

**TOWN OF BUENA VISTA, COLORADO
ORDINANCE NO.16
(SERIES OF 2018)**

AN ORDINANCE OF THE TOWN OF BUENA VISTA, COLORADO, REPEALING SECTION 13-48, REPEALING, REENACTING AND RENAMING SECTION 13-61, REPEALING AND REENACTING SECTION 13-62, REPEALING SECTION 13-63, AND AMENDING SECTION 13-64, ALL OF THE BUENA VISTA MUNICIPAL CODE CONCERNING COST RECOVERY FOR WATER SERVICES AND CLARIFYING THE PROCEDURES FOR WATER EXTENSION REQUESTS

WHEREAS, the Town realizes that there are some inconsistent provisions regarding cost recovery related to the Town's water services within the Municipal Code;

WHEREAS, the Board of Trustees desires to clarify those cost recovery provisions; and

WHEREAS, the Board of Trustees also desires to clarify the process for requesting a water main extension.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BUENA VISTA, COLORADO:

Section 1. Section 13-48 of the Buena Vista Municipal Code is hereby repealed.

Section 2. Section 13-61 of Buena Vista Municipal Code is hereby repealed, reenacted and renamed "General policies; service extensions and annexation."

- (a) Where both a water service connection and all points of service are within the corporate limits of the Town, the water service shall be considered "water service within the corporate limits of the Town," and shall be provided as set forth in this Code and in accordance with the plans, policies and resolutions of the Board of Trustees relating to water service as such exist at the time of the request for connection.
- (b) Where a water service connection or any point of consumption is outside the corporate limits of the Town, the water service shall be considered an "extraterritorial service extension" and shall only be made pursuant to a written water service agreement approved by the Board of Trustees and pursuant to the requirements of this Code. Such water service agreement shall comply with all applicable water service ordinances and regulations. The Town shall not be obligated to extend water service outside its corporate limits and may do so only upon a determination that it is in the interests of the Town.
- (c) Every application to annex property to the Town shall address the extension of the Town's water delivery system to serve the territory proposed to be annexed,

utilizing the criteria set forth in this Article. Every ordinance annexing territory to the Town not already served by the Town's water delivery system shall be accompanied by and incorporate a water service agreement described in this Article, unless the extension of municipal water service to the annexation territory is adequately addressed through the land use and/or annexation approval.

- (d) The cost of all new or enlarged water mains and appurtenant facilities needed to extend service to areas within or outside the Town's corporate limits shall be paid by the owner or developer of such area pursuant to this Article and Sec. 16.05.5.5 of this Code.
- (e) When water mains are extended from existing mains for purposes of any development, the Town and the developer may enter into an agreement for cost recovery pursuant to Sec. 16.05.5.5 of this Code. Development shall have the same meaning as provided in Sec. 16.07 of this Code. This provision is applicable even if the development itself is not under the Town's jurisdiction.
- (f) Lateral lines within the development shall not be considered for reimbursement. The developer shall extend main lines to the boundary of the development and through the development to the boundary of any adjoining parcel, to allow for future development and connection to the water system of adjoining properties, at the Town's sole discretion.
- (g) Notwithstanding the terms of the cost recovery agreement, any subsequent customer that connects to the line built by a developer shall pay the Town the applicable system investment fee.
- (h) The Town shall not be obligated to accept the water extension or accept any connections until all terms and conditions of this Code and the cost recovery agreement imposed on the developer have been met.
- (i) The developer shall acquire and pay for any necessary easements. In the event that the Town agrees to use its powers of condemnation to assist in the acquisition of easements, the developer shall pay all legal fees, costs and other expenses of such action.

Section 3. Section 13-62 of the Buena Vista Municipal Code is hereby repealed and reenacted to read as follows:

- (1) Requests for water main extensions shall comply with the following steps:
 - a. Submission of written extension request from applicant.
 - b. Board of Trustees' evaluation of written request.

- c. If Board of Trustees conceptually approves of the request, the applicant shall obtain an engineering feasibility report, evaluation of water rights, if water rights exist. If Board of Trustees do not conceptually approve of request, the applicant may submit a revised request in compliance with this Section.
- d. Submission of engineering feasibility report and evaluation of water rights, if applicable.
- e. Review by staff and consultants, as necessary.
- f. Referral and consideration of engineering feasibility report, evaluation of water rights, and water services agreement to Board of Trustees.
- g. If the Board of Trustees preliminary approves the engineering feasibility report, evaluation of water rights and water services agreement, the applicant shall prepare final construction plans and final costs estimates.
- h. Final constructions plans and final costs estimates shall be considered for approval by the Director of Public Works. The Director of Public Works may request revisions to comply with the preliminary engineering feasibility report and the original request, approved by the Board.

(2) Contents of written request:

- a. The legal description of the area to be served;
- b. A description of the proposed development, including number of units, type of units, amount of planned outdoor irrigation and such other information regarding the proposed development as shall be deemed necessary by the Public Works Department to fully assess the request;
- c. The proposed timing for the commencement and completion of the water delivery system and other infrastructure construction, as well as the timing schedule and anticipated completion date for build-out of the proposed development;
- d. The estimated water flow requirements for the development at full build-out;
- e. A description of the water rights, if any, to be conveyed to the Town pursuant to this Section and an acknowledgment that all individual wells on the property to be served must be abandoned upon the delivery of water service to the property;

- f. Written acknowledgment that the Town may require the annexation to the Town, in whole or in part, of the property served by the water service extension at such time or times as the Town may deem appropriate, provided that the legally requisite contiguity is present; and
 - g. Deposit, in an amount determined by the Town, to pay for the Town's costs associated with processing the request, including any necessary legal and/or engineering services engaged by the Town. Written acknowledgment that the applicant shall be obligated to pay for the Town's legal and engineering costs associated with the request.
- (3) Contents of engineering feasibility report. The applicant's engineering feasibility report shall be prepared by professional engineer registered in Colorado and shall include the following:
- a. Preliminary design drawings for all proposed water mains and system infrastructure, including a description of line sizes and lengths and all hydrants, storage facilities, pump stations, water treatment facilities and other planned infrastructure;
 - b. A listing or description of any and all easements deemed necessary for the installation of the proposed water system extension;
 - c. Preliminary cost estimates for the entire water system to be constructed, including connection charges and water distribution costs;
 - d. Hydraulic and functional analyses of the proposed water system which will show the effect of the added water service and service area on the Town's existing facilities;
 - e. Preliminary cost estimates for any required off-site water treatment, transmission, storage or pumping facilities; and
 - f. Water flow requirements, including number of taps, anticipated average daily usage, peak flow requirements and fire demand.
- (4) Water rights dedication.
- a. Documented proof of the availability of water rights acceptable to the Town to be provided by the applicant to meet the anticipated water service demand to be generated by the proposed development, and documented proof of approval, or the pending approval, of the proposed development project by the County. For the purposes of this Subparagraph, *water rights acceptable to the Town* shall mean such water rights as are determined by the Town, upon the expert advice of its water rights consultants and in its

sole discretion, to be sufficient in quantity and seniority to reliably provide for the proposed demands of the project.

- b. Alternatively, and at the Town's option, the developer shall provide a cash payment to the Town in lieu of dedicating the necessary water rights, such payment to be in an amount determined by the Town upon the expert advice of its water rights consultants, and in its sole discretion, to be reasonably necessary to purchase water rights of sufficient quantity and seniority to reliably provide water satisfying the demands of the development or property to be served.
 - c. The Town may waive, in whole or in part, the water rights dedication requirement if the Board of Trustees, in its sole discretion, determines that such a waiver would serve the Town's best interests.
- (5) Water Services Agreement. The water services agreement, in a form provided by the Town, shall run with the property that is the subject to the request and incorporate at a minimum the following:
- a. Construction drawings.
 - b. Inspections.
 - c. Requirements for easements and permits.
 - d. Maintenance responsibilities.
 - e. Description of water rights to be conveyed to the Town or amount of fee in lieu cash payment.
 - f. Agreement to annex the property to the Town at such time as the Town deems appropriate.
 - g. Commitment to pay Town's fees and costs for processing the request.
- (6) Final construction plans.

The developer shall furnish the Town with copies of final construction plans, all existing and future surveys, as-built drawings and plans and specifications.

Section 4. Section 13-63 of the Buena Vista Municipal Code is hereby repealed.

Section 5. Section 13-64 of the Buena Vista Municipal Code is hereby amended by the replacement of references to "Chapter 17 of this Code" and "Chapter 17" with "this Code."

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this 14th day of August, 2018.

THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY DAYS FROM PUBLICATION.



TOWN OF BUENA VISTA, COLORADO

By: _____

Duff Lacy, Mayor

ATTEST:

Paula Barnett

Paula Barnett, Town Clerk