through water meters. All meters shall be owned, installed and maintained by the Town. (Ord. 138 §2(part), 1982).

8.04.170 Promulgation of Rules and Regulations. A. The Board of Trustees shall adopt, by resolution, such rules and regulations of the water utility as are necessary to operate, maintain, improve and construct said utility. Such rules and regulations shall be in accordance with the provisions of this Chapter.

B. The rules and regulations of the water utility of the Town shall be applicable to all users of said utility.

C. The rules and regulations of the water utility shall establish specific billings and collection procedures, technical specifications relating to construction of water mains, meter and service lines and other such specific rules and regulations as the Board of Trustees deems appropriate.

(Ord. 142 §3(part), 1982).

8.04.180 Annexation or Subdivision--Fee--Reimbursement for Future Costs. In addition to all other requirements which must be met in order to obtain final plat approval of subdivisions pursuant to the ordinances and policies of the Town, or to obtain final approval of annexation, the party seeking the aforementioned approvals shall pay to the Town, for all subdivisions, annexations or other related developments which require Town approval, a fee in an amount set forth by resolution of the Board of Trustees for each equivalent residential unit (EQR)

proposed to be served by the Town's municipal treated water supply, as EQR is defined in the Town of De Beque Water and Sewer Tap Ordinance of 1981. Said fee shall be due and payable at the time of final approval by the Town, and no municipal water service shall be extended to such development until said fees have been fully paid. A final determination of the fee to be paid for the purposes of this Section only shall be made by the Board of Trustees or its designate, based upon water rights dedication, plans for the proposed development, and other relevant factors. Any person aggrieved by such determination may file a written protest to the Board of Trustees within ten (10) days of the date of such determination, and the decision of the Board of Trustees on such protest shall be final. (Ord. 117 §1, 1981; Amended Ord. 309 §23 (part), 2006).

Chapter 8.06

IRRIGATION WATER SYSTEM

Sections:

ARTICLE I. GENERAL PROVISIONS

- 8.06.100 Irrigation Water System.
- 8.06.110 Applicability.
- 8.06.120 Connection Allowed.
- 8.06.130 Violation--Penalty.

ARTICLE II. MONTHLY IRRIGATION WATER USER CHARGES

- 8.06.200 Applicability.
- 8.06.210 Fees to be Imposed in the Future.

ARTICLE III. CONNECTIONS TO IRRIGATION WATER SYSTEM

- 8.06.300 Applicability.
- 8.06.310 Request for Connection.
- 8.06.320 Unlawful Connection.
- 8.06.330 Unlawful Reconnection.
- 8.06.340 Connection Allowed.

ARTICLE IV. REGULATION OF IRRIGATION WATER SYSTEM

- 8.06.400 Applicability.
- 8.06.410 Hours of Operation.
- 8.06.420 Construction and Repairs Performed by the Town.
- 8.06.430 Maintenance.
- 8.06.440 Promulgation of Rules and Regulations.
- 8.06.450 Notice to Repair Defective Diversions or to Cease Diversion of Irrigation Water.
- 8.06.460 Unlawful Acts
- 8.06.470 Free from Obstruction
- 8.06.480 Prohibited Used

ARTICLE I. GENERAL PROVISIONS

8.06.100 Irrigation Water System. There exists an irrigation water system which delivers irrigation water to properties inside the Town's municipal limits which are adjacent to or are otherwise currently connected to the Town's irrigation water system. (Ord. 246 §1, 1997).

8.06.110 Applicability. All users connected to the Town’s irrigation water system shall be subject to the provisions of this Chapter. (Ord. 246 §1, 1997).

8.06.120 Connection Allowed. Properties within the Town’s municipal limits which are adjacent to or have access to the irrigation water system may be connected to the irrigation water system. (Ord. 246 §1, 1997).

8.06.130 Violation--Penalty. It is unlawful for any person to violate any provisions stated or adopted in this Chapter. Any person violating any of the provisions of this Chapter shall be deemed guilty of a Class B municipal offense, and such person shall be deemed guilty of a separate offense each and every day or portion thereof during which any violation of any of the provisions of this Chapter is committed, continued, or permitted. (Ord. 246 §1, 1997; Amended Ord. 258 §13(part), 2001).

ARTICLE II. MONTHLY IRRIGATION WATER USER CHARGES

8.06.200 Applicability. All users of the Town’s irrigation water service system shall be billed and shall pay irrigation water service user charges in an amount set forth by resolution of the Board of Trustees. User charges shall be billed and collected until such time as irrigation water service is disconnected by an employee of the Town as provided in Section 8.04.130. (Ord. 246 §1, 1997; Amended Ord. 309 §24 (part), 2006).

8.06.210 Irrigation Water Service User Charges and Availability Fees.

A. Annual and Monthly irrigation water service user charges shall be assessed as set forth by resolution of the Board of Trustees.

B. Irrigation water service user charges shall be in addition to all other charges, tap fees and taxes lawfully assessed by the Town.

(Ord. 246 §1, 1997; Amended Ord. 309 §25 (part), 2006).

8.06.220 Billing. Monthly irrigation water service user charges shall be billed either annually to be paid by the 1st of April in an amount set forth by resolution of the Board of Trustees, or monthly in an amount set forth by resolution of the Board of Trustees to be paid with the monthly domestic water, irrigation water, sewer and refuse collection services bill. (Ord. 309 §26 (part), 2006).

8.06.230 Delinquent Payment and Collection Procedures. Failure to make timely payment of irrigation water service user charges shall subject the user to the provisions of Sections 8.04.070 through 8.04.100, inclusive. (Ord. 309 §27 (part), 2006).

8.06.240 Deposits--New Accounts. No deposit, other than that provided for in Section

8.04.120 shall be required for the initiation of irrigation water service. (Ord. 309 §28 (part), 2006).

ARTICLE III. CONNECTIONS TO IRRIGATION WATER SYSTEM

8.06.300 Applicability. Owners of property within the Town's municipal limits may be allowed to connect to the irrigation water system in the manner provided herein. (Ord. 246 §1, 1997).

8.06.310 Request for Connection. Any owner of property within the Town's municipal limits who is not currently connected to the Town's water irrigation system may request that such property be connected. (Ord. 246 §1, 1997).

8.06.320 Unlawful Connection. It is unlawful for any user, person, or property to connect to the irrigation water system without the prior consent of the Town. (Ord. 246 §1, 1997).

8.06.330 Unlawful Reconnection. It is unlawful for any person to reconnect a property to the irrigation water system which has been disconnected or which person has been instructed not to use the irrigation water system. (Ord. 246 §1, 1997).

8.06.340 Connection Allowed. It is in the Town's sole discretion as to whether or not to allow a property to be connected to the irrigation water system. In determining whether or not such requested property can be connected to the irrigation water system, the Town shall consider availability of irrigation water; whether or not the specified property is adjacent to an existing delivery line; whether or not the topography near and at the specified property allows for connection to the Town's irrigation water system; and any other factors which may affect the Town's decision to allow a requested property to connect to the irrigation water system. (Ord. 246 §1, 1997).

ARTICLE IV. REGULATION OF IRRIGATION WATER SYSTEM

8.06.400 Applicability. All users of the Town's irrigation water system shall be subject to the regulations provided for in this Article. (Ord. 246 §1, 1997).

8.06.410 Hours of Operation. Repealed (Ord. 437 §1, 2013).

8.06.420 Construction and Repairs Performed by the Town. The Town shall perform repairs, installation, construction, and maintenance of the irrigation water system. It is unlawful for any person to enlarge, alter, tamper with, or affect the irrigation water system. (Ord. 246 §1, 1997).

8.06.430 Maintenance. Each user or owner of property using the irrigation water system shall keep their connections to the irrigation water system free of debris and obstructions. Each user shall promptly inform the Town when the irrigation water system has been damaged or is rendered inoperable or unusable because of any obstruction or ditch failure. When using irrigation water delivered by the irrigation water system, each user or owner of property shall carefully maintain and keep any diversion structure or connection to the irrigation water system in good repair,

shall prevent irrigation water from being wasted, and shall prevent overflows to adjoining properties. It is unlawful to allow irrigation water from the irrigation water system to waste, and it is unlawful to allow irrigation water from the irrigation water system to overflow to adjoining properties. (Ord. 246 §1, 1997).

8.06.440 Promulgation of Rules and Regulations. A. The Board of Trustees may adopt, by resolution, such rules and regulations of the irrigation water system as are necessary to operate, maintain, improve, and construct said system. Such rules and regulations shall be in accordance with the provisions of this Chapter and may include, but are not necessarily limited to, the imposition of restrictions on the days, times, and manner of the use of irrigation water and Town-wide water conservation measures to ensure an adequate irrigation water supply. (Ord. 437 §2, 2013).

B. The rules and regulations of the irrigation water system shall be applicable to all users of said irrigation water system.

C. The rules and regulations of the irrigation water system may establish specific billings and collection procedures, technical specifications relating to construction of the irrigation water system and other such specific rules and regulations as the Board of Trustees deems appropriate. (Ord. 246 §1, 1997).

8.06.450 Notice to Repair Defective Diversions or to Cease Diversion of Irrigation Water. A. If, at any time, the Town shall ascertain that any diversion fixtures or device or connection to the irrigation water system on any premises is so defective as to waste water, or are used in a manner which causes adjacent properties to be flooded or covered with standing water, the Town shall notify the user of the irrigation water or his agent to repair such defective diversion or to cease the diversion of irrigation water, and if the same are not repaired or ceased within forty-eight (48) hours from the time of such notice being served upon the water user or the agent, the Town may shut off the irrigation water from the premises and may disconnect the property from the irrigation water system and immediately notify the user.

B. It is unlawful for any person to fail or refuse to comply with the notice provided in this Section.

(Ord. 246 §1, 1997).

8.06.460 Unlawful Acts. It shall be unlawful for any person, firm, corporation, or association, or any employee thereof, to engage in any of the following acts with reference to the municipal irrigation water system which is piped within the limits of the town:

A. To take irrigation water out of turn; that is, to take water from the municipal irrigation water system out of the normal sequence of use as that sequence is established by the town board or its employees;

B. To use irrigation water for more than the maximum time allotted for each user according to the rules and regulations adopted by the town board;

C. To refuse to cooperate with other users of the water by making it impossible for the water to flow through the system to the next user;

D. To waste water by allowing the same to overflow onto streets, sidewalks or to engage in or permit or allow any other non-consumptive use of irrigation water;

E. To throw, dump, place, or block any irrigation conveyance with any item which obstructs the flow of water in the system.

8.06.470 Free from Obstruction. It shall be the duty of every resident in front of whose dwelling or residence a portion of the irrigation system flows to keep the same free from debris, dirt, trash, bottles, or any other obstacle or matter which may tend to obstruct the system or to inhibit the flow of water in it.

8.06.480 Prohibited Uses. The water provided by the municipal irrigation system shall be used only for the purpose of watering lawns and gardens of town residents. It shall not be used for any of the following uses:

A. For use in evaporative water coolers;

B. For use in any refrigerated air conditioning system;

C. For any industrial, commercial or business use.

(Ord. 441 §2 (part), 2014).

Chapter 8.08

SEWER SERVICE SYSTEM GENERALLY

Sections:

ARTICLE I. GENERAL PROVISIONS

- 8.08.010 Applicability.
- 8.08.020 Connection Required.
- 8.08.030 Violation--Penalty.

ARTICLE II. MONTHLY SEWER USER CHARGES

- 8.08.040 Applicability.
- 8.08.050 Monthly Sewer User Charges and Availability Fees.
- 8.08.060 Billing.
- 8.08.070 Availability of Service or Facilities Charges.
- 8.08.080 Delinquent Payment and Collection Procedures.
- 8.08.090 Revenues Reserved.
- 8.08.100 Deposits--New Accounts.
- 8.08.110 High Strength Wastewater Surcharge.

ARTICLE III. SEWER USE REGULATIONS

- 8.08.120 Prohibited Discharges.
- 8.08.130 Discharge of Prohibited Substances.
- 8.08.140 Hauled Wastewater.
- 8.08.150 Connection to Sewer System--Permit Required.
- 8.08.160 Inspection Rights.
- 8.08.170 Damages.
- 8.08.180 Rules and Regulations.

ARTICLE I. GENERAL PROVISIONS

8.08.010 Applicability. All users of the Town's sewer utilities shall be subject to the provisions of this Chapter. (Ord. 138 §2(part), 1982).

8.08.020 Connection Required. All properties requiring the disposal of sanitary sewage shall be connected to the Town's sewer utility system unless the Board of Trustees, by resolution, determines such connection to be inappropriate. (Ord. 138 §2(part), 1982).

8.08.030 Violation--Penalty. Unless otherwise specified, violation of any Section of this Chapter shall constitute a Class B municipal offense. (Ord. 138 §2(part), 1982; Amended Ord. 258 §14(part), 2001).

ARTICLE II. MONTHLY SEWER USER CHARGES

8.08.040 Applicability. All users of the Town's sanitary sewer utility shall be billed and shall pay sewer user charges as provided in this Article. Sewer user charges shall be billed and collected unless one of the following conditions is met:

A. Town-supplied water service is disconnected by a duly authorized employee of the Town as provided in Section 8.04.130; or

B. The user's property is physically disconnected from the sewer utility by means of excavation and disconnection of the sewer service line from the sewer main.

(Ord. 189 §1(part), 1991).

8.08.050 Monthly Sewer User Charges and Availability Fees. A. Monthly sewer service user charges and availability fees shall be assessed in an amount set forth by resolution of the Board of Trustees. (Amended Ord. 191 §1, 1992; Amended Ord. 194 §1, 1993; Amended Ord. 201 §1, 1993; Amended Ord. 309 §29 (part), 2006).

B. Monthly sewer service user charges for property classifications not set forth above shall be determined by multiplying the rate set forth by resolution of the Board of Trustees times the EQR rating set for the property classification, as established in Ordinance No. 114, and any amendments thereto, unless otherwise determined by the Board of Trustees. (Amended Ord. 309 §30 (part), 2006).

C. Service charges for transported sewage shall be determined from time to time by resolution of the Board of Trustees.

D. Monthly sewer user charges shall be in addition to all other charges, tap fees and taxes, including monthly water user charges.

(Ord. 189 §1(part), 1991).

8.08.060 Billing. Monthly sewer user charges shall be billed as soon as practicable to the first day of each month. Such charges are due and payable on the twentieth (20th) day of the month in which billed.

Sewer user charges shall be billed jointly with the water user charges. Sewer and water charges shall be inseparable. (Ord. 189 §1(part), 1991).

8.08.070 Availability of Service or Facilities Charges. A. The Board of Trustees is authorized to assess availability of sewer service or facilities charges. Availability of service or facilities charges shall be assessed solely for the purpose of paying principal of and interest on any outstanding indebtedness or bonds of the Town and shall not be used to pay for any operation or maintenance expenses of the Town's sanitary sewer utility.

B. Availability of service or facilities charges shall be assessed only where sewer lines are installed and ready for connection within one hundred feet (100') of any property line of the residential or commercial lot to be assessed, and said lot is not connected to said sewer lines, or is not receiving sewer service.

C. Availability of service or facilities charges shall be a percentage, not to exceed fifty percent (50%), of the monthly sewer user charges set forth in Section 8.08.050. Said charges shall be determined by resolution of the Board of Trustees.

(Ord. 189 §1(part), 1991).

8.08.080 Delinquent Payment and Collection Procedures. Failure to make timely payment of monthly sewer user charges shall subject the user to the provisions of Sections 8.04.070 through 8.04.100, inclusive. (Ord. 189 §1(part), 1991).

8.08.090 Revenues Reserved. The funds received from the collection of the charges authorized by this Chapter shall be deposited into the income fund established by Section 24 of Ordinance No. 88 of the Town, so long as the Town water and sewer revenue bonds, Series 1973, are outstanding. (Ord. 189 §1(part), 1991).

8.08.100 Deposits--New Accounts. No deposit, other than that provided for in Section 8.04.120 shall be required for the initiation of sewer service. (Ord. 189 §1(part), 1991).

8.08.110 High Strength Wastewater Surcharge. A. All sewer users discharging wastewater having a strength in excess of domestic wastewater shall be billed and shall pay a high strength wastewater surcharge.

B. Domestic strength wastewater has a five (5) day biochemical oxygen demand (BOD5) and a total suspended solids (TSS) concentration of 250 mg. per liter, each.

C. The rates of charge per pound of BOD5 and TSS shall be determined by resolution of the Board of Trustees.

D. High strength wastewater surcharges shall be billed and collected in the same manner as monthly water and sewer user charges.

(Ord. 189 §1(part), 1991).

ARTICLE III. SEWER USE REGULATIONS

8.08.120 Prohibited Discharges. It is unlawful to discharge any substance into the Town's sewer system which causes:

- A. Chemical reaction or mechanical action which will damage the sewer system or wastewater treatment plant;
- B. Restriction of the hydraulic capacity of any part of the sewer system;
- C. Violation of the conditions of the Town's National Pollutant Discharge Elimination System Permit;
- D. Contamination of sewage sludge or limits the reuse of the sewage sludge;
- E. Increased danger of fire or explosion;
- F. Concentrations of gases or vapors which pose a threat to life.

(Ord. 138 §2(part), 1982).

Any person who violates any of the provisions of this Section commits a Class A municipal offense. (Ord. 258 §15(part), 2001).

8.08.130 Discharge of Prohibited Substances. It is unlawful to discharge any of the following substances into the Town's sewer system:

- A. Petroleum products;
- B. Clear water such as groundwater, water from roof drains, spring water, irrigation water or stormwater;
- C. Flammable substances with a flash point lower than 187;
- D. Substances with a temperature outside the range of 32°F to 150°F;
- E. Substances having a pH less than 5.0 or greater than 10.0;
- F. Radioactive wastes;
- G. Any of the toxic pollutants identified by the United States Environmental Protection Agency.

(Ord. 138 §2(part), 1982).

Any person who knowingly violates this Section commits a Class A municipal offense. (Ord. 258 §16(part), 2001).

8.08.140 Hauled Wastewater. Any person who knowingly discharges sanitary sewage from any vehicle, except at a location and in a manner approved in advance by the Town, commits a Class A municipal offense. (Ord. 138 §2(part), 1982; Amended Ord. 258 §17(part), 2001).

8.08.150 Connection to Sewer System--Permit Required. No connection to the sewer system shall be made prior to obtaining a utility connection permit or the required building permit. (Ord. 138 §2(part), 1982).

8.08.160 Inspection Rights. Any duly authorized employee of the Town shall be permitted to enter upon all properties that are connected to the Town's sewer system to determine if a user of the system is violating the provisions of this Chapter. (Ord. 138 §2(part), 1982).

8.08.170 Damages. Any person violating any provisions of this Chapter shall be liable to the Town for any expenses, loss or damage occasioned by the Town due to such violation. Such liability is in addition to the penalties provided for in Section 8.08.030. (Ord. 138 §2(part), 1982).

8.08.180 Rules and Regulations. A. The Board of Trustees shall adopt, by resolution, such rules and regulations of the sewer utility as are necessary to operate, maintain, improve and construct said utility. Such rules and regulations shall be in accordance with the provisions of this Chapter.

B. The rules and regulations of the sewer utility of the Town shall be applicable to all users of said utility.

C. The rules and regulations of the sewer utility shall establish specific billings and collection procedures, technical specifications relating to construction of sewer mains and service lines and other such specific rules and regulations as the Board of Trustees deems appropriate.

(Ord. 138 §2(part), 1982).

Chapter 8.12

FIRE PROTECTION AND AMBULANCE SERVICES

Repealed in its entirety (Ord. 432, Srs. 2013).

Chapter 8.16

WATER AND SEWER TAPS

Sections:

| | |
|----------|--|
| 8.16.010 | Title. |
| 8.16.020 | Definitions. |
| 8.16.030 | Connection to Municipal Utility System. |
| 8.16.040 | Application for Water or Sewer Utility Service. |
| 8.16.050 | Utility Connection Permit. |
| 8.16.060 | Tap Fees. |
| 8.16.070 | Inspection of Completed Tap. |
| 8.16.080 | Utility Hookup Charge. |
| 8.16.090 | Extension of Mains. |
| 8.16.100 | Additional Service--Fixtures. |
| 8.16.110 | Outside Corporate Limits--Use Subordination. |
| 8.16.120 | Charges a Lien. |
| 8.16.130 | Single Taps Serving More than One Building. |
| 8.16.140 | Barricades and Safety Measures for Excavations. |
| 8.16.150 | Testing of Completed Connection. |
| 8.16.160 | Maintenance of Service Pipes and Fixtures. |
| 8.16.170 | Notice to Repair Defective Plumbing Fixtures--Discontinuance of Service for Failure to Comply. |
| 8.16.180 | Disconnections--Maintenance of Corporation Stop, Curb Stop, Curb Box and Meters. |
| 8.16.190 | Rules and Regulations. |
| 8.16.200 | Violation--Penalty. |

8.16.010 Title. This Chapter shall be known and may be cited as the “Town of De Beque Water and Sewer Tap Ordinance of 1981.” (Ord. 114 §5(part), 1981).

8.16.020 Definitions. As used in this Chapter, unless the context otherwise requires:

“Administrator” means the Town Manager, Mayor, Director of Public Works, or such other person as the Board of Trustees may appoint.

“Building permit” means a permit issued by the Town pursuant to the Uniform Building Code, as adopted by reference and as amended.

“Commencement of actual use” means the connection to the Town water or sewer utility and

the use of such connection for the uses applied for in the application for a utility connection permit.

“Commencement of construction” means actual, physical, visible labor performed on a piece of property, but shall not include the delivery of materials thereto.

“Equivalent residential unit (EQR),” as used in this Chapter, means a number related to the volume of water used by a single-family residential unit housing a statistical average of 3.5 persons and having not more than two thousand five hundred (2,500) square feet of irrigated lawn or garden. The volume of water used by all other uses is considered to bear the same ratio to the water use of an average single-family residence as the EQR value assigned to such uses in the table of EQR’s as set forth in Section 8.16.060 bears to the EQR value assigned to the single-family residence in such table.

“Good cause shown” means conditions or circumstances beyond the applicant’s control, including, but not limited to, financial hardship, delays in delivery of building materials, labor disputes, etc.

“Tap fee” means a fee charged to a customer of the water or sewer utility, which fee represents an investment and capital contribution to the Town’s present and future physical water or sewer utility system, and includes such items as collection, treatment and storage, but does not include extensions of the Town water or sewer system to provide service, nor payment for acquisition, adjudication, or changes in water rights necessary to provide water service or to protect the Town’s water rights.

“Utility connection permit” means permission by the Town to tap onto the Town water or sewer utility pursuant to the terms of this Chapter and any other additional contractual terms which may be imposed, and subject to the capacity of the Town’s water and sewer collection systems.

“Water consuming addition” means the addition of any of the use classifications set forth in Section 8.16.060 to an existing water or sewer tap or the expansion of service to any use for which the existing tap was not originally issued. (Ord. 114 §6(part), 1981).

8.16.030 Connection to Municipal Utility System. All buildings, structures, facilities, parks or the like within the incorporated limits of the Town and which use water shall be connected to the Town water and sewer utility systems, when such systems are sufficiently constructed to provide, in the opinion of the Town’s Engineer, adequate water and sewer service to such buildings, structures, facilities, parks or the like. (Ord. 114 §7(part), 1981).

8.16.040 Application for Water or Sewer Utility Service. A. Application for water or sewer utility service, where both the water tap and all points of water consumption are within the corporate limits of the Town shall be made to the Town Clerk on such forms as the Board of Trustees may prescribe. Except as provided in subsection (E) of this Section, application must be made by the owner of the property to be served or his duly authorized agent, designating the

property, stating the purpose for which the water may be required, and stating the number of EQR units associated with such purpose. The applicant shall also attach a copy of a valid building permit for the structure for which utility service is applied.

B. Extension of water or sewer utility service where either the water tap or any point of water consumption is outside the corporate limits of the Town shall be made pursuant to agreement with the Town. The Town shall not be obligated to extend water or sewer utility service outside the corporate limits of the Town and may grant water or sewer utility service only upon a determination that no conflict exists between the best interests of the Town and the prospective water or sewer use. The Town may impose such contract and bond requirements as it deems necessary to safeguard the best interests of the Town.

C. Any person who desires to connect to the Town water or sewer utility system or who is already connected to the Town utility system and intends to add a water consuming addition to his connection shall file an application for water and sewer utility service as provided in this Section and shall pay a connection charge in accordance with Section 8.16.060.

D. In the event a building permit is not required for the property to which water service is sought, application for a utility connection permit shall be made pursuant to this Chapter no more than sixty (60) days prior to the commencement of actual use of the water or sewer tap. Said sixty (60) day period may be extended for additional sixty (60) day periods upon written request made to the administrator prior to the expiration of said period and upon good cause shown.

E. Any person not an owner may apply to the Administrator for utility service to property which said person occupies but does not own. The application shall state the location of the property, the purpose for which water or sewer service is required, and the interest of the applicant in the property. The Administrator may, in the exercise of his discretion, accept the nonowner application for utility service and may include such conditions as he sees fit with regard to the account, including the furnishing of a deposit.

(Ord. 114 §8(part), 1981).

8.16.050 Utility Connection Permit. A. No water or sewer utility connection permit shall be issued, except pursuant to this Section unless the utility connection permit is issued and paid for pursuant to a phasing agreement, prepayment agreement or other agreement with the Town to the contrary.

B. Subject to the provisions of Section 8.16.040, no utility connection applicant shall receive a water or sewer utility connection permit prior to the issuance of a building permit for the structure or structures to which water or sewer service is requested. Any time after the issuance of a building permit, the party to whom the building permit is issued shall make application as provided in Section 8.16.040 for a utility connection permit.

C. It is unlawful for any person not authorized by this Chapter to make any connection with any main of the water or sewer utility or for any unauthorized person to connect to the water or sewer utility or for any person to make a water consuming addition or change in service contrary to the provisions of this Chapter.

D. All utility connection permits as required by this Chapter shall be issued by the Town Clerk and shall set forth all those requirements specified in Section 8.16.040(A). The Town Clerk shall keep a duplicate or record of all utility connection permits issued by him.

E. Any permit issued pursuant to this Section shall expire upon failure to make the authorized utility connection, at the time of expiration of the building permit for the structure or structures proposed to be serviced, or upon expiration of the sixty (60) day period provided for in Section 8.16.040(B). In the event of expiration of a utility connection permit, the applicant, on request, shall be refunded any tap fees not expended by the Town for the benefit of the applicant.

(Ord. 114 §9(part), 1981).

8.16.060 Tap Fees. A. No water or sewer service shall be furnished to any new connection or to any water consuming addition to any existing service until all tap fees and utility hookup charges have been paid as provided by this Chapter.

B. In the event that a connection or proposed connection does not fit within the categories provided in subsection (C) of this Section, the Administrator may make a separate EQR determination, or may require that such determination be made by the Town’s Engineer at the applicant’s expense.

C. Each applicant shall be required to submit tap fees in an amount set forth by resolution of the Board of Trustees in accordance with the following table:

TABLE OF EQUIVALENT UNITS

| <u>CLASSIFICATION</u> | <u>EQR</u> |
|---|------------|
| 1. Single-family residence, permanent trailer, multifamily residential unit, duplex, apartment, condominium, if billed individually (not to have more than one kitchen) not to have more than 2,500 square feet of irrigated lawn or garden | 1.0 |
| For each additional 2,500 square feet of irrigated area, or fraction thereof | 0.75 |

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| 2. | Multifamily residential units, duplexes, apartments, condominiums, when in one building and billed collectively: | |
| a. | Buffet apartment | 0.6 |
| b. | Up to and including two bedrooms and no more than one and one-half bathrooms | 0.8 |
| c. | Three bedrooms and over | 1.0 |
| d. | Each coin-operated washing machine, with 12-pound capacity or less | 0.5 |
| e. | Mobile home (trailer) in court | 0.8 |
| 3. | Transient rental units, hotels, motels or rental units in residence: | |
| a. | First unit or manager's apartment | 1.0 |
| b. | Each additional rental room without cooking facilities | 0.4 |
| c. | Each additional rental room with cooking facilities | 0.5 |
| d. | Each coin-operated washing machine, with 12-pounds load capacity or less | 0.5 |
| 4. | Bars, restaurants: | |
| a. | For business with less than 25 seating capacity | 1.0 |
| b. | For each additional 25 seating capacity or part thereof | 0.6 |
| 5. | Service stations, full service (with service or lubrication bay, and/or one wash bay) | 2.0 |
| | Service stations, self-service (no wash or lube and/or service bays) | 1.0 |
| | Each wash bay or rack in addition to the above | 1.0 |
| 6. | Commercial or public buildings such as stores, offices, industrial warehouses, and similar, having industrial wastes, process water or waste loads (i.e., which are served by sanitary sewer use only for non-solid waste disposal): | |
| a. | For each toilet or urinal with manual flush mechanism | 0.5 |
| b. | For each toilet or urinal with continuous flow | 1.0 |
| c. | For each lavatory | 0.2 |
| d. | For each shower or tub or combination thereof | 0.3 |

| | | |
|-----|--|-----|
| e. | For each laundry or mop sink | 0.2 |
| f. | For each other water-using fixture or appliance except as otherwise specified in this table, including drinking fountains which are not continuous flow or decorative fountains which recycle water | 0.3 |
| g. | Continuous flow drinking or decorative fountains (non-recycling) | 1.0 |
| 7. | Churches, nonprofit organization halls (no residence or regular eating facilities) | 1.0 |
| 8. | Schools, public or private (basic rate per pupil capacity 0 - 50) | 2.0 |
| | Each additional 50 students or fraction thereof | 1.0 |
| | Multiply above basic rate by a factor of 1.2 if school has gymnasium and showers | |
| | Multiply above basic rate by a factor of 1.2 if school has cafeteria | |
| 9. | Swimming pools in conjunction with other use classification, for each 25,000 gallons or fraction thereof swimming pool capacity | 1.0 |
| 10. | Automatic sprinkling system (residential) per 6,000 square feet of irrigated area | 0.4 |
| 11. | Automatic sprinkling system (fire protection) | 0.0 |
| 12. | Laundromat or laundry, basic fee | 1.0 |
| | Each washing machine (by load capacity): | |
| | Less than 12 pounds | 0.5 |
| | 12.1 to 21 pounds | 0.7 |
| | 21.1 to 31 pounds | 1.0 |
| | 31.1 to 41 pounds | 1.3 |
| | 41.1 to 51 pounds | 1.6 |
| | 51.1 to 75 pounds | 2.0 |
| 13. | Car wash: customer operated (per bay) | 1.0 |
| | Automatic (per bay) | .75 |
| 14. | Accessory building - a detached, subordinate building located on the same lot as a principal building, and the use of which is incidental to the principal building or use of the lot, not used for sleeping quarters: to be evaluated and | |

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| | set individually by the Town. | |
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(Amended Ord. 309 §31 (part), 2006).

D. For the purpose of tap fee computation, the following fees shall be assessed:

1. Domestic water service: The fee for each EQR unit, where both the water tap and all points of water consumption are either within or outside the corporate limits of the Town shall be in the amounts set forth by resolution of the Board of Trustees. Fractional EQR units shall be prorated on the basis of such fee.

Fractional EQR units shall be prorated from the above fee.

2. Sewer service: The fee for each EQR unit, where both the sewer tap and all points of sewer collection are within or without the corporate limits of the Town shall be in the amounts set forth by resolution of the Board of Trustees.

Fractional EQR units shall be prorated from the above fees.
(Amended Ord. 309 §32 (part), 2006).

3. Irrigation water service: A tap fee in an amount set forth by resolution of the Board of Trustees. (Ord. 309 §33 (part), 2006).

E. Payment of the tap fee and the utility hookup charge shall be due at the time of application. (Ord. 114 §10(part), 1981; Ord. 206, 1994).

8.16.070 Inspection of Completed Tap. Before any water is furnished to a completed facility, the Administrator or his appointee shall inspect the property designated on the application and shall certify on the application that the number of EQR units stated on the application is equal to the number of EQR units actually to be used. If the actual EQR total is less than the EQR total stated in the application, or if the actual utility hookup charges are less than those paid by the applicant, the applicant shall be entitled to a refund of any such overpayment made. If the actual EQR total is greater than the EQR total stated in the application, or if the actual utility hookup charges are more than those paid by the applicant, no water or sewer service shall be furnished to the tap until the deficit in tapping charges or utility hookup charges has been paid. If a larger tap is required, no water or sewer service shall be furnished until such tap is provided, and all associated fees have been paid. (Ord. 114 §11(part), 1981).

8.16.080 Utility Hookup Charge. A. The utility hookup charge shall be paid to the Town at the time of application and shall be equal to the estimated costs of labor, materials and other expenses incident to the installation of corporation stop, curb stop, the curb box, the meter, the remote readout, and appurtenances, plus a ten percent (10%) administration charge.

B. In addition to the utility hookup charge, the water or sewer user shall be responsible for the full cost of running and connecting water and sewer delivery piping, plus any special facilities, to existing mains. All materials, labor and design of all facilities shall be to Town specifications. The Town may require any oversizing of facilities or delivery piping necessary to provide adequate utility services and may provide for rebates to users who pay for any such oversizing, as new users tap onto such oversized facilities or piping.

(Ord. 114 §12(part), 1981).

8.16.090 Extension of Mains. A. No water or sewer main shall be enlarged or extended at the cost or expense of the Town. All construction, extension and enlargement of mains shall be made by prospective consumers as provided herein. Application for such extensions shall be made in writing and shall require the written consent and approval of the Board of Trustees. Such application shall include a map or plat of the right-of-way proposed for said enlargement or extension prepared by a registered land surveyor or civil engineer. All such enlargements or extensions shall be constructed by the Town or by the prospective consumer as the Town may specify and in accordance with the Town's specifications and oversizing requirements, but at the sole cost and expense of the applicant. The Town may also require the installation of pumping stations, lift stations, storage tanks or other special facilities as may be necessary to provide adequate water and sewer service. Before any work is commenced, the applicant shall furnish all necessary easements, and such security as the Town may require to assure full performance hereunder, including, but not limited to, deeds of trust, bonds, letters of credit or cash deposits.

B. For any extension or enlargement of water and sewer mains and for any special facilities oversized or designed so as to serve other future customers other than the party furnishing such extension, enlargement or facilities, the Board of Trustees may develop such regulations as it may deem appropriate, in order for the original party to recover a pro rata portion of his costs as other water or sewer customers come on line. The Town shall be under no obligation to insure that such recovery is received by the original party, however.

C. Every new extension, enlargement or special facility, together with all easements, rights-of-way or other interests in land necessary for the use, operation and replacement thereof, shall be and become the sole and exclusive property of the Town, and all persons paying for the same shall, upon request of the Town, execute and deliver any and all necessary and proper deeds of conveyance, assignments or other documents which the Town may require to perfect such ownership in the Town.

(Ord. 114 §13(part), 1981).

8.16.100 Additional Service--Fixtures. A. An existing tap shall not be subject to a water consuming addition without application and a utility connection permit issued therefor by the Town. The utility connection permit may be subject to conditions necessary in the interest of the

Town water supply system, including a requirement that a larger tap be installed.

B. Any water consuming addition shall be subject to payment of a supplemental tap fee pursuant to Section 8.16.060 for the number of EQR associated with such water consuming addition. If a larger tap is required, utility hookup charge and all labor, materials or other expenses shall be assessed as for a new tap.

(Ord. 114 §14(part), 1981).

8.16.110 Outside Corporate Limits--Use Subordination. The use of water or sewer services where either the water tap or any point of water consumption is outside the corporate limits of Town is subject to the paramount rights of customers within the corporate limits of the Town, and in case there is insufficient water to provide for users both within and without the corporate limits, the Board of Trustees may reduce, curtail or shut off users outside the corporate limits during such period of water shortage or scarcity. Provided however, that properties served under a Bluestone Valley Water Service Agreement and the occupants thereof shall be exempted from the foregoing provisions and during any period of water shortage shall be treated in the same manner as persons residing within the corporate limits of the Town. (Ord. 114 §15(part), 1981; Amended Ord. 157 §2(part), 1985).

8.16.120 Charges a Lien. No water or sewer service shall be made, nor any certificate of occupancy issued, until all fees pursuant to this Chapter have been paid, and all service charges and fees shall be a lien upon the respective lots or parcels of land until paid, and such charges shall be collected and such lien enforced as provided by law. (Ord. 114 §16(part), 1981).

8.16.130 Single Taps Serving More Than One Building. A. In all cases where service pipes have been constructed from a single tap to different houses, buildings or premises, and a separate curb stop accessible to the Town has been placed on the pipe leading to each house, building or premise, so that water or sewer service can be easily turned on and shut off from the premises, or any of them, the continued use of such extensions will be permitted.

B. Any person owning adjoining premises may make application to the Administrator for a permit to make one (1) water or sewer tap for all such premises. The Administrator may grant or deny such a permit. Whenever such a permit has been granted, a single connection may be made and a single service pipe may be laid therefor, but such service pipe must be provided with separate and distinct curb stops for each and every one of the premises serviced.

C. No connection with the water or sewer utility or use of water shall be made through any extension of the service pipe of any other premises except as provided in this Section.

D. Nothing herein shall be construed to relieve any water or sewer utility applicant from paying any tap fee or hookup charge attributable to the new or increased water or sewer service.

(Ord. 114 §17(part), 1981).

8.16.140 Barricades and Safety Measures for Excavations. All excavations in the street with regard to water and sewer service shall be made in conformity to Town specifications and other ordinances of the Town and suitable barricades and guards shall be placed around such excavations, and shall be sufficient to protect all persons from injury and damage; and sufficient warning lights shall be kept illuminated near such excavations from twilight until sunrise in order to protect all persons from injury or damage thereby. The person making such excavations shall be liable for all injuries or damages resulting from his failure to do so. (Ord. 114 §18(part), 1981).

8.16.150 Testing of Completed Connection. When any tap for water or sewer service has been completed and the service is found to comply with the provisions of this Chapter, the Administrator or his appointee may test the connection to determine that the tap and service are in proper operating condition. No water shall be turned on by anyone except the Administrator or someone acting under his order. (Ord. 114 §19(part), 1981).

8.16.160 Maintenance of Service Pipes and Fixtures. The owner of any premises for which a water or sewer tap is made shall at all times keep all service pipes, fixtures and appliances from the point of connection at the customer side of the meter to and on his premises tight and in good working order so as to prevent any waste of water or leakage of sewage. In case any pipe or fixture shall be found to leak water or sewage, or be damaged, the owner shall forthwith repair and correct the same, and the owner shall be responsible for thawing frozen pipes from the point of connection with the main at the corporation stop to his premises. If after due notice to the owner by the Administrator to repair leaking or damaged service pipes or appurtenances, such repair is not made, the Administrator may have the service pipes or appurtenances repaired or replaced. Any

costs incurred by the Town in so doing shall be assessed against the owner and in so doing shall become a lien upon the premises and be satisfied against the same. (Ord. 114 §20(part), 1981).

8.16.170 Notice to Repair Defective Plumbing Fixtures--Discontinuance of Service for Failure to Comply. A. If, at any time, the Administrator shall ascertain that the plumbing fixtures or appliances on any premises are so defective as to waste water, it shall be his duty to immediately notify the user of the water or his agent to repair the same, and, if the same are not repaired within forty-eight (48) hours from the time of such notice being served upon the water user or the agent, the Administrator may shut off the water from the premises and immediately notify the customer.

B. It is unlawful for any person to fail or refuse to comply with the order provided in this Section.

(Ord. 114 §21(part), 1981).

8.16.180 Disconnections--Maintenance of Corporation Stop, Curb Stop, Curb Box and Meters. A. In case any owner of premises on which water is used shall cease to use water, and desires to disconnect his premises, he shall not be permitted to remove the corporation stop, curb stop, curb box or meter and appurtenances, except by order of the Administrator. Corporation stops, curb stops and curb boxes are the property of the Town and shall be removed only by order of the Administrator.

B. The owner of property serviced shall be responsible for the repair and maintenance of all service pipes, fixtures and appliances from the point of connection at the customer side of the meter to the premises and is further responsible for insuring that the meter, service line, curb stop and curb box do not become inaccessible by reason of landscaping, foliage or construction of improvements on the premises.

C. In the event a meter is damaged, or concealed or otherwise made inaccessible for reading, the Administrator shall direct that the water user be billed the flat rate for his water service until such time as the meter is again made operable or accessible by the owner.

(Ord. 114 §22(part), 1981).

8.16.190 Rules and Regulations. The Board of Trustees may make such rules and regulations as it may deem necessary for the safe, efficient and economical management of the Town water and sewer utility systems. (Ord. 114 §23(part), 1981).

8.16.200 Violation--Penalty. It is unlawful for any person to violate any of the provisions stated or adopted in this Chapter. Any such offense shall be deemed one of “strict liability”. Any person violating any of the provisions of this Chapter shall be deemed guilty of a Class B municipal offense. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Chapter is committed, continued or permitted. (Ord. 114 §24(part), 1981; Amended Ord. 258 §19(part), 2001).

Chapter 8.20

WATER RIGHTS DEDICATION

Sections:

| | |
|----------|--|
| 8.20.010 | Title. |
| 8.20.020 | Intent and Purpose. |
| 8.20.030 | Definitions. |
| 8.20.040 | Basic Dedication Requirement. |
| 8.20.050 | Exceptions. |
| 8.20.060 | Dedication of Water Rights for Open Space. |
| 8.20.070 | Procedures. |
| 8.20.080 | Agricultural and Open Space Property. |
| 8.20.090 | Option to Purchase. |

8.20.010 Title. This Chapter shall be known and may be cited as the “Town of De Beque Water Rights Dedication Ordinance.” (Ord. 116 §1(part), 1981).

8.20.020 Intent and Purpose. A. It is the intent and purpose of this Chapter to require the dedication of water rights prior to the extension of treated or raw water service to new customers or to existing customers with increased demand for water service and to thereby assure an adequate and stable supply of water to the Town service area; to prevent the abandonment of water rights to the detriment of the Town; to ensure the financial stability of the Town water utility; and to promote the general welfare of the public.

B. This Chapter, in part, provides a supplemental requirement for annexation as provided by state statutes and also supplemental requirements to the subdivision requirements of the Town, and does not eliminate, modify or replace any requirements set forth in other statutes or ordinances.

(Ord. 116 §2(part), 1981).

8.20.030 Definitions. “Annexation” means the act of attaching, adding, joining or uniting a parcel of land to the legal entity known as the Town.

“Appurtenant” means belonging to, accessory or incident to, adjunct, appended, annexed to or used in conjunction with.

“Board” or “Board of Trustees” means the Board of Trustees of the Town.

“Conveyance of water rights” means the legal process by which legal title to the water rights to be dedicated is transferred to the Town by appropriate deed, stock assignment or both.

“Dedication” means an appropriation of an interest in land or water to some public use, made by the owner, and accepted for such use by or on behalf of the public.

“Equivalent residential unit” (EQR) as used in this Chapter means a number related to the volume of water consumptively used by a single-family residential unit housing a statistical average of three and one-half (3.5) persons and having not more than two thousand five hundred (2,500) square feet of irrigated lawn or garden; that water consumption being 0.2 acre-feet per year. The consumptive use of all other uses is considered to bear the same ratio to the consumptive use of an average single-family residence as the EQR value assigned to that use in the Table of EQR’s as set forth in the Water and Sewer Tap Ordinance of 1981, Ordinance No. 114, as such table is amended, bears to the EQR value assigned to the single-family residence in the table of EQR’s.

“Extensions of service” means any extension of the municipal water utility for which a tapping or other capital reimbursing charge or services charge are assessed.

“Historical use affidavit” means a document which sets forth the following information concerning the water rights proposed for dedication:

1. The name(s) and address(es) of the owner(s) of all water rights owned by the party seeking extensions of service;
2. A legal description of the land to be annexed or provided with municipal water service;
3. The total number of acres to be annexed or provided with municipal water service;
4. The total number of acres presently being irrigated and/or intended to remain in irrigation;
5. A copy of all decrees concerning all water rights appurtenant to the property and all other rights owned or controlled by the party seeking extensions of service;
6. A copy of any legal decree or judgment which affects the title of those water rights entered since the owner received title to the water rights appurtenant to the property and/or proposed for dedication;
7. A copy of the documents by which the owner received title to the water rights appurtenant to the property and/or proposed for dedication;

8. A copy of all diversion records of the water rights proposed for dedication;

9. The owner's statement as to the historic use of the water rights appurtenant to the property and/or proposed for dedication.

“Lease” means any grant for permissive use which results in the creation of a landlord-tenant relationship.

“Person” means an individual, a partnership, a corporation, a municipality, or any other legal entity, public or private.

“Plat” is an accurately surveyed map or chart of a piece of land subdivided into lots with streets, alleys, roads and other such avenues of transportation delineated thereon and drawn to a scale.

“Replat” means to make a change in the original plat.

“Subdivide” means to separate into smaller divisions a tract of land into two (2) or more lots, tracts, parcels, sites, separate interests in common, condominium interests or other divisions for the purpose, whether immediate or future, of transfer of ownership, or for building or other development, or for street use by reference to such subdivision or a recorded plat thereof.

“Sufficient legal priority” means that the water rights proposed for dedication may reasonably be expected to provide a dependable water supply throughout the season of use in the amount for which they are decreed. In making this determination, factors to be considered shall include, but not by way of limitation, the adjudication date and appropriation date of the water rights, the decreed use(s), the historic use of the water under the decree, the physical flow available, and the administration practices of the Office of the State Engineer.

“Town” means the Town of De Beque, Colorado.

“Town Manager” means any Town Manager of De Beque, Colorado.

“Transfer of water rights” means the conveyance of legal title to water rights of the Town in addition to referring to all actions required under the laws of the State of Colorado to be brought in the Water Court, Water Division No. 5, to ensure that the dedication requirement is fulfilled. Such action may include, but not by way of limitation, a change in the type, place or time of use, a change in the point of diversion, a change from a fixed point of diversion to alternate or supplemental points of diversion, a change from alternate or supplemental points of diversion to a fixed point of diversion, a change in the means of diversion, a change in the place of storage, a change from direct application to storage and subsequent application, a change from storage and subsequent application to direct application, a change from a fixed place of storage to alternate places of storage, a change from alternate places of storage, or any combination of such changes.

“Transfer of water rights” includes transfer of conditional as well as absolute water rights.

“Water right” means a decreed right to use in accordance with its priority a certain portion of the waters of the State by reason of the appropriation of the same.

(Ord. 116 §3(part), 1981).

8.20.040 Basic Dedication Requirement. A. A dedication or transfer of direct flow and/or storage water rights to the Town shall be required prior to the approval of the annexation of any land to the Town, prior to all extensions of municipally treated water service outside the Town limits as said boundaries exist on the effective date of the Ordinance codified in this Chapter, and prior to the subdivision or replatting of any land now located within the Town if such subdivision or replatting requires a change of zone district or increases the demand for municipal water service.

B. The dedication requirement shall be calculated in accordance with the table of equivalent units as set forth in the water and sewer tap Ordinance No. 114, as such table may be amended, on forms provided by the Town. Such forms shall be accompanied by a historical use affidavit. For those persons whose compliance with this Section results in a total EQR of greater than thirty (30) EQR, no historical use affidavit shall be required, but an engineering analysis, acceptable to the Town, of the historic use of the water rights proposed for dedication shall be required.

C. The basic requirement shall be .2 AF/year of historic consumptive use of a water right of sufficient legal priority for each EQR calculated pursuant to subsection (B) of this Section. For raw water uses or other uses not calculated under the table of EQR’s, the basic requirement shall be the quantity of water to be required ultimately in the satisfaction of those use(s) as contemplated by the new user. If a party required to dedicate water pursuant to this Chapter can establish by a preponderance of the evidence that his actual use will be less than that calculated by reference to the table of EQR’s, he shall be required to dedicate only the lesser amount, it being the intent of this Chapter that the quantity of water dedicated be that quantity of water required ultimately in the satisfaction of the consumptive use or uses contemplated by the party.

D. The basic requirement shall be satisfied by the person seeking approval of annexation, subdivision, replatting or the extension of municipally treated water service, whether or not that person will be the ultimate user(s).

E. Sufficient water rights shall be dedicated so as to enable the Town to divert a quantity of water at any point of diversion it may determine, which will allow for the total consumption by the Town of the quantities set forth in subsection (C) of this Section.

(Ord. 116 §4(part), 1981).

8.20.050 Exceptions. A. The Town may substitute or waive any conditions or requirements deemed necessary to meet the purposes of this Section.

B. This Chapter does not apply to the extension of new municipal treated water service or raw water service for which the basic dedication requirement has been previously complied with by any person and where no increase in demand is constituted.

(Ord. 116 §5(part), 1981).

8.20.060 Dedication of Water Rights for Open Space. The owner of any property proposed to be annexed or subdivided who dedicates property to the Town pursuant to any other ordinance of the Town to be used for open space, park, aesthetic, recreation or irrigation purposes, shall also comply with the provisions of this Chapter. (Ord. 116 §6(part), 1981).

8.20.070 Procedures. A. In accordance with the basic requirements set forth in Section 8.20.040, the Town shall determine, after consultation with a person or persons skilled in the knowledge of water rights, whether the water rights proposed for dedication pursuant to the provisions of this Chapter will be of sufficient legal priority under the laws of the State to ensure the Town's ability to meet the service demands of the new user. This determination will be aided by an historic use affidavit and/or engineering report which must be provided by the new user.

B. The Town shall have the right, in its sole discretion, to accept or reject any water rights proposed for dedication pursuant to the provisions of this Chapter which the Town has determined do not have sufficient legal priority. If the Town determines that the water rights proposed fail to satisfy the basic dedication requirement, the following alternatives, or combination thereof, may be used to otherwise satisfy the basic dedication requirement:

1. The person required to comply with the basic dedication requirement may pay to the Town a cash amount equal to the fair market value of the water rights necessary to satisfy the basic dedication requirement, which the Town shall set, in its sole discretion, from time to time.

2. The Town may, in its discretion, negotiate with the new user to establish other terms or conditions which shall constitute compliance with the basic dedication requirement of this Chapter.

C. The new user shall dedicate the water rights determined by the Town by filing with the Town an offer thereof. It is the intent of this Chapter that no water service shall be extended to a new user until the agreed-to water rights have been dedicated to the Town; however, if there are matters pending resolution in the Water Court concerning the water rights to be dedicated, or if there is other delay beyond the control of the new user, the Town Board shall have the discretion to approve the extension of such water service prior to the dedication of water rights to the Town by the new user or person seeking approval of annexation, subdivision or replatting, new extension of

municipal treated water service, or extension of raw water service which will thereafter be used for beneficial purposes.

D. All costs and expenses attendant to the conveyance and transfer of water rights dedicated to the Town shall be borne by the new user.

E. Any decision made by the Town Board designate under the delegation of powers contained within this Chapter shall be submitted by him to the Town Board of Trustees at its next regular meeting, and the decision shall not become final until the same has been ratified by the Board of Trustees. Any interested parties shall have the opportunity to be heard with respect to the decision.

(Ord. 116 §7(part), 1981).

8.20.080 Agricultural and Open Space Property. If the owner of the property proposed to be annexed or subdivided desires to retain the land, or any portion thereof, in agricultural production or as open space prior to development, he shall be permitted to lease back, on an annual basis and for irrigation, aesthetic and recreational purposes only, the water rights transferred pursuant to this Chapter. The terms of the lease shall be negotiated with the Town Board of Trustees or their designate. (Ord. 116 §8(part), 1981).

8.20.090 Option to Purchase. A. Time. Any person required to comply with the basic dedication requirement shall also grant to the Town the option to purchase any and all water rights which are appurtenant to the land to be annexed but which are in excess of the basic dedication requirement. The option may be exercised by the Town at any time for a period of one (1) year following the date of the grant to the Town with regard to any or all of the water rights subject to the grant.

B. Price.

1. The option price shall be that price agreed upon by the parties. If the parties do not agree upon an option price within thirty (30) days after notice of the Town's intent to exercise its option is received by the owner, appraisal at the Town's expense will establish the price that reflects the fair market value of the water right(s).

2. The appraisal shall be conducted by one (1) appraiser appointed by the Town, one (1) appraiser appointed by the owner of the water rights, and a third (3rd) appraiser who shall be appointed by both parties. The average of the three (3) appraisals shall be the option price.

C. Right of First Refusal.

1. Grant of Right. In addition to the grant of the option to purchase by the new user(s), there shall be a grant to the Town by the user(s) of a right of first refusal regarding the water rights subject to said option to purchase. If the Town for any reason should choose not to exercise its option to purchase, it shall retain the right of first refusal in the event the water rights are sold independently of the land, for a period of ten (10) years following annexation or final approval, or replatting, or extension of water service to a subdivision.

2. Notice Period. If the owner of the water rights subject to the right of first refusal wishes to sell the water rights to a third party, he shall give to the Town at least ninety (90) days notice of his intention to effect a sale of the water rights by delivering to the Town a bona fide written offer to purchase made by a third party.

3. Exercise of Right. During the ninety (90) day notice period provided for in this subsection, the Town shall enjoy its right of first refusal entitling it to purchase the water rights proposed for sale. If within ninety (90) days following notice by the owner of his intention to sell his water rights, the Town chooses to exercise its right to purchase, then the Town shall pay to the owner the fair market price of the water rights prevailing at the time of the offer, which price shall be at least equal to the amount tendered to the owner in the bona fide offer by the third party. In the event that the Town determines not to exercise its right to purchase the water rights offered for sale, the owner shall be free to sell the water rights to a third party; provided, however, that any such sale to a third party shall be for a price which is at least equal to that price which was tendered to and refused by the Town.

(Ord. 116 §9(part), 1981).

Chapter 8.24

WATER POLLUTION

Sections:

- 8.24.010 Applicability.
- 8.24.020 Unlawful Actions.
- 8.24.030 Animals.
- 8.24.040 Violation--Penalty.

8.24.010 Applicability. This Chapter shall apply to the water intake system of the Town, which is defined as being at the intersection of the Colorado River, and the Colorado River Bridge, located immediately south of the Town. (Ord. 118 §3(part), 1981).

8.24.020 Unlawful Actions. It is unlawful for any person, firm or corporation:

A. To place, dump, throw, discharge or deposit any substance or material which will, in any manner, pollute or contaminate the water utility intake system of the Town;

B. To allow any polluting or contaminating substance to exist or to remain upon his premises in such position that such substance or the drainage therefrom may be carried by natural causes into the intake points of the water utility of the Town;

C. To permit or allow human or animal feces or other contaminating products to pollute or contaminate the water supply system of the Town.

(Ord. 118 §1(part), 1981).

8.24.030 Animals. No person or corporation, being the owner, herder or person in charge of any cattle, horses, mules, asses, swines, sheep or goats, shall graze, herd or hold any herd, bank, flock of such animals, or cause the same to be done, or knowingly cause, permit or allow to run at large, any such animals, at any point within one thousand feet (1,000') from the intake of the water utility system of the Town. (Ord. 118 §2(part), 1981).

8.24.040 Violation--Penalty. It shall be unlawful for any person to violate any of the provisions of this Chapter. Any such violation shall be deemed one of "strict liability". Every person convicted of a violation of this Chapter shall be deemed guilty of a Class A municipal offense. Each day or portion thereof during which any violation of any of the provisions of this Chapter is committed, continued or permitted shall constitute a separate offense. (Ord. 118 §4(part), 1981; Amended Ord. 258 §20(part), 2001).

Chapter 8.28

EMERGENCY TELEPHONE SYSTEM

Sections:

8.28.010 Established.

8.28.010 Established. A. The Mayor is authorized to sign an intergovernmental agreement creating the Mesa County Emergency Telephone Service in order to establish and maintain an emergency telephone service system in the County of Mesa, Colorado.

 B. There is imposed, pursuant to Colorado Revised Statutes, Section 29-11-101, *et seq.* 1973, as amended, upon all telephone exchange access facilities within the Town an emergency telephone charge in an amount not to exceed seventy cents (\$.70) per month. (Amended Ord. 217 §1, 1994).

 C. Telephone service suppliers providing telephone service in the Town are authorized to collect the emergency telephone charge imposed by this Chapter in accordance with Colorado Revised Statutes, 29-11-101 *et seq.* 1973, as amended. (Ord. 165, 1988).

Chapter 8.32

STANDARDS AND SPECIFICATIONS FOR PUBLIC FACILITIES AND IMPROVEMENTS

Sections:

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| 8.32.010 | Promulgation of Standards and Specifications. |
| 8.32.020 | Applicability. |
| 8.32.030 | Compliance Required. |
| 8.32.040 | Construction. |
| 8.32.050 | Inspection Authority. |
| 8.32.060 | Performance Guarantee--Letter of Acceptance. |
| 8.32.070 | Subdivision Improvements Agreement. |
| 8.32.080 | Disposition of Collateral. |
| 8.32.090 | Noncompliance--Construction to Be Stopped. |
| 8.32.100 | Notice of Noncompliance--Appeals. |
| 8.32.110 | Amendments. |

8.32.010 Promulgation of Standards and Specifications. The Town Administrator, in consultation with the Town Engineer, shall promulgate minimum standards and specifications related to the construction and design of certain public facilities, including, but not necessarily limited to, water, sanitary sewers, curb, gutter, sidewalks, streets, storm drainage, signs, culverts, bridges, fire hydrants, bicycle paths and street lighting within the Town. Said standards and specifications shall become effective thirty (30) days after issuance by the Town Administrator, unless altered, amended or rescinded by the Board of Trustees. The purpose of said construction and engineering regulations, standards and specifications shall be to provide a certain level of performance. At any time that it can be shown that an alternate design, material or procedure will provide performance equal to or better than the required design, material or procedure, said alternate may be approved by the Town Administrator. (Ord. 122 §1(part), 1981).

8.32.020 Applicability. Design, construction and engineering regulations, standards and specifications promulgated pursuant to this Chapter shall apply to all construction of specified public facilities within the corporate limits of the Town or to extensions of service from the Town facilities outside the corporate limits. (Ord. 122 §2(part), 1981).

8.32.030 Compliance Required. No person, firm, corporation, other entity or nonentity shall construct any public facilities specified in this Chapter or said standards and specifications which is located in the territorial limits of this Chapter, unless he has complied with the standards and specifications promulgated and shall have applied for a permit. (Ord. 122 §3(part), 1981).

8.32.040 Construction. A. Construction of specified public facilities shall be done in accordance with engineer's construction plans for the work, prepared under the direction of a registered professional engineer and approved by the Town. Plans shall conform with the Town minimum design standards promulgated.

B. All construction of any public facilities specified in this Chapter or in the minimum design standards promulgated shall be done by a contractor licensed by the Town. A permit shall be secured by the contractor from the Town, and notice given by the contractor at least forty-eight (48) hours prior to commencing construction. No permit shall be required for repairs to existing water and sewer lines not on public property or in public easements.

(Ord. 122 §§4, 5(part), 1981).

8.32.050 Inspection Authority. All work shall be inspected by a Town representative having authority for the maintenance or improvement of the public facilities under construction. Town representatives having inspection authority shall include the Town Administrator, the Town Engineer or consulting engineer, the Public Works Director, the building official or any other individual appointed by the Town Administrator. The Town Administrator shall, on the permit obtained by the contractor, indicate the Town representative responsible for inspections. (Ord. 122 §6(part), 1981).

8.32.060 Performance Guarantee--Letter of Acceptance. The contractor or developer shall warrant all work to be free of defects or workmanship or materials for a period of one (1) year from the date of acceptance by the Town. If work meets the standards and specifications promulgated by the Town Administrator, a letter of preliminary acceptance shall be given at the time of completion by the Town Administrator. A final letter of acceptance and release of the performance guarantee shall be given upon final inspection at the end of the warranty period provided the work still complies with said standards and specifications. In the event deficiencies are discovered during the warranty period, they shall be corrected by the contractor or developer prior to final acceptance. (Ord. 122 §7(part), 1981).

8.32.070 Subdivision Improvements Agreement. A subdivision improvement agreement with guarantees as provided herein shall be executed between the developer and the Town wherein the developer shall agree to install drainage structures, fire hydrants, curb and gutter, complete paving sidewalks, bicycle paths, culvert and bridges, street lights and signs, and other improvements where required, at his expense, either prior to acceptance of the final plat or within a specific time, no later than six (6) months from the start of any phase of the development, as approved by the Board of Trustees. In said subdivision improvement agreement, one (1) or more security arrangements shall be agreed to by the developer and the Town to secure the construction of such public facilities as are required by Town subdivision regulations or any other ordinance. The arrangements shall include collateral such as, but not limited to, performance or property bonds, private or public escrow agreements, irrevocable letters of credit, assignment or receivables, liens on property, deposit of certified funds, or other similar surety agreements, subject to approval by the

Town Attorney. (Ord. 122 §8(part), 1981).

8.32.080 Disposition of Collateral. As improvements are completed in accordance with Town minimum design standards, the subdivider or contractor may apply to the Town Administrator for a release of part or all of the collateral deposited with the Town. Upon inspection and approval, the Town Administrator shall release the collateral at the end of the warranty period stated in the subdivision improvement agreement, or earlier if the Town Administrator determines. If the Town Administrator determines that any such improvements are not constructed in substantial compliance with specifications, he shall furnish the developer and contractor a list of specific deficiencies and shall be entitled to withhold collateral sufficient to insure such substantial compliance. At the end of the period stated in the subdivision improvement agreement, or earlier if the Town Administrator determines that the developer or contractor will not construct any or all of the improvements, in accordance with the agreement and all of the specifications, he may with the concurring resolution of the Board of Trustees liquidate and withdraw and employ from the deposit of collateral such funds as may be necessary to construct the facilities or improvements in accordance with the specifications and agreements. (Ord. 122 §9(part), 1981).

8.32.090 Noncompliance--Construction to Be Stopped. When in the opinion of the inspecting official, or the Town Administrator, the specifications and standards of the Town are not being followed, said inspecting official shall have the authority to halt construction. Whenever any portion of the design standards is violated, the Town Administrator, by written notice, shall order further construction to cease until all deficiencies are corrected. A copy of the order shall be filed with the contractor's license. If deficiencies are not corrected, the Town may exercise all remedies as provided herein or at law. (Ord. 122 §10(part), 1981).

8.32.100 Notice of Noncompliance--Appeals. In the event the construction has been stopped for noncompliance with the standards and specifications of the Town, or in the opinion of the developer or contractor the requirements of said standards and specifications are unreasonable, the contractor or developer may petition the Town Administrator for a hearing. The contractor or developer may also, within thirty (30) days of receiving notice of noncompliance, petition the Board of Trustees and upon a majority vote of the entire membership, the Board of Trustees may approve said appeal or take other action consistent with the provisions of this Chapter. (Ord. 122 §11(part), 1981).

8.32.110 Amendments. Due to rapid changes in both construction materials and methods, the Town Administrator is directed to review promulgated design standards and specifications at least every twelve (12) months from the effective date and report those findings to the Board of Trustees. (Ord. 122 §12(part), 1981).