

**ORDINANCE NO. 764**

**AN ORDINANCE AMENDING CHAPTER 13 OF THE DACONO MUNICIPAL CODE  
REGARDING WATER SERVICE**

**WHEREAS**, the City Council desires to amend the City's ordinances regarding water service to reflect the Water Advisory Board and Water Commissioner are no longer used by the City Council to advise on water-related matters, that the City no longer operates a non-potable irrigation water system, and to expand the authority of the City's administrative staff to promulgate rules, regulations and procedures to assist in the efficient administration of the City's water system.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF DACONO, COLORADO:**

**Section 1.** Chapter 13, Article 1 of the Dacono Municipal Code is hereby amended to read as follows (words to be added underlined; words to be deleted ~~stricken~~):

**ARTICLE 1**

**Water Service**

**Sec. 13-1. Definitions.**

As used in this Chapter, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

*City Administrator* shall mean the City Administrator or his or her designee.

*City water service* or *water service* shall mean service from the City water system.

*City water system* shall mean all water and water rights, waterworks, water mains, water lines, equipment and appurtenances thereto, and machinery and supplies used by the City to supply potable water and untreated irrigation water.

*Record owner* shall mean the person, corporation or other entity holding title to property. However, if some other person, corporation or other entity provides proof satisfactory to the City ~~water department~~ that such other person, corporation or other entity is serving as the bona fide management agent of the record owner pursuant to a written agreement with the record owner, the City ~~water department~~ may grant written permission to such other person, corporation or other entity to perform some or all of the responsibilities of the record owner provided for in this Chapter.

*Service line* shall mean the water delivery pipeline running from the water meter to the property served by the water meter.

*Supply line* shall mean the water delivery pipeline running from the City water main to the point of connection with the water meter for the property.

~~*Untreated irrigation water* shall mean the nonpotable water available to those properties having access to the irrigation facilities of the City and available during the months established pursuant to irrigation.~~

~~*Water advisory board* shall mean a three (3) member board appointed from time to time to serve as an advisory body to the City Council on water-related matters.~~

~~*Water commissioner* shall mean the member of the City Council appointed from time to time to serve as water commissioner, or his or her designee.~~

**Sec. 13-2. Terms and conditions of service; charges a lien.**

(a) All persons, corporations or other entities using City water and all record owners of properties receiving City water service shall be subject to the terms and conditions of this Chapter, and of other applicable ordinances, resolutions, rules, regulations and contracts.

(b) All charges imposed pursuant to this Chapter are a lien on the property served from the time the charge is due until paid. In the event that any person in possession of any premises pays the entire charges due and owing, the payment shall relieve the owner from such liability and the premises from the lien; however, the City shall not be required to look to any person whatsoever other than the record owner of property for payment of any charge, or performance of any responsibility, imposed pursuant to this Chapter with respect to such property.

(c) No change of ownership or occupancy of any property shall affect the application of this Chapter or any of its provisions and the failure of any successor in interest of any record owner to learn that the successor ~~purchased~~ acquired property against which a lien exists pursuant to this Chapter shall not affect the successor's liability for payment in full. No such successor, nor any occupant of property, nor any user of the City's water system shall have the right to make any claim of any kind whatsoever against the City for refusing to furnish water service until payment of all amounts due pursuant to this Chapter ~~has~~ have

been paid in full.

**Sec. 13-3. Rates and regulations.**

~~Upon the recommendation of the water advisory board, the~~ The City Council Administrator or the Administrator's designee may promulgate such written rules and regulations consistent with this Chapter as ~~it he or she~~ considers necessary to implement and enforce this Chapter, and is further authorized to implement such procedures for the efficient administration of this Chapter including but not limited to establishing billing periods and due dates for charges, and procedures and requirements for collection of delinquent charges.

**Sec. 13-4. Water tap permit application.**

(a) Application for a water tap permit for connection to the City water system shall be made by the record owner of the property to be connected upon forms provided by the City. The completed application shall be accompanied by payment of the water tap fee established pursuant to resolution.

(b) No water tap permit shall be granted until all applicable fees have been paid, the City has determined the water tap requested is of a sufficient size for the use to be served, and any other applicable conditions of any City ordinance, resolution, rule, regulation or contract have been met.

(c) No water tap permit shall be granted until the applicant has provided the City with evidence satisfactory to the City that arrangement for sewer service to the property, or other arrangements for ~~sewer~~ sewage disposal satisfactory to the City, have been made.

(d) In addition to any other conditions applicable to the granting of a building permit, no building permit shall be granted for the construction of any structure for which water service is required by the City until a water tap permit has been applied for and has been granted.

(e) The water tap permit shall be forfeited automatically one (1) year after the date the permit was granted if the water tap has not been installed and has not been certified to the Central Weld County Water District by such date. If so requested by the record owner prior to the date of forfeiture, a permit may be renewed for successive one-year terms upon the record owner's payment of any difference between the fees paid at the time of original issuance of the permit and the fees in existence at the time of renewal, together with the tap permit renewal fee established by resolution.

(f) A separate water tap and meter shall be required for each single-family dwelling, multi-family dwelling and business, either commercial or industrial.

(g) No water service shall be provided from a water tap to any property other than a single-family dwelling, multi-family dwelling or business, either commercial or industrial.

(h) No water tap permit shall be granted to serve any property outside the areas served by City water mains except pursuant to a service agreement with the City. The service agreement shall contain provisions for payment by the record owner of such property of a main extension fee in the amount established by resolution or, in the City's option, of a master meter fee in the amount established by resolution, and such other provisions as the City Council determines to be in the best interest of the City.

(i) The City may by agreement provide water service to property outside City boundaries on such terms and conditions as the City Council determines to be in the best interests of the City. No such agreement shall contain any guarantee of continued service to any property outside the City boundaries.

~~(j) — Applications for water tap permits for taps outside the City limits or taps of one (1) inch or greater shall be subject to the recommendation of the water advisory board and the approval of the City Council, and applications for water tap permits inside the City limits and of less than one (1) inch shall be subject to the approval of the City water department.~~

(kj) The installation of taps shall be in accordance with the ordinances, resolutions, rules and regulations of the City.

**Sec. 13-5. Water service application Request for water service.**

~~(a) Application for City water Water service shall be made may be requested by the record owner of the property to be served upon forms provided by the City. As a condition of service, the City may require evidence of the record owner's title to the property. The completed application shall be accompanied by a water service deposit in the amount established by resolution. The deposit shall be kept in a water service deposit account within the City's water fund and shall be used only for the purposes allowed by this Chapter. The deposit, less any amounts applied to any charge imposed pursuant to this Chapter, shall be returned to the record owner without interest within a reasonable time after a new record owner of the property has applied for and has been approved for water service.~~

~~(b) — The water service application shall be accompanied by evidence of the record owner's title to the property to be served and an executed agreement whereby the record owner agrees to comply with the conditions required by the City. Applications for service inside the City limits from taps of less than one (1) inch shall be subject to the approval of the City water department and applications for service outside the City limits or service from taps of one (1) inch or greater shall be subject to the recommendation of the water advisory board.~~

(e b) For taps installed on and after January 1, 1989, installation of all equipment and appurtenances from the water main to and beyond the point of connection with the property served, including the supply line, meter, pit, yoke, remote reading device, and service line, shall be the responsibility of and at the expense of the record owner. The location, type and make, and other specifications of and requirements pertaining to, such equipment and appurtenances shall be as provided by City ordinances, resolutions, rules and regulations.

~~(d c) Upon the recommendation of the water advisory board, the~~ The City Council may promulgate and enforce rules and regulations for cross-connection control consistent with the Cross Connection Control Manual published by the state department of health, as from time to time amended.

(e d) The City may require the installation of a backflow prevention device, at the expense of the record owner of the property to be served by the device, in any circumstance where the City determines that such device is necessary for the protection of the City water system. ~~If the record owner fails to install such device following notice from the City water service after giving written notice and the opportunity for a hearing in the manner provided in Section 13-10, except that the City Council's determination, based upon the recommendation of the water advisory board, under Section 13-10(4)c, shall be limited to a determination whether the device is in fact necessary for their protection of the City water system, or the City may cause the device to be installed and charge the costs of such installation to the record owner; provided, however, the City shall first provide the record owner ten (10) days written notice of the City's intent to install such device at the record owner's expense and advise the record owner of their right to request a conference with the City Administrator prior to such installation. At such conference, the sole issue to be determined shall be whether the device is in fact necessary for protection of the City's water system.~~

#### **Sec. 13-6. Charges for water service.**

(a) Charges for water service shall be billed to the record owner of the property receiving the service and shall consist of the following:

(1) The capital improvements fee, payable at the rate established by ordinance; and

(2) The water usage charge, payable at the rate established by ordinance; and.

~~(3) For nonpotable water from the City's wells, the charge established by ordinance shall be paid by the water user prior to or at the time of delivery of the water.~~

(b) The record owner of property for which a water tap permit has been granted shall commence payment of the capital improvements fee and the minimum water usage charge upon installation of the tap and certification of the tap to the Central Weld County Water District, even if water service is not then being provided to the property.

~~(c) Billing of the capital improvements fee and the minimum water usage charge shall be terminated only after the record owner's execution of an agreement whereby the record owner, with the written permission of all other persons, corporations and other entities having any recorded interest in the property, and on behalf of all successors, heirs and assigns of the record owner, agrees to forfeit forever the water tap, agrees to the physical removal of the meter, and agrees to pay all costs associated with the removal of the meter relinquishment of the water tap pursuant to Section 13-12.~~

(d) Revenues from the capital improvements fee shall be used by the City only for payment of the general obligation water bonds of the City or for line replacement and other capital costs of the water system.

~~(e) The water usage charge and all other charges for water service shall be delinquent if payment is not received by the City by the time established by ordinance.~~

~~(f) The water usage charge and all other charges for water service shall be delinquent if payment is not received by the City by the time established by ordinance the City Administrator and printed on the bill.~~

**Sec. 13-7. Service interruptions.**

The City shall have the right at any time, without notice, to interrupt water service in any portion of the water system or to any user thereof for any purpose necessary or useful in the operation, maintenance, repair or betterment of the City water system or for other City purposes. Neither the City nor its officers or

employees shall be liable for any damages that may occur directly or indirectly from the interruption or discontinuation of water service for any purpose or reason.

**Sec. 13-8. Responsibility for equipment and appurtenances.**

(a) All equipment and appurtenances from and beyond the point of connection of the meter with the service line, shall be the responsibility of the record owner to maintain in accordance with applicable requirements of the City. The meter, pit, yoke and remote reading device shall be maintained, repaired and replaced by the City, but such maintenance, repair or replacement shall only be that required by ordinary wear and tear. Any maintenance, repair or replacement necessitated by any alteration of, obstruction of, or interference with the meter, pit, yoke or remote reading device, shall be the responsibility of the record owner.

(b) If the City determines that any portion of the equipment and appurtenances for which the record owner is responsible pursuant to this Chapter has not been installed properly or is otherwise in need of maintenance, repair or replacement, and the record owner fails to perform such maintenance, repair or replacement following notice from the City- ~~water department,~~ the City may discontinue water service- ~~after giving written notice and the opportunity for a hearing in the manner provided in Section 13-10-~~ until the maintenance, repair or replacement has been performed by the record owner, ~~except that the City Council's determination, based upon the recommendation of the water advisory board under Section 13-10(4)e,;~~ provided, however, the City shall first provide the record owner ten (10) days written notice of the City's intent to perform such maintenance, repair or replacement at the record owner's expense and advise the record owner of their right to request a conference with the City Administrator prior to such maintenance, repair or replacement. At such conference, the sole issue to be determined shall be whether the shall be limited to a determination whether such maintenance, repair or replacement is in fact needed, or the City may cause the maintenance, repair or replacement to be performed and charge the costs thereof to the record owner.

**Sec. 13-9. ~~Charges a lien. [Reserved]~~**

~~All charges imposed pursuant to this Chapter are a lien on the property served from the time the charge is due until paid.~~

**Sec. 13-10. Delinquencies; remedies.**

If any charge imposed pursuant to this Chapter is not paid by the due date, the City may avail itself of any or any combination or the following remedies, in addition to any other available remedies:

(1) The City may foreclose the lien imposed by this Chapter in accordance with law.

(2) The City may maintain an action in any court of competent jurisdiction for the amount of the charge due and any interest, costs and attorney's fees as allowed by law.

(3) The City may certify the amount of the charge due to the County Clerk, and Treasurer, together with the assessment fee provided for by resolution, to become an assessment upon the property served and to be collected and paid over to the City-Treasurer in the same manner as taxes.

(4) The City may discontinue water service in the following manner:

a. All City water bills shall contain a notice regarding service termination for nonpayment, which notice shall advise that once a bill becomes delinquent the City will send a notice of termination of service that shall give a date by which payment must be received or service will be disconnected, and which date shall be no sooner than ten (10) days after the date the disconnect notice is mailed. The notice on the water bill shall further advise that if the occupant or record owner does not believe reasonable cause exists for the proposed termination of service, a written request for a conference with the City Administrator may be filed prior to suspension. At such conference, the sole issue to be determined shall be whether the delinquency in fact exists and the amount of the delinquency. The City Clerk shall send a written discontinuation notice to the record owner stating that water service will be discontinued on a specified date, which date shall be no sooner than ten (10) days after the date the notice is mailed.

b. ~~The form and content of the written notice provided for in subparagraph a of this subsection (4) shall be determined by a recommendation of the water advisory board and regulation of the City Council, but the notice shall state that there is a right to appeal to the water advisory board and City Council the decision to discontinue water service if the appeal is requested in writing by the record owner and if the request is received by the City Clerk before the close of business, pursuant to office hours established from time to time, at least two (2) days prior to the date specified for discontinuation.~~

~~e. — The appeal provided for in subparagraph b of this subsection (4) shall be limited to a determination by the City Council, based upon recommendation of the water advisory board whether the delinquency in fact exists and the amount of the delinquency.~~

~~d b.~~ If a discontinuation notice is sent pursuant to this subsection (4), a notice late fee in the amount established by resolution shall be charged to the record owner.

~~(5) — The City may apply the amount of the record owner's deposit to any delinquent amount of any charge imposed pursuant to this Chapter and applicable to the record owner's property. The record owner shall pay, within ten (10) days after the deposit has been so applied, an additional deposit in the amount needed to make the total amount of the deposit held by the City for the property twice the amount of the water service deposit amount established pursuant to resolution.~~

~~(6 5)~~ If payment of any charge imposed pursuant to this Chapter is made by a dishonored check, a bad check fee in the amount established by resolution shall be imposed in addition to such charge, and such charge shall be considered delinquent in the same manner as if no payment had been made.

~~(7 6)~~ The payment of any charge imposed pursuant to this Chapter shall be considered delinquent if not received in the offices of the City before the close of business, pursuant to office hours as established from time to time, on the last day specified for payment pursuant to this Chapter.

~~(8 7)~~ If water service is discontinued as provided in this Section, water service shall not be reinstated to the property until the record owner has paid in full all charges imposed pursuant to this Chapter and due the City, and has paid in full all amounts due the City pursuant to any other fee, assessment or other charge which has been imposed by the City pursuant to this Code and which has been made a lien against the property.

**Sec. 13-11. Unlawful acts.**

(a) It is unlawful to fail to comply with any provision of this Chapter or of any resolution, rule or regulation adopted pursuant to this Chapter.

(b) It is unlawful to fail to pay any charge imposed pursuant to this Chapter.

(c) It is unlawful to use water from the City water system in violation of any mandatory water restrictions imposed by resolution.

~~(d)~~ It is unlawful for any person to connect any pipe, tube, stopcock, wire, cord, socket, motor or other instrument or contrivance with any portion of the City water system without the knowledge and consent of the City.

~~(2 e)~~ It is unlawful to damage any portion of the City water system.

~~(3 f)~~ It is unlawful to trespass upon any City property constituting a part of the City water system.

~~(4g)~~ It is unlawful in any manner to alter, obstruct or interfere with the action of any City water meter or any equipment or appurtenances thereto without the knowledge and consent of the City.

~~(5)~~ In addition to any other remedies, if the City determines that the action of any water meter or any equipment or appurtenances thereto has been altered, obstructed or interfered with in violation of ~~paragraph (4) of this subsection (d) this subsection (g)~~, the City shall discontinue water service to the property served, after giving written notice and the opportunity for a ~~hearing conference with the City Administrator~~ in the manner provided in Section 13-10., ~~except that the City Council's determination, based upon recommendation of the water advisory board under Section 13-10(4)e,~~ Any such conference shall be limited to a determination whether such alteration, obstruction or interference has in fact occurred. The City shall not reconnect water service until full payment has been made for all water used, for all necessary repairs to or replacement of the meter or other equipment and appurtenances thereto, and for all other charges due pursuant to this Chapter.

~~(e h)~~ It is unlawful to use any water from the City water system for irrigation purposes except from a hose or irrigation system to which is attached a sprinkler head or nozzle.

~~(f i)~~ It is unlawful for any record owner of property to fail to keep all equipment and appurtenances that are the responsibility of the record owner to maintain pursuant to this Chapter in good working order so as to prevent waste of water and damage to the City water system.

~~(g j)~~ It is unlawful to deposit in any part of the City water system any substance or material that will in any manner injure or obstruct any portion of the

system or any substance that would tend to pollute or contaminate the water or obstruct the flow of water.

**Sec. 13-12. Transfer of water tap permits; relinquishment of water tap permits.**

(a) No transfer of a water tap permit shall be permitted.

(b) A record owner of a lot may relinquish a water tap permit by ~~applying for and receiving the City Council's approval of a "Meter/Tap Removal Agreement."~~ ~~The "Meter/Tap Removal Agreement" shall contain such terms and conditions as the water commissioner determines necessary or desirable for the protection of the City water system filing a "Meter/Tap Relinquishment" on forms to be provided by the City Clerk.~~ Upon such relinquishment, all rights of the owner to said tap shall be forever extinguished, and any request by the owner or by any successor in interest to the owner for the installation of a tap on the lot shall be subject to all terms and conditions existing at the time of the request, including payment of all applicable fees.

**Section 2.** Chapter 13, Article 2 of the Dacono Municipal Code, titled Water Advisory Board, is hereby deleted.

**Section 3.** If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 4.** All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED AND POSTED IN FULL this 23<sup>rd</sup> day of April, 2012.**

**PUBLIC HEARING AND SECOND READING WILL BE THE 11<sup>th</sup> day of June, 2012, AT 6:00 P.M. AT DACONO CITY HALL, 512 CHERRY STREET, DACONO, CO.**

**READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE this 11<sup>th</sup> day of June, 2012.**

CITY OF DACONO, COLORADO

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Charles Sigman, Mayor

ATTEST:

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Valerie Taylor, City Clerk

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Summary of Ordinance No.764, “**AN ORDINANCE AMENDING THE CHAPTER 13 OF THE DACONO MUNICIPAL CODE REGARDING WATER SERVICE**” Updates the City’s water ordinances to reflect the City Council no longer appoints a water commissioner or water advisory board, that the City no longer operates a non-potable irrigation system, and to authorize the City’s administrative staff to promulgate rules, regulations and procedure for the efficient operation of the City water system.