

RESOLUTION NO. 2008-1

A RESOLUTION GOVERNING ACQUISITION OF WATER CONNECTIONS FROM TORREY TOWN

The Town Board of Torrey Town adopts the following resolution regarding the acquisition of culinary water connections from the Town of Torrey, Wayne County, State of Utah:

- I. **RECITAL.** The following factors are foundational to the provisions of this resolution.
 1. Under date of July 31, 1995, the Town adopted Resolution #1995 entitled A Resolution Setting the Real Water Service District. The resolution defined the boundaries of the Town's service area and beyond which the Town would not allow extension of its water lines.
 2. In establishing the outer limits, the Town did not guarantee water service to any particular area nor to any particular user, nor to serve beyond its capacity.
 3. The Town currently serves users within the said service area both in and outside of the incorporated limits of the Town.
 4. The actual capacity of the Town to serve users is but a small fraction of the demand which could arise if significantly increased development were to occur either within the Town or within the defined service area.
 5. Under date of July 18, 2005, and in recognition of its limited capacity, the Town adopted Resolution #1-2005 which provided, "that no new water connections shall be granted for service inside or outside of the Town until such time the Town Council determines that the Town has both a surplus of water supply and infrastructure to provide water to residents and nonresidents for future growth."
 6. Thereafter, the Town, with the assistance of the Central Utah District Engineer, Department of Environmental Quality, State of Utah, has conducted a study and determined that it can issue an **additional eighty-nine connections**.
 7. Notwithstanding the determination that additional water connections are available, the Town has determined that it is in the best interests of its inhabitants and water users to impose annual limitations on connections due in part to an ongoing concern over fire protection and water tank capacity.


Initials

8. The said additional connections are beyond not only the current water users, but also current holders of approved purchased connections who have faithfully paid the minimum monthly water assessments since the time of issuance.
9. The purpose of this resolution is to outline an orderly procedure for sale and issuance of the said additional connections.
10. Central to the purpose of this resolution is avoidance of speculative holding of water connections and to foster issuance of water connections to persons who are prepared to proceed with the actual construction of permanent facilities designed for human occupancy.

II. **EXISTING ORDINANCES AND RESOLUTIONS.** This resolution is designed to supplement and not replace existing resolutions or ordinances except to the extent that there is an actual conflict. Previously adopted provisions relating to connections and service fees, installation and extension of water lines, responsibility for maintenance,, replacement and/or upkeep of existing lines, and the transfer of a water connection shall remain in force unless or to the extent specifically modified by the provisions hereof.

III. **POLICY IN RELATION TO UNUSED CAPACITY.** It is the Town's policy to provide water service to as many users as feasible and within the system's capacity and limitations. It is also the Town's policy to provide actual water service within the established service area where the need asserts itself on a "first-come, first-served" basis. It disfavors the speculative holding of water connections. It further disfavors the division of existing subdivided parcels. In furtherance of this policy, the Town has amended certain of its rules and regulations.

IV. **RULES AND REGULATIONS GOVERNING CONNECTIONS AND SERVICE.** The following shall govern the issuance of new water connections:

11. Within Boundaries. The Town will only consider water connections within the service area as set forth in Resolution #1995.
12. Independent Connections. Each residence (or other approved user) must have a separate connection. It is a violation of this resolution to connect a second dwelling to an existing water connection. A violation of this provision will result in the immediate discontinuance of water service resulting from the unauthorized extension of any existing connection.
13. Permitted Uses. There is a rebuttable presumption that each newly authorized connection will be for a permanent single family dwelling or a commercial facility erected on a permanent foundation and constructed in

conformity with building codes. The Town will not approve connections for commercial use outside Town limits.

14. Prevention of Schemes or Devices. The Town will not allow or approve any scheme or device designed to tie up a water connection short of proceeding with permanent construction as heretofore set forth. Specifically, connections will not be approved solely for stock watering, mobile homes, travel trailers, partial construction with proposed add-ons at a later date, or any similar device designed to tie up a water connection without timely construction of a permanent single-family residence or other approved use.
15. Approved but Unused Connections/Fees/Repurchase. The town recognizes that it has heretofore approved some connections that have been purchased but never used and which remain dormant at the present time. It is the policy of the Town to honor its commitment for these connections, but only upon the holders thereof paying the applicable minimum monthly fees for water service. If the minimum monthly assessment becomes more than 30 days delinquent and such delinquency is not remedied **within 30 days** after written notice served by regular mail, the Town shall have the right to repurchase the water connection. The repurchase price shall be the then prevailing connection fee less the amount then owed the Town. This remedy does not preclude reliance upon any other remedy provided under existing resolutions or ordinances.
16. Limitation of Number of New Connections. Except for existing approved but unused connection described in the preceding paragraph, the number of new connections available under this Resolution shall be **limited to eighty-nine**.
17. Annual Limitation on Water Connections. The Town has determined that it is in its best interest and the best interest of the citizens whom it serves to limit the number of water connections that will be sold during any calendar year to **twelve (12)**. This limitation will continue from year to year so long as there are available connections. Connections allocated for a given year which are not the subject of a qualified application at the end of business on October 1, shall be returned to the connection pool available for future years.
18. Time Periods for Filing Applications. Applications for the 12 connections available for 2008 may be filed with the Town Board any time after the effective date of this resolution and continuing through October 1, 2008. For succeeding years, applications for available connections may be filed between **January 2, and October 1, inclusive**. Applications filed before or after the approved filing period shall not be qualified applications, and shall not be given any effect.

19. Application for Water Connection. Each application for a new water connection shall be filed with the Town and shall comply with and/or contain the following:
- (a) The application must be filed within the approved period for filing for the year in question.
 - (b) The application is on the approved form supplied by the Town (copy attached hereto) and must contain all of the information called for on the application form.
 - (c) The application is dated and signed by the owner of the parcel to be served or the owner's authorized representative as shown.
 - (d) The application is accompanied by a deposit of the applicable water connection fee.
20. Receipt of Application and Determination of Availability. Upon receipt of an application, the Town official shall note on the application the date of its filing and shall timely advise the applicant whether or not there is a water connection available for issuance within the year in question. If none is available, the applicant will be so advised and the application shall be rejected and returned and the deposit refunded unless the applicant requests that the application and deposit be held subject to the terms of the next succeeding paragraph.
21. Applications Held on File — Priority. If an otherwise qualified application is not given preliminary approval because connections are not available, the Town, at the applicant's written request, may hold the application and deposit for up to six months or until October 1 of that year, whichever shall first occur. If during this time a connection becomes available because of the failed performance of another applicant who had received preliminary approval, then preliminary approval may be given to the party whose application is on hold. If more than one application is held pursuant to the terms hereof, each will be given priority according to the date of filing. Any application for which a water connection is not available by October 1, shall become void on that date and shall be returned and the deposit refunded. A new application cannot be filed until January 2, of the next year and will be treated the same as any other application. If a refund due under this provision is not timely received, it shall be the duty of the applicant to make written request to the Town.
22. Preliminary Approval. If the Town determines that a water connection is available for the year in question, and that applicant has complied with the application requirements, the Town official shall give written preliminary

approval noting the same on the application form. The deposit will thereafter be retained by the Town pending satisfaction of the conditions for final approval and water service.

23. Conditions for Final Approval and Reasonable Time to Comply. In order to obtain final approval for a water connection, the applicant must satisfy the following requirements within the time allowed. The Town shall issue final approval of a water connection if:

- (a) Applicant has obtained a valid building permit and deposited a copy thereof with the Town **within 60 days** from the Town's preliminary approval of the water application.
- (b) Applicant has demonstrated the ability to connect to existing water lines and acknowledges responsibility for any costs of extending lines, if applicable.
- (c) Applicant has commenced payment of the minimum monthly charge for water service beginning with the first billing following the approval of the application.
- (d) The application form otherwise evidences that each of the required prerequisites have been completed as evidenced by the dates and signature of Town officials appearing thereon.
- (e) Applicant commences construction of the approved structure(s) **within 90 days** from the issuance of the building permit.
- (f) Applicant completes construction and obtains a certificate of occupancy **within 18 months** from the issuance of the building permit. Upon proof of substantial effort toward completion and good cause shown for delay, the Town Board may extend the time for final completion by a reasonable amount which is presumed to be not more than six months.
- (g) File a copy of the certificate of occupancy with the Town and otherwise ensure that all of the required dates and initials or signature of Town officials has been included on the Application form.

24. Lapse of Approval and Return of Connection Fee. If the requirements set forth in provisions numbered 23, or any one of them, have not been satisfied within the time allowed, or any reasonable extension thereof, final approval of the connection shall be withheld or lapse, as the case may be, and the connection fee, excluding any monthly minimum charges, will