

**TOWN OF RICO
ORDINANCE NO. 2018-02**

AN ORDINANCE OF THE TOWN OF RICO, CONCERNING THE ABILITY TO IMPLEMENT WATER RESTRICTIONS AND SET FORTH PENALTIES FOR NON-COMPLIANCE

WHEREAS, the water supply for the Town of Rico is a precious, valuable and critical resource;

WHEREAS, the Town has seen periods of drought that significantly impact the local water supply, threatening the health, safety and welfare of the Town of Rico and its inhabitants;

WHEREAS, pursuant to the Rico Home Rule Charter §10.3, the Town has the power to buy, exchange, lease, sell, own, control and otherwise deal in water rights;

WHEREAS, the interests of the Town and its inhabitants are best served by a plan ensuring continued availability and delivery of water at all times, including times of drought, environmental and, or, other man-made conditions;

WHEREAS, the Town of Rico recognizes the need to enforce and ensure the efficacy of such restrictions by penalizing noncompliance therewith to better protect its water resources; and

WHEREAS, the Board of Trustees has the authority to declare an emergency ordinance, if necessary, for the immediate preservation of the public peace, health or safety of the citizens pursuant to Rico Home Rule Charter §3.6, as amended.

THE BOARD OF TRUSTEES OF THE TOWN OF RICO ORDAINS, as follows:

A. Water Shortage. A water shortage may be declared when one (1) or more of the following circumstances exist:

1. When the Town of Rico's total water treatment capacity, as determined by the Town Manager utilizing the total combined treated water available from the Town's well and such other potable water supply systems as may be developed, and potable water consumption are approaching or at:

- a. eighty percent (80%) for voluntary conservation;

- b. ninety percent (90%) for mandatory conservation; or
 - c. the Town Manager otherwise determines that the Town's raw water supply or water treatment system is insufficient to satisfy the daily water use demands for the applicable time period.
2. When the Town is unable to treat sufficient water to maintain its treated water storage tanks located above the Town of Rico or any other raw or treated water storage reservoirs developed by the Town, at their maximum capacity.
 3. When an emergency condition arises, such as a mechanical breakdown or reduced treatment capacity due to high stream turbidity, insufficient raw water supply or fire flow requirements.
 4. When any or all of the above is anticipated to occur in the near future and it is determined that immediate imposition of conservation measures is necessary to ensure adequate time for public awareness and education to ensure the level of compliance required.
 5. When implementation of water conservation measures is required by reason of any water court decree or stipulation.
- B. Declaration of Shortage.** The Town Manager or the Rico Board of Trustees, as the case may be, shall determine if a water shortage exists, whether to implement voluntary or mandatory conservation measures and which of the measures identified below to implement. If so determined, the Town Manager, shall make or cause to be made public announcements in the news media that voluntary or mandatory conservation measures are in effect and shall include a description of the conservation measure or measures to be implemented.
- C. Conservation Measures.** The Town Manager or Board of Trustees may impose any one (1) or more of the following as voluntary or mandatory conservation measures in the event of a water shortage. The listing below is not in order or preference, nor is imposition of one (1) a condition precedent to imposition of any following measures:
1. Persons will be urged to conserve water in every possible way in their homes and businesses.
 2. Persons will be urged to avoid sprinkling their lawns and watering gardens, shrubs, trees or plants unless needed to avoid damage or loss and, at any rate, not more than every second day

for not more than thirty (30) minutes within a twenty four (24) hour period.

3. Washing of public or private sidewalks, streets, driveways, parking areas, patios or other paved areas with municipal treated water shall be prohibited.
4. Power washing of structures with municipal treated water shall be prohibited.
5. Filling, refilling or replacement of water in hot tubs or landscape water features with municipal treated water shall be prohibited; provided, however, that the Town Manager may permit filling of hot tubs or water features to make up for losses through evaporation or use.
6. Installation of new public or private landscaping shall be prohibited. In the event that landscaping is required as a condition of development approval, the requirements will toll during the period of imposition of conservation measures but eventual installation will continue to be secured by any required bonding.
7. Service of water to restaurant patrons shall be prohibited unless requested by the patron.
8. Noncommercial washing of cars or other motor vehicles, trailers or boats with municipal treated water shall be prohibited, except by bucket.
9. Use of municipal treated water for commercial car washes shall be prohibited.
10. Use of municipal treated water for irrigation for any public or private lawns, gardens, trees, shrubs, plants, municipal or school fields, or similar grass areas shall be prohibited except for a period not to exceed thirty (30) minutes, between the hours of 9:00 p.m. to 9:00 a.m., and only on days designated by the Town Manager.
 - a. Pursuant to this subsection 10, the Town Manager shall establish a schedule for irrigation that may be determined by any method he or she deems appropriate, including the establishment of zones within the area receiving municipal water service.

- b. The restrictions in this subsection shall not apply to any person engaged in the business of growing or selling plants of any kind, with respect to water for such plants only.

D. The Board of Trustees may, in the event of a water shortage, impose by ordinance the following conservation measures:

1. A prohibition against any new connections to the municipal water system; including pending site-specific development plans on the date of the adoption of the ordinance imposing this restriction pursuant to Rico Land Use Code 110.6. For purposes of these restrictions, pending site-specific development plans means any applications for development that requires new or additional water taps.
2. Prior to and as a condition of implementing, the Trustees shall find and determine:
 - a. the water shortage is of such severity or possible duration that imposition of the water conservation measures described in section C, above, are inadequate and immediate imposition of the water conservation measures described in this section is required for the preservation of public peace, health or safety.
 - b. The facts underlying such a determination shall be specified in the ordinance imposing the measures.

E. **Applicability.** The water conservation measures shall apply to all users and properties served by the municipal water system.

F. **Duration.** Any voluntary or mandatory conservation measure imposed, and the duration thereof, shall be reasonably calculated to address the identified water shortage.

G. **Termination.** Voluntary or mandatory conservation measures may be reduced or terminated upon the announcement of the Town Manager (or Board of Trustees with respect to measures imposed by the Board of Trustees) when the water shortage requiring such measures has abated.

H. **Violations.** Whenever a violation of a mandatory water conservation measure is observed, or whenever probable cause exists to believe a violation of a mandatory water conservation measure has occurred, a written Notice shall be posted in a conspicuous place on the property

where the violation occurs or occurred. Said Notice shall be deemed valid if:

- a. it shall be personally served upon the owner or occupant or placed in the U.S. mail, postage prepaid and addressed to the owner or occupant, according to the last known address given by the resident to the City;
- b. it describes the violation including the provision of this ordinance believed to have been violated;
- c. an order that the violation be abated, corrected or cured immediately or within such time as specified in the notice.
- d. the law enforcement official serving the occupant or owner shall complete an affidavit of service that contains a description of the documents served, the individual the information was served on, the date, time and location, if available, the information was served, and in what manner the information was served.
- e. the Town Marshal of Rico shall have the power to issue warning notices or a summons and complaint to any person in violation of this Chapter.

I. Penalties. The following penalties shall apply to any violation of this ordinance:

- a. for a first offense: a penalty of five hundred dollars (\$500.00);
- b. for a second or subsequent offense: a penalty of one thousand dollars (\$1,000.00);
- c. if an order issued pursuant to section H is not complied with as specified in written notice, water service to the property upon which the violation occurred or is occurring may be disconnected.
- d. in the event water service to the property in violation is disconnected, and in addition to any fine or penalty authorized under this section I, a fee of one hundred dollars (\$100.00) shall be paid for the reconnection of any water service if a violation is found to have occurred.

2. The remedies provided for herein are cumulative. Any penalties or fees due and unpaid hereunder shall be a lien upon the property.
3. An owner or occupant of a residence or commercial establishment may be held responsible for a violation of this ordinance regardless of any agreement between the property owner and a third party. If the identity of the owner or occupant is not known, the entity responsible for payment of the water services for the subject property shall be held responsible for any penalties assessed pursuant to this section. Violations of this ordinance occurring at different locations but involving the same individual, regardless of whether that individual is an owner or occupant, shall not alter or waive the graduated penalties of this ordinance.
4. Any person aggrieved by a water service disconnection pursuant to this section, may seek a hearing before the Board of Trustees by requesting the same within five (5) days of the service disconnect or issuance of the fine. Such request shall be submitted to the office of the Town Manager in writing.

INTRODUCED, READ, APPROVED AS INTRODUCED, AND ORDERED PUBLISHED on first reading by Town of Rico Board of Trustees this 16th day of May, 2018.

READ, APPROVED AND ADOPTED BY FINAL READING by Town of Rico Board of Trustees this 20th day of June, 2018

TOWN OF RICO, COLORADO



Zach McManus, Mayor

ATTEST:



Linda Yellowman, Town Clerk