

TORREY TOWN ORDINANCE NO. 2010-__

AN ORDINANCE ESTABLISHING AND REGULATING A CULINARY WATER DEPARTMENT; PROVIDING RULES AND REGULATIONS TO ADMINISTER AND PROTECT THE WATER SYSTEM, FIXING PENALTIES AND ALLOWING THE FIXING AND MODIFICATION OF RATES BY RESOLUTION; AND ESTABLISHING RATES UNTIL SO AMENDED.

BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF TORREY TOWN, WAYNE COUNTY, STATE OF UTAH:

WHEREAS, Torrey Town, a municipal corporation of the State of Utah (the "Town"), is the owner of a culinary waterworks system for the purpose of furnishing water to the residents of said Town under a system of facilities (the "System"), and it is necessary and advisable to adopt an Ordinance for the controlling of the System, including the setting of fees for culinary water services; and

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

SECTION 1: CULINARY WATER DEPARTMENT AND SYSTEM. The Culinary Water Department of Torrey Town is hereby created. It shall administer the operation and maintenance of the culinary water system of the Town.

SECTION 2: SUPERINTENDENT. There is hereby created the position of Superintendent of the Culinary Water System. When the term "water" is used in this Ordinance, including its use in the application for water revenue embodied in this Ordinance, it shall be deemed to apply specifically and exclusively to culinary water furnished under this System.

SECTION 3: DUTIES OF SUPERINTENDENT. The Superintendent of the System shall manage and supervise the System pursuant to the provisions of this Ordinance and pursuant to resolutions, rules and regulations adopted by the Town Council from time to time prescribing his powers and duties and directing the manner and frequency with which he shall make reports to the Mayor relating to the water System. All of the functions and activities of the Superintendent shall be carried on under the direction of the Mayor or councilmember appointed by the Mayor.

SECTION 4: APPLICATION FOR CULINARY WATER CONNECTION AND SERVICE. Any person, other than a subdivider or developer (seeking multiple connections), who desires or is required to secure a new connection to the Culinary System, shall file with the

water department for each such connection, a written and signed connection application in substantially the following form.

**TORREY TOWN
APPLICATION FOR CULINARY WATER CONNECTION AND SERVICE**

TO TORREY TOWN, UTAH:

The undersigned hereby applies to the municipality of the Torrey Town ("Town") for culinary water service and permission to connect my premises at _____ with Torrey Town culinary water system and hereby agree as follows:

1. To pay all charges for such water service as are fixed from time to time by the governing body until such time as I shall direct such service to be discontinued.

2. (a) The Town shall make the connection from its water main to my property line and install a meter to be provided by the Town. I agree to pay the Town for the connection fee, water meter, impact fees and any security deposit as may be fixed by the governing body by resolution or ordinance.

The work of extending the water connection from the nearest point to which the Town installs the meter to the place at which the water is to be used shall be my responsibility and shall be performed at my sole cost.

(b) The location of the extension of the line to owner's property line shall be decided solely by the Town.

3. I understand the Town reserves the right to inspect the culinary system upon my premises and if it should not be approved, I will cause the same to be corrected and improved at my own expense to meet the requirements of the Town or of any other governmental agency having jurisdiction to regulate the water system within the Town.

4. I will be bound by the rules, regulations, resolutions or ordinances enacted now or hereafter by the Town applicable to the Town's culinary water system.

5. The main purpose for which the water connection will be used is for culinary use.

6. The Town shall have free access at reasonable times to the lines and equipment installed under this agreement including that on my property.

7. In the event of a failure to pay water charges with the due dates fixed by the governing body or of a failure of the occupant of the premises to conform to the ordinances and

regulations established by the governing body regulating the use of the water system, that the Town shall have the right to discontinue the water system service at its election, pursuant to five (5) days' written notice of the Town's intention until all delinquencies and any reconnection fee imposed are paid in full or until any failure to conform to the Town Ordinance or regulations issued thereunder is eliminated. The undersigned warrants and agrees to assure the Town that the owner of the premises and the undersigned hereby agrees, for himself or herself, that all fees and charges for connection to the water system and for use of the water (including the minimum fee and irrespective of whether or not any water is used at the premises) shall be paid when due and if not paid shall bear interest at the rate of eighteen (18%) per cent per annum from the date each and every charge became due.

DATED this ____ day of _____, 20__.

Applicant

* * * * *

SECTION 5: APPLICATION FOR WATER CONNECTION BY SUBDIVIDER.

Whenever a subdivider or developer desires or is required to install water connections and extensions for a subdivision or development, the subdivider or developer shall enter into a written extension agreement which shall constitute an application for permission to make the extensions and connections and an agreement specifying the terms and conditions under which the water extensions and connections shall be made and the payments that shall be required, all of which shall be fixed by the Town and paid by the applicant.

SECTION 6: NON-OWNER APPLICANT - AGREEMENT OF OWNER.

Applications for water service made by the tenant of any owner must, in addition to the above requirements, be guaranteed by an agreement signed by the owner of the premises or his duly authorized agent in substantially the following form:

"In consideration of the acceptance of the application for water service submitted by _____ (tenant), I (we) as owner(s) will pay for all charges, fees and costs at _____ (premises) in case such tenant or occupant shall fail to pay for the same according to the ordinances, rules and regulations or resolutions enacted by the Town."

DATED this ____ day of _____, 20__.

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SECTION 7: NON-RESIDENT APPLICANT. An application for a connection outside the corporate limits of Torrey Town shall be required in the following form:

**TORREY TOWN
APPLICATION FOR CULINARY WATER CONNECTION TO PROPERTY
OUTSIDE TOWN BOUNDARIES**

TO TORREY TOWN, UTAH:

I hereby apply to the municipality of the Torrey Town ("Town") for permission to connect my premises at _____ with the Torrey Town culinary water system and hereby agree to pay user fees and all other fees as follows:

1. Construction Costs Paid by Applicant:

(a) The Town shall make the requested connection from its water main. I agree to pay the Town the connection fee and impact fees as may be fixed by the governing body by resolution or ordinance including a security deposit.

The cost of extending the water line and service from existing lines to my property, including the acquisition of necessary easements shall be my responsibility and not that of the Town.

(b) The location of the meter or other equipment required shall be decided at the Town's sole discretion.

2. Inspection and Minimum Standards: I understand the Town reserves the right to inspect the culinary water system upon my premises and if it should not be approved, I will cause the same to be corrected and improved at my own expense to meet the requirements of the Town or of any other governmental agency having jurisdiction to regulate the water system within the Town.

3. Acceptance of Regulations: I will be bound by the rules, regulations, resolutions or ordinances enacted now or hereafter by the Town applicable to the Town's culinary water system.

4. Culinary Use Only: The main purpose for which the water connection will be used is for culinary use.

5. Access Guaranteed to Town: The Town shall have free access at reasonable times to the lines and equipment installed under this agreement including that on my property.

6. I agree to pay all charges for such water service as are fixed from time to time by the governing body until such time as I shall direct such service to be discontinued.

7. In the event of a failure to pay water charges with the due dates fixed by the governing body or of a failure of the occupant of the premises to conform to the ordinances and regulations established by the governing body regulating the use of the water system, the Town shall have the right to discontinue the water system service at its election, pursuant to five (5) days' written notice of the Town's intention until all delinquencies and any reconnection fee imposed are paid in full or until any failure to conform to the Ordinance or regulations issued thereunder is eliminated.

8. Interruption in Times of Shortage: To comply with State of Utah constitutional and statutory restrictions prohibiting alienation of municipal water rights, the applicant understands and agrees that if there should occur any shortage, deficiency, or inadequacy of water supplies of the Town, the Town Council may, in its discretion, interrupt or cut off service to any user outside the corporate limits of the Town.

9. Differential in Rates Outside of Town: The applicant acknowledges that, the Town Council may, at such times or under such conditions as in their discretion indicates the necessity therefor, impose a higher use fee for users outside of Town than is imposed upon property within the Town.

DATED this ____ day of _____, 20__.

Applicant

* * * * *

SECTION 8: RATES AND CONNECTION FEES. The rates, penalty fee for delinquency in payment, connection fee, inspection fee, reconnection fees, and other charges incidental to the connection and services from the Town's culinary water system shall be fixed from time to time by resolution enacted by the Town Council. The Town Council may, from time to time, promulgate rules for levying, billing, guaranteeing and collecting charges for culinary water services and all other rules necessary for the management and control of the System. Rates for services furnished shall be uniform with respect to each class or classes of service established or that may hereafter be established. Rates may be established at different levels for premises outside the corporate boundaries of the Town.

SECTION 9: FEES AND SERVICE CHARGES. Until further Resolution or Order or by any enacted legislation as provided in Section 9 the schedule of connection and user fees shall be as follows:

A. Connection Fees:

For 3/4-inch service - line (\$_____) DOLLARS.

(a) All dimensions, sizes and capacities: to be fixed, when and if application therefor is approved, by the Town Council.

B. User Fees:

(1) Residential User Fees:

(a) Minimum monthly fee for active as well as inactive connections:
\$ _____

The minimum monthly charge shall entitle the user to _____ gallons of culinary water per month. The minimum charge shall be applicable to seasonal, temporary, inactive, as well as active connections to the System for both residential and commercial and may be regarded as a "demand" charge based upon capital investment to make service available at each point of connection.

(b) Charges for uses exceeding _____ gallons per month:

For use in excess of _____ gallons per month a charge of _____ (\$ _____) cents shall apply for each one thousand (1,000) gallons over _____ gallons.

(2) Other Than Residential User Fees:

(a) Minimum monthly fee per month for active as well as inactive connections: \$ _____

The minimum monthly charge shall entitle the user to _____ gallons of culinary water per month. The minimum charge shall be applicable to seasonal, temporary, inactive, as well as active connections to the System.

(b) Charges for uses exceeding _____ gallons per month:

For use in excess of _____ gallons per month a charge of _____ (\$ _____) cents shall apply for each one thousand (1,000) gallons over _____ gallons.

(3) Usage Fees Outside Town Limits:

(a) Charges for usage outside the corporate limits of Torrey Town not only as to the minimum, but also as to all overages shall be fixed from time to time by resolution or agreement as deemed proper under the circumstances.

C. Special Rates.

The Town Council may, from time to time, fix by agreement or resolution special rates and conditions for users using exceptionally large amounts of water service or making use of the

System under exceptional circumstances, upon such terms and conditions as they may deem proper.

SECTION 10: INDIVIDUAL UNIT. A water connection shall be required for each individual unit. For the purpose of this Ordinance, an individual unit is defined as a separate residence, building, commercial establishment, structure, whether or not maintained in a single group such as apartments or condominiums each separate unit shall be required to pay the minimum rates herein specified.

SECTION 11: USE WITHOUT PAYMENT PROHIBITED. It shall be unlawful for any person or entity to utilize the culinary water system without proper payment therefor. It shall be unlawful to open any pipe, line, connection, stopcock, valve or other fixtures attached to the System of culinary water supply unless it is done pursuant to proper application and authorization. It shall be unlawful to injure, deface or impair any part or component of the water System or to cast anything into any reservoir, storage tank, or facilities appurtenant or contributing to the culinary water system. It shall be unlawful to pollute any water source, watershed, drainage area, or any other area contributing to the culinary water system.

SECTION 12: DELINQUENCY - DISCONTINUANCE OF SERVICE.

A. The Clerk or Superintendent shall mail or otherwise deliver to the address as appears on the application or as changed by written request of applicant, a written statement outlining the amount of water service charges assessed for the prior month or other intervals as the Town Council shall direct.

B. The statement shall specify the amount of the bill for the water service and the place of payment and date due. If any person fails to pay the water charges within thirty (30) days from the date due, the Clerk or Superintendent shall give the consumer notice in writing of intention to discontinue the service to the consumer unless the consumer pays the bill in full within five (5) days from the date of notice.

C. If the culinary water service is thereafter discontinued for failure to make payment, then before the water service to the premises shall again be provided, all delinquent water charges and reconnection fees or charges must be paid to the Town or arrangements made for their payment in a manner satisfactory to the Town. A reconnection charge for turning the water on shall be paid before re-delivery of water. Until amended by a resolution, there shall be a charge of \$50.00 for re-delivery of water. In addition to such payments and penalties, a delinquent consumer may be required to make and file a new application and pay a new deposit if the previous deposit has theretofore been applied to the payment of delinquent bills. The Clerk is hereby authorized and empowered to enforce the payment of all delinquent water charges by an action at law in the name of Torrey Town, apart from and in addition to the remedies stated above.

D. Delinquencies or amounts associated with the nonpayment for any water service or the initial hookup fee shall bear interest at the rate of 1.5% per month from a given due date.

SECTION 13: TURNING ON WATER AFTER BEING TURNED OFF PROHIBITED. It shall be unlawful for any person, after the water has been turned off from the premises for non-payment or otherwise, to turn on or to allow the water to be turned on without authority from the Superintendent or Town Clerk.

SECTION 14. SEPARATE CONNECTIONS. It shall be unlawful for two or more families or service users to be supplied from the same service pipe, connection, water outlet or discharge unless special permission for such combination usage has been granted by the Town Council and the premises served are owned by the same owner. In all such cases, a failure on the part of any one of the users to comply with this section shall warrant a withholding of water through the service connections until compliance or payment has been made. The property owner shall be liable to the Town for all water services utilized on all such premises. Nothing herein shall be deemed to preclude the power of the Town to require separate pipes or connections at a subsequent time.

SECTION 15. INTERCONNECTION PROHIBITED. No interconnection, cross-connection or other joining of the culinary and irrigation systems by any existing or future water user of the Town shall be permitted, and any such interconnection shall be punishable as a Class B Misdemeanor and the owner of record of such property shall bear all costs associated with the destruction and removal of such interconnecting device or apparatus.

SECTION 16. NO OPEN DISCHARGE OF PRESSURIZED WATER SYSTEM IN TOWN. There shall be no open discharge of water from the culinary water system which may intermingle culinary water with irrigation water. Any such discharge from the culinary water system shall be a violation of this System and shall be punishable as a Class B Misdemeanor. The owner of record of such property found to have any open discharge shall bear all costs required repair or rectify the violation.

SECTION 17: LIABILITY FOR DAMAGED EQUIPMENT. All damages or injury to the lines, meters, or other materials of the Town on or near the consumer's premises caused by any act or neglect of the consumer, his guests or invitees shall, be repaired by and at the expense of the consumer. The consumer shall pay all costs and expenses, including a reasonable attorney's fee, which may arise or accrue to the Town if required to repair the damage to the lines, meters, or to other equipment of the department or collect such costs from the consumer.

SECTION 18: UNAUTHORIZED USERS. It shall be unlawful for any water service user to permit any person from other premises or any unauthorized person to use or obtain water service regularly from his premises or water facilities, either outside or inside his premises.

SECTION 19: LOCATION OF PRIVATE LINES. Unless prior approval is obtained from the Town, all lines from the main lines to the property serviced shall be contained within the property on which services are to be delivered. Where necessary, the obtaining and the cost of easements shall be the responsibility of the property owner seeking water services from the

Town.

SECTION 20: FACILITIES TO BE KEPT IN GOOD REPAIR. All users of water service shall keep their service pipes, connections and other apparatus in good repair and protected from frost at their own expense. No person except under the direction of the Superintendent shall be allowed to dig into the street for the purpose of laying, removing or repairing any service pipe.

SECTION 21: QUALITY OF SERVICE PIPE.

A. All service and other pipe used in conjunction with the water services of the Town shall be of such material, quality, and specifications as the Town Council may, from time to time by resolution, provide and shall be installed at such distances below ground as may be specified. All work, alterations, or extensions affecting water pipes shall be subject to the acceptance of the water Superintendent and no connections with any water mains shall be made without first obtaining a permit therefor from the Town.

B. Once services have been delivered to a consumer pursuant to properly submitted applications, said consumer shall not conduct or transmit water to secondary buildings or locations not covered by prior application without making additional application for water service or obtaining written approval from the Superintendent, which approval may be made subject to special conditions as deemed necessary by the Superintendent or the Town Council.

SECTION 22: FAULTY EQUIPMENT.

A. It shall be unlawful for any water user to:

- (1) Waste water;
- (2) Allow it to be wasted by open stops, taps, valves, or leaky or pipes, or to allow tanks or water troughs to leak or overflow;
- (3) Wastefully run water from hydrants, faucets or stops or through basins, water closets, urinals, sinks or other apparatus;
- (4) Use the water for purposes other than for those which he has applied or to use water in violation of the rules and regulations for controlling the water supply.

B. Users of water from the culinary water system shall not permit water to continue to run wastefully and without due efforts to conserve water. If, in the judgment of the Superintendent, a user of culinary water engages in practices which result in the needless waste of water and continues to do so after the notice to discontinue has been given, the Superintendent or any officer may refer the matter to the Town Council.

C. The Town Council may thereupon consider terminating the right of the individual to

use culinary water. If it elects to consider the matter of termination, it shall give notice to the water user of the intention to terminate his water connection at least five (5) days prior to the meeting of the Town Council at which termination of water service is to be considered. The notice shall inform him of the time and place of the meeting and of the charges which lead to the consideration of the termination.

D. A water user whose right to utilize culinary water is being reviewed shall have opportunity to appear with or without counsel and present his reasons why his water service should not be discontinued.

E. After such hearing, the Town Council shall make a determination. If the determination is to discontinue the wasteful water user's service connection, it shall notify him of decision and of the period during which the service will remain discontinued.

SECTION 23: SPRINKLING VEHICLES. Vehicles for sprinkling shall be regulated and controlled by the water department through the Superintendent of the water department.

SECTION 24: DEPARTMENT TO HAVE FREE ACCESS. The Superintendent and his agents shall at all ordinary hours have free access to any place supplied with water service from the Town System for the purpose of examining the apparatus and ascertaining the amount of water service being used and the manner of its use.

SECTION 25: NON-LIABILITY FOR DAMAGES. The Town shall not be liable for any damage to a water service user by reason of stoppage or interruption of his or her water supply service caused by fires, scarcity of water, accidents to the water system or its mains, or which occurs as the result of maintenance and extension operations, or from any other unavoidable cause. This section shall not be construed to extend the liability of the Town beyond that provided in the Governmental Immunity Act.

SECTION 26: WATER NOT SUPPLIED TO MOTORS, SYPHONS: No water shall be supplied from the pipes of the Town water system for the purpose of driving motor, syphon, turbine, or other wheels, or any hydraulic engines, or elevators, or for driving or propelling machinery of any kind whatsoever, nor shall any license be granted or issued for any such purpose except by special permission of the Town Council.

SECTION 27: SCARCITY OF WATER. In times of scarcity of water, whenever it shall in the judgment of the Mayor and Town Council be necessary, the mayor shall, by proclamation, limit the use of water to such extent as may be necessary. It shall be unlawful for any person, his family, servants or agents to violate any proclamation made by the mayor in pursuance of this part.

SECTION 28: PERMITS FOR INSTALLATIONS. It shall be unlawful for any person to lay, repair, alter or connect any water line to the Town culinary water system without first having obtain a construction permit from the officer or the Clerk or from the Superintendent.

SECTION 29: EXTENSIONS OF SYSTEM BY DEVELOPERS. Any person or entity desiring to extend the water system of the Town to a project, or development including a subdivision, shall submit a petition to the Town. Said petition shall include a description of the proposed extension accompanied by maps showing the location of extensions. The petition shall include the applicant's agreement to bear all costs and expenses associated with such extension and the agreement to construct, install and otherwise complete all improvements consistent with minimum standards established by the Town's engineer.

Applicants, other than those proposing new subdivisions, may include in their petition a request that the Town enter into an agreement whereby the applicant may receive reimbursement for a portion of the costs of the extension based on subsequent connections to lines or improvements installed by applicant. If granted, all terms and conditions of reimbursement to the applicant shall be incorporated in a separate written contract outlining the time within which reimbursement would be applicable, the amount of reimbursement per subsequent connection and such other terms and conditions as deemed appropriate and necessary by the Town given the particular facts and circumstances surrounding the application. Unless circumstances warrant special consideration, applicants seeking to extend culinary service lines for the development of a subdivision shall not be entitled to reimbursement for subsequent connections to lines installed by applicant. It shall be presumed that the applicant will establish prices for lots within the proposed subdivision to recoup the cost of extending water lines to such subdivision.

Once accepted and connected to the Town's water system, all lines and improvements installed by the developer shall belong to the Town and shall be deemed a part of the Town's culinary water system subject to the Town's rights to regulate its use. No water, other than for testing purposes, shall be turned into the new extension and improvements until all work and improvements have been approved by the Town. The Town, at its discretion, may request certification from a qualified engineer stating that all improvements have been installed consistent with the minimum standards established by the Town's engineers and that the improvements otherwise comply with any and all applicable Federal, State or local regulations.

SECTION 30: OWNERSHIP OF EXTENSION. Any extensions of the System shall be deemed the property of the Town whether the cost thereof has been borne by someone other than the Town with or without required permission.

SECTION 31: DISPOSITION OF FUNDS. All connection fees and monthly user charges collected under the provisions of this Ordinance shall be deposited in Torrey Town's Water System Fund and used to meet the operation and maintenance cost of the System; debt service on obligations appertaining to the construction associated with the acquisition or development of the System; and such other allocations as Town Council may be resolution provide.

SECTION 32: RIGHT OF ENTRY ON PREMISES OF WATER USER. All authorized persons connected with the waterworks of the Town shall have the right to enter upon

any premises furnished with water by the Town to examine the apparatus, the amount of water used and the manner of use, and to make all necessary shutoffs for vacancy, delinquency or violation of the ordinances, rules or regulations enacted or adopted by the Town.

SECTION 33: EXTRATERRITORIAL JURISDICTION. The Town may construct or authorize the construction of waterworks within or without the Town limits, and for the purpose of maintaining and protecting the same from injury and the water from pollution, its jurisdiction shall extend over the territory occupied by such works, and over all reservoirs, streams, canals, ditches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or source from which the water is taken, for fifteen miles above the point from which it is taken and for a distance of three hundred feet on each side of such stream and over highways along such stream or watercourse within said fifteen miles and said three hundred feet. All ordinances and regulations, including this Ordinance, are deemed necessary to carry the power herein conferred into effect, and is to enact among other things, an Ordinance preventing pollution or contamination of the streams or watercourses from which the inhabitants of the Town derive their water supply, in whole or in part, for domestic and culinary purposes, and this Ordinance prohibits the construction or maintenance of any closet, privy, outhouse or urinal within the area over which the Town has jurisdiction, and provides for permits for the construction and maintenance of the same, applications for which permits must be made to the Town Council. In granting such permits the Council may annex thereto such reasonable conditions and requirements for the protection of the public health as they deem proper, and may, if deemed advisable, require that all closets, privies and urinals along such streams shall be provided with effective septic tanks or other instrumentalities deemed necessary to prevent possible contamination of the water provided through the System.

SECTION 34: GENERAL SANCTIONS AND PENALTIES - CUMULATIVE REMEDIES. Without altering or diminishing the effect of any other sanction, penalty or consequence provided in this Ordinance elsewhere, the violation of, failure to observe, or omission to comply with any provision of this Ordinance, shall be a criminal offense punishable as a Class B Misdemeanor. Each day of continued violation shall be a separately-punishable offense and this Section shall be in addition to any other penalty, sanction, consequence or remedy for enforcement of this Ordinance.

SECTION 35: EFFECTIVE DATE AND POSTING ORDINANCE. This Ordinance shall take immediately following its adoption and the posting thereof in the following three (3) public and conspicuous places in Torrey Town:

- (1) Torrey Town Hall; (where you hold meetings)
- (2) U.S. Post Office, Torrey Utah; and
- (3) _____

PASSED, APPROVED AND ADOPTED by the Mayor and Town Council of Torrey
Town, this ____ day of October, 2010.

Adus Dorsey
Mayor

ATTEST:

Saula Pace
Town Clerk

(SEAL)

MEMBERS OF THE TOWN COUNCIL VOTING "AYE":

Adus Dorsey Adus Dorsey
James Austin James Austin
Curtis Cook Curtis Cook
Jennifer Howe Jennifer Howe
Janet Hansen Janet Hansen

MEMBERS OF THE TOWN COUNCIL VOTING "NO":

None

