

**TOWN OF PONCHA SPRINGS
ORDINANCE #2012- 3**

AN ORDINANCE REPEALING AND REPLACING ORDINANCE #1983-3, ADOPTING RULES AND REGULATIONS CONCERNING THE OPERATION OF THE WATER SYSTEM OF THE TOWN OF PONCHA SPRINGS, COLORADO, AND THE OBTAINING OF SERVICES THEREFROM, AND FIXING FEES FOR CONNECTIONS TO THE WATER SYSTEM AND RATES FOR OBTAINING SERVICE THEREFROM.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PONCHA SPRINGS, COLORADO:

SECTION 1

GENERAL -- EXPLANATORY MATERIAL

1.1 POLICY AND PURPOSE. It is hereby declared that the Fees and Regulations hereinafter set forth will serve a public use and are necessary to insure and protect the health, safety, prosperity, security and general welfare of the inhabitants of the Town of Poncha Springs.

The purpose of the Fees and Regulations is to provide for the control, management and operation of the water system of the Town of Poncha Springs, including additions, extensions and connections thereto.

1.2 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used herein shall be as follows:

"Actual Cost" shall mean all direct costs applicable to the construction of a given facility, including construction, engineering, inspection, plan approval fees, "as-built" drawings and other costs necessary for completion.

"Board" and "Board of Trustees" shall mean the governing body of the Town of Poncha Springs.

"Contractor" shall mean any person, firm or corporation licensed by the Town to perform work and to furnish materials therefore within the Town.

"Customer" shall mean any person, company, corporation or governmental authority or agency authorized to connect to public water under a permit issued by the Town.

"Owner" shall mean the person owning the real property served by water service.

"Permit" shall mean written permission from the Town to connect to the public water main of the Town of Poncha Springs and pursuant to the Fees and Regulations of the Town.

"Person" shall mean any individual, firm, company, association, society, corporation or group.

"Stub-in" shall mean that part of the service line lying within the public right-of-way, including corporation stop, curb stop valve and service line from main to curb stop.

"Tap" or "connection" shall mean the connecting of the service line to the water main.

"Tap Fee" shall mean water system development fee.

"Town" shall mean the Town of Poncha Springs.

"User" shall mean any person to whom water service is supplied.

"Water Main" shall mean a Town-owned water pipeline, carrying potable water only and shall be installed in a public street, right-of-way or easement.

"Water Service Line" shall mean the privately owned water line extending from the curb box to the owner's building, and shall include the Town owned tap on the main, corporation cock, curb valve, curb box and meter.

"Water System Development Fee" shall mean a predetermined fee established by the Town Trustees and required to be paid to the Town before an individual service may be connected to the Town water system. This fee is non-transferable.

ANY OTHER TERM not herein defined shall be defined as presented in the "Glossary -- Water and Sewage Control Engineering", A.P.H.A., A.S.C.E., and W.P.C.F., latest edition.

SECTION 2

CONDITIONS OF USE OF WATER SYSTEM

2.1 Who May Use. Water service can be furnished only to persons whose property is included within, and subject to taxation by the Town, except as otherwise provided herein, and approved by the Board.

No person shall connect to and/or use the Town's water system without obtaining authorization from the Town and unless he/she complies with these Fees and Regulations. No water service may be obtained until owner's fees are paid to the Town. No water service will be available until all back charges are paid.

Water and service shall be taken only as a unit for those persons whose property is located in the Town limits, unless Town services are not reasonably available.

2.2 Responsibilities of the User and Owner. Each user/owner shall be responsible for installing the entire length of his/her water service lines and maintaining the service line from the down stream side of the meter to the building. This Ordinance shall overrule Figure 5 "Water Service Connectors" in the Town's Standard Design Criteria with regard to the delineation of responsibility for the water lines between the owner and the Town. Leaks or breaks in the owner's portion of the service lines shall be repaired by the owner within 72 hours after the owner has been given notification of such condition by the Town or its designated agent. If satisfactory progress toward repairing the said leak has not been made by the time specified, the Town shall have the authority to shut the water off. Such a situation shall be deemed an emergency and no further notice shall be required by the Town in addition to the 72 hour notice listed above.

2.3 Damage. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface

or tamper with any structure, appurtenance or equipment that is a part of the water system.

2.4 Water System. The Town's water system has been planned and constructed to provide potable water for conventional domestic and commercial uses and fire protection. Persons wanting to use the water system for an industrial water supply, which could be expected to require large quantities of water or unusual demand rates - as determined by the Town - shall be required to submit plans for the industry's water use before a permit will be issued; said permit may contain use limitations, as determined necessary by the Board.

2.5 Owner's Water Service Lines. No cross-connections between the Town water system and any other water supply line shall be permitted. All owners' water service lines shall be in compliance with the Colorado State Plumbing Code. The Town's authorized inspector shall have the right to access customer's premises for the purpose of inspecting customer water service lines. Except in the case of an emergency the Town shall provide 72 hours notice prior to inspection.

SECTION 3

SERVICE CONNECTIONS

3.1 Cost Responsibility. All cost and expense of the installation and connection of water service lines shall be borne by the owner. Tapping and installation of corporation cocks shall be performed by the Town. Owners shall purchase the water tapping saddles, corporation cocks, curb valves, curb boxes and service line materials. Owner shall purchase meters from the Town. The meter shall be located in the Town's right-of-way.

The owner shall be responsible for installing the water service line from the corporation stop at main to structure including meter box, unless already provided. The owner will pay a pre-set inspection fee to the Town for inspection of the entire service line. Under no circumstances shall anyone other than the Town perform the tapping of the main line. After Town inspection and approval, the Town will accept the entire service line which must follow the specifications of the Town of Poncha Springs Standard Design Criteria.

After inspection and acceptance by the Town, the owner will assume full responsibility for any repairs and maintenance from the service line at curb stop to the structure. The Town will assume full responsibility for repairs and maintenance from the upstream side of the meter to the water main. The water meter will be purchased by the owner from the Town. The Town will maintain and service the water meter at no additional cost to the owner.

3.2 Individual Water Service Lines. Each individual commercial structure hereinafter connected shall pay for an individual water tap and install separate water service lines for each commercial structure. Any variance from this requirement requires written approval of the Town. Each individual residential structure hereinafter connected shall pay for an individual water tap and install separate water service lines for each residence. Commercial and industrial property water tap size and usage shall be calculated following the "Standard Design Criteria" section 01010, Water Line Design Criteria, subsection 1.4B.

3.3 Specifications. All materials and installation shall be subject to the Town's approval and must follow the Town of Poncha Springs Standard Design Criteria if applicable. Water Service lines, and meter installation shall be inspected and approved by the Town prior to backfill and use. If backfilled prior to

inspection, access to the service line and meter shall be reopened at the owner's expense.

3.4 Water Service Taps. The owner shall obtain from the Town an application for tapping by the Town. The owner shall fill out the application and deliver it to the Town. The Town will set the date for tapping the mains. Taps shall only be made by the Town. It is the owner's responsibility to expose the mains and provide sufficient excavated area for tapping. Pipes shall be cleared all around for tapping.

3.5 New Construction. All new construction which includes water service must connect to the Town water system and pay the associated Water System Development Fees. Any property within Town limits that does not currently have Town water service, shall only acquire water service at the time of an application for a building permit for the property.

3.6 Water System Development Fees. All tap fees shall be known as Water System Development Fees and shall be paid in full at application for a building permit and before water service shall be provided. Water system development fees are established by the Board and provided by Ordinance 2007-7 which may be adjusted or amended from time to time. All water system development fees or "tap" fees are nontransferable and non-refundable. Under no circumstance may an existing tap be removed and retapped on another property. Tap or water system development fees may not be purchased without being assigned to a specific property. Once a property owner has purchased a right to service by paying the associated water system development fees, the Town is obligated to provide service to the property in a timely manner.

SECTION 4

EXTENSION POLICIES

4.1 Inside Town – Undeveloped Areas. This category shall include all unplatted lands within the original Town boundaries.

4.1.1 Procedures. After submission of the preliminary plat to the Board, and before approval of the final plat, the owner shall pay to the Town the cost of a preliminary engineering report, which will describe the cost estimate for the water distribution system within, or adjacent to the proposed plat.

Before final plat approval, the Owner shall furnish to the Town sufficient monies, or acceptable bonds or letters of credit, in the amount of the estimated actual cost of the water distribution system.

After plat approval, and at the time requested by the Owner, the Owner Contractor shall have constructed the water distribution system, at the sole cost of the Owner, and following the Town of Poncha Springs Standard Design Criteria.

4.1.2 Timing. The Board may govern scheduling of any taps and may defer permits until adequate water supply facilities can be constructed and placed in operation in order to serve the subject development.

4.2 Inside Town – Platted Areas. This category shall include all of the subdivisions platted at the time of Town Incorporation. All extensions of existing distribution lines will be paid for in full by the individual owner requesting extension of service and installation shall follow the Town of Poncha Springs Standard Design Criteria.

4.3 Areas Outside Original Town Limits. This category includes all areas outside the original Town Limits and whose owners petition for utilities. Such service will only be provided when the areas annex to the Town.

Procedures to be followed for providing service to these areas are as follows:

4.3.1 The owner of the land desiring water service (owner) shall request such service in writing. Information furnished to include:

- a. Description of area to be served,
- b. Description of proposed development,
- c. Timing of development, and
- d. Probable flow requirements.

This written application will then be reviewed by the Town.

4.3.2 If the Town Board indicates that the Town can serve the property, then the owner shall have prepaid an engineering feasibility report. This report may be arranged through the Town and prepared by the Town's Engineer, or it may be prepared by an engineer selected by the owner, in which case the owner shall pay the costs of report review by the Town's Engineer. If legal work is needed, the legal work shall be done by the Town Attorney, at the owner's expense. The applicant shall deposit with the Town Clerk an estimated dollar amount to cover anticipated legal and engineering expenses. Report information shall include, but not be limited to, the following:

- a. Refined information included in the original letter of application.
- b. Preliminary designs and cost estimates of water distribution required.
- c. Preliminary design and cost estimates of connection methods to the Poncha Springs system.
- d. Hydraulic and functional analysis of the combined systems which will show the effect of the added area on Poncha Springs' existing facilities.
- e. Tap fees, and legal conditions required in a contract for service.

4.3.3 The Town Board and Owner will review the report, and if the conditions for service are mutually agreeable, then the applicant shall have prepared, by the Town's attorney, a contract for utilities service. Such contract shall at least require:

- a. Payment of tap fees at the time of the building permit in accordance with the current rate schedule,
- b. Costs associated with connecting existing water main lines from the existing Town system to the proposed development will be the sole responsibility of the owner.
- c. All water distribution lines shall be paid for by the owner and shall be built to town quality standards. Drawings and specifications must be approved by the Town's Engineer. The work must be inspected by the Town in any event. Line sizes must be in accordance with the Town's Master Planning and Standard Design Criteria. The Owner is to pay actual project construction costs, including preliminary engineering, final design engineering, review, job inspection, as-built drawings, surveys, easements, etc.
- d. At the Town's option, the Owner shall either deed to the Town the entire water system after it has been

completed and accepted or the Owner shall agree to deed the water system to the Town upon demand of the Town.

e. The service area customers shall agree to abide by all of the fees and regulations governing use of the Town's systems.

SECTION 5

RATES AND CHARGES

5.1 Basis of Charge. Service charges shall include a base rate and be calculated from the reading of the meters by the Town, whereupon the Town will assess the charge for service based on Town of Poncha Springs Ordinance #2008-19, passed Dec. 8, 2008, which may be amended from time to time.

5.2 Billing and Payment. Statements for all charges shall be rendered monthly, shall be mailed the same week of every month and shall be payable within 30 days from billing date on statement. Charges for late payments, service line repair, etc. shall be added to the statements. Bills not paid shall be declared "overdue" and the Town may disconnect the water service within three days after "shutoff" notice.

5.3 Shutoff Notice. The Town will deliver by hand or registered mail to the user a shut-off notice; said shut-off notice will require the bill be paid within seventy-two hours of the time of service of the notice. If neither the owner nor the occupant can be located for personal service, it shall be lawful to attach the said notice to the front door. Until paid, all fees, and charges are subject to being certified to the County Treasurer for collection thus constituting a lien on the property.

5.4 Non-Continuous Service. Water service charges are made on a year round basis. A property temporarily unoccupied must pay for service continuously.

5.5 Discontinuation of Service. The property owner must pay the monthly water service fee to continue to have the right to service, whether they actually receive water or not, during the month paid for. A property owner may give up their right to service and the associated monthly service fee will not be charged, by completing a discontinuation of service request, available at Town Hall. If a property owner has requested discontinuation of service and completed a discontinuation of service request form and at a later date desires to re-establish water service to the same property, they will be required to pay a new water system development fee, in full, based on the then current rates, before service may be provided to the property.

SECTION 6

PENALTIES AND SEVERANCE

6.1 Applicability. These fees and regulations shall apply to all owners.

6.2 Liability. Any person violating any of the provisions of the fees and regulations shall become liable to the Town for any expense, loss or damage occasioned by reason of such violation.

6.3 Violations.

(a) Notice. Any person found to be in violation of the provisions of these Regulations shall be served with written notice by the Town of Poncha Springs or its designated representative. Such notice

shall state the nature of the violation, the compliance required and provide a reasonable time within which to comply. The time for compliance shall not exceed 30 days. The notice may be mailed by registered mail to the owner or served upon the persons in possession of the premises cited, or posted conspicuously upon the premises for a period of 10 days. Failure to comply with the notice shall constitute a violation of this Ordinance.

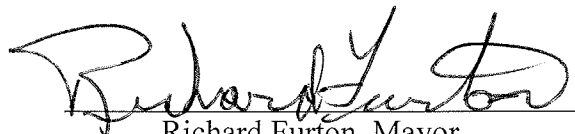
(b) In the event of failure to comply with the notice, the Town or its representative may take action as required in their sole discretion to prevent or abate actual or anticipated damage or danger to the system and such costs shall be properly charged against the property served and constitute a lien thereon.

(c) It shall be unlawful for any person, firm or corporation to fail to comply with any notice given pursuant to this Section 6. Any person, firm or corporation who shall fail to comply with such notice may be punished by a fine of not more than \$1,000.00 or by imprisonment for not more than a year or by both such fine and imprisonment.

6.4 Disconnection. In addition to, and notwithstanding, any other provisions and regulations, the Town may, at its opinion, disconnect the water line from any property owned by any person violating any of the provisions of these fees and regulations from the facilities of the Town. The costs of the disconnection and severance shall be charged against the property formerly served by the Town and, until paid, shall constitute a lien which shall be connected in the same manner as provided for herein for the collection of rates, tolls, fees and charges, or as otherwise provided by law.

6.5 Severability. If any provisions of this Ordinance or the application thereof to any person, situation or circumstance be held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications and provisions of this Ordinance are declared to be severable, the Board of Trustees expressly declaring that it would have passed this Ordinance and every paragraph, subparagraph, sentence, clause, phrase and word thereof irrespective of the fact that any one or more of the other paragraphs, subparagraphs, sentences, clauses, phrases, or words thereof may be declared invalid.

PASSED AND APPROVED THIS 27th DAY OF AUGUST, 2012, BY THE BOARD OF TRUSTEES OF THE TOWN OF PONCHA SPRINGS, COLORADO.


Richard Furton, Mayor

ATTEST:


Diana K. Heeney, Town Clerk

