

**RULES AND REGULATIONS
OF THE
BONE MESA DOMESTIC WATER DISTRICT**

Amended December 7, 2022

The Bone Mesa Domestic Water District is a quasi-municipal corporation organized under the provisions of Senate Bill No. 202 (1913) entitled Water Works Districts (codified as C.R.S. 1973, 34-4-201, et. Seq., repealed 1981) and operating under the Special District Act adopted in 1981, C.R.S. 32-1-101, et seq. The District has all of the powers granted by Colorado statute and applicable law. The following Rules and Regulations constitute a statement of the operating policies and procedures of the Bone Mesa Domestic Water District as required by law and applied by the Board of Directors of the District.

Construction. It is the intent of the Board that these Rules shall be liberally construed to give effect to the general purposes and policies set forth herein. Nothing set forth herein shall be construed as an alteration, waiver or deviation from any grant of power, or any limitation or restriction thereof, conferred or imposed upon the District by the statutes, constitutional provisions or other laws of the State of Colorado as they currently exist and as they may exist in the future. In the event of any ambiguity, inconsistency or conflict between provisions within the Rules, between these Rules and the rules of any other governmental entity, or another document adopted by the District, the provision that is most protective of health, safety, the environment and the District's facilities will control. The Board and the Operator in Responsible Charge are authorized to interpret these Rules in the event of any ambiguity or inconsistency and make a final determination as to the applicable requirements.

Section 1. Board of Directors. The Board of Directors of the District is composed of three (3) directors elected according to the provisions of the Special District Act (C.R.S. 32-1-801 et seq., as amended), and all of the business and affairs of the District shall be conducted by and through said Board of Directors with all of the powers, authority, privileges and duties, granted to or imposed upon said Board by the applicable statutes of the State of Colorado.

Functions of the Board of Directors. The business and affairs of this Special District shall be managed by a Board of three (3) directors, all of whom shall be Eligible Electors (C.R.S. 32-1-101(5)). Its functions shall include:

- a. Selection of and delegation of authority to management
- b. Determination of policies for guidance of management
- c. Control of expenditures by authorizing budgets
- d. Keeping members informed of the business of the District
- e. Establishing water rates, fees, fines and charges
- f. Billing and collecting fees, charges and fines and enforcing the collection thereof in accordance with the laws of the State of Colorado and the Rules and Regulations of the Bone Mesa Domestic Water District.

Subscribed and sworn to before me this _____ day of _____,
20____.

Person authorized to administer oaths (County Clerk and Recorder, Clerk of the Court, other person authorized to administer oaths, or Chairman of the Board of Directors.

The Officers of the District shall be a President, a Vice President, a Secretary, and a Treasurer, who shall be elected by a majority of the Directors voting at the first meeting of the Board of Directors following the regular biannual election of the Directors in each even numbered year. Each officer shall be elected to a term of four (4) years, which shall expire upon the election and qualification of his successor. Any vacancy in the Board shall be filled by appointment of the remaining Directors as prescribed by statute.

Directors are limited to two (2) consecutive full four-year terms. In addition, a board member may be appointed to fill a partial term.

President and Chairman. The President shall be a member of the Board of Directors and shall be the Chairman of the Board and preside at all meetings and shall also be the Chief Executive Officer (CEO) of the District. Except as otherwise authorized, the President shall sign all contracts, deeds, notes, debentures, warrants and other instruments in writing on behalf of the District.

Vice President. The Vice President shall be a member of the Board of Directors and shall, in the absence or disability of the President or in the event of his/her death, resignation, or removal from office, perform and discharge the duties and exercise the power of the President.

Secretary. The Secretary shall be a member of the Board of Directors and shall keep the records of the District; shall maintain records of the proceedings of the Board, which shall be the official records of the Board; shall perform all duties incident to that office; and shall be the custodian of the seal of the District and have the power to affix the seal to and attest to all contracts and instruments authorized to be executed by the Board.

Treasurer. The Treasurer shall be a member of the Board of Directors and shall keep or cause to be kept accurate account of all monies received and disbursed for and on behalf of the District. Checks, warrants and vouchers of the District shall be approved by the Treasurer, and any two members of the Board of Directors shall be authorized to sign checks. The Treasurer shall be covered in the performance of his/her duty by a surety bond in an amount to be

determined by the Board of Directors, but no less than \$5,000. The premium for such bond shall be paid by the District.

Operator in Responsible Charge. The Board of Directors shall engage the services of an Operator in Responsible Charge of the domestic water system, who will perform operator services as required and certified by Colorado Department of Public Health and Environmental Services shall include operations, maintenance and repair of collection, filtration and distribution systems, water quality testing and monitoring, special projects, record keeping, and reporting. The Operator shall prepare a report for the Board of Directors' monthly meeting to include, but not limited to, status of system operations, repairs, materials and equipment needs, tap owner concerns, water testing and monitoring, and status of special projects. The compensation to be paid for the performance of duties of Operator in Responsible Charge and any laborers or any assistants he/she may hire shall be negotiated and approved by the Board of Directors.

Section 5. Fiscal Year and Budget. The fiscal year of the District shall commence on January 1 of each year and end on December 31 of each year. The Board of Directors shall cause the District to be in compliance with the applicable budget and auditing procedures as required by Colorado law. After adoption, the budget will be used in conjunction with the regular financial reports for the comparison to actual revenues and expenditures.

Section 6. Corporate Seal. The Seal of the District shall be a circle containing the name of the District and shall be used on all documents and in such manner as seals are generally used by public and private corporations. The Secretary shall have custody of the seal and shall be responsible for its safekeeping and care.

Section 7. Disclosure of Conflict of Interest. Any member of the Board who has a substantial direct or indirect interest in any nongovernmental entity participating in a transaction with the District shall disclose a "potential conflict of interest," and refrain from participating in the transaction. A disclosure of the potential conflict of interest shall be made by providing seventy- two hours actual advance written notice to the Secretary of State and to the Board in accordance with C.R.S. 18-8-308. The Directors shall comply with the provisions of C.R.S. 32-1-902. If a Director owns undeveloped land which constitutes at least 20% of the territory of the District, the Director shall make appropriate disclosures in accordance with C.R.S. Section 32-1-902(4). Undeveloped land means real property which has not been subdivided or which has no improvements constructed on it, excluding real property dedicated for park, recreation, or open space purposes.

Section 8. Compensation. Each Director may receive such compensation as is permitted by statute. For directors serving a term of office commencing on or after January 1, 2018, each director may receive as compensation for the director's service a sum not in excess of two thousand four hundred dollars per annum, payable not to exceed one hundred dollars per meeting attended. No director shall receive compensation as an employee of the District, but may be reimbursed for any actual expenses incurred on behalf of the District.

Section 9. Indemnification of District's Employees. The District shall defend, hold harmless and indemnify any Director, officer, agent, or employee, whether elected or appointed, against any tort or liability, claim or demand, whether groundless or otherwise, arising out of any alleged act or omission occurring during the performance of his duties. The District may compromise and settle any such claim. The indemnification provided hereby shall not exceed maximum amounts otherwise specified under the Colorado Governmental Immunity Act (Article 10, Title 24, C.R.S., as amended), and the District specifically reserves any defenses which are made available to the District or its employees by said Colorado Governmental Immunity Act.

Section 10. Contracts for Work. The Board of Directors is authorized to enter into contracts for labor and materials to be supplied for the benefit of the District. Except in cases in which the District will receive aid from a governmental agency or purchase through the state purchasing program, a notice shall be published for bids on all construction contracts for work or material, or both, involving an expense of \$60,000 or more of public money. In advertising for bids, the District shall reserve the right to reject any and all bids and the District shall at all times reserve the right to perform the work or secure the materials directly. All contractors providing labor for the District shall furnish the District with evidence of adequate Public Liability Insurance and Worker's Compensation Insurance coverage in amounts sufficient to protect the interests of the District as the Board may require. The Board of Directors may require performance and maintenance bonds on any projects.

Section 11. Regulations for the Provision of Domestic Water to Tap Owners. The District strives to ensure fair and equitable distribution of water to all approved District tap owners, with the goal of delivering a basic monthly allotment ("Basic Monthly Allotment") to each approved tap. The District shall determine from time to time, considering availability of water and other related factors, the amount of water that comprises the Basic Monthly Allotment, and shall publish that information with the District's currently applicable fees. By establishing a Basic Monthly Allotment, the District does not guarantee the availability of water, and in times of drought or other emergency situations, usage may be curtailed as provided in Section 12 or as otherwise determined by the District. Usage above the Basic Monthly Allotment is discouraged, but if District water is available and if excess usage does not compromise the ability of any other tap holder to draw a Basic Monthly Allotment, tap owners may draw more than the Basic Monthly Allotment and will be charged accordingly. Excess usage by any tap owner in any given month does not necessarily mean that excess usage will be available at any other time.

Other than in exceptional circumstances, as determined by the District Board, no taps outside the boundaries of the Bone Mesa Domestic Water District will be approved. If such extra-territorial service is approved by the Board, the user of the District's facilities agrees to comply with and be subject to all the rules and regulations of the District.

The Board of Directors shall have full authority to shut off the water of any tap owner who is in violation of the Rules and Regulations of the District, provided that the tap owner has failed to

comply with said Rules and Regulations within thirty (30) days of written demand from the District for such compliance.

The following regulation shall apply to the provision of domestic water to the owners of water taps within the boundaries of the Bone Mesa Domestic Water District.

- a. Each water tap on any water line of the District is expected to serve no more than one household, defined for this purpose as one single family dwelling connected directly or indirectly to the District water system or which uses District water by way of cistern or similar structure; however, no tap owner shall store in aggregate at any time an amount of District water exceeding the Basic Monthly Allotment.
- b. The Board of Directors shall establish the Basic Monthly Allotment and rates of charge for water flowing through the meters installed in each service line connected with the District's system. Such charges shall be in accordance with the amount registered by such meters. The rates shall provide for a minimum monthly charge for the Basic Monthly Allotment, plus rates for water used in excess of the Basic Monthly Allotment. The Board of Directors shall establish rates, fees, tolls and charges for the use of water and such charges shall be based on amounts necessary to pay costs of operations, maintenance, repair, rehabilitation and construction of the system, payments of principal and interest of any indebtedness of the District which may have been contracted in connection with the District's operations, for other operational costs of the District, and to encourage responsible usage of the District's limited water supply and to discourage excess usage. All uninstalled taps and any unused taps shall be charged the minimum monthly charge.

In the event the total amount collected by the District from water charges in any year is insufficient to pay all costs and expenses in connection with the District's operations and debt payments, or in the opinion of the Board of Directors is estimated to be insufficient to pay when currently due all costs and expenses in connection with the District's operations and debt payments, then the Board of Directors shall charge each tap owner any amount necessary to make up such a deficit and collect the same. A proportionate amount of the total additional costs and expenses in any year shall be billed to each tap owner in an amount equal to the proportion of a user's water usage per tap in relation to the average water usage per tap of all other users over the same time period. All additional charges shall be due and payable when billed.

- c. Connections to the District water system other than by means of a District-approved water meter is prohibited. The District, acting through its Board of Directors, reserves the right to curtail usage, remove taps, discontinue service, or intervene by other measures in any situation which violates these Rules and Regulations or where the practices of a user compromises the distribution of the Basic Monthly Allotment to other users. The Board of Directors shall have the full authority to determine whether or not additional water taps shall be

sold and the consideration therefore as they may deem to be in the best interests of the District recognizing that the District's water supply and system are of limited capacity. The Board shall have the right to deny issuance of a water tap for any locations which cannot be properly served with domestic water from existing water lines.

- d. The tap owner is responsible for the cost of domestic water line installation and connection to the District's main line. The physical tap into the main line must be done by the District's Operator in Responsible Charge. Maintenance of the District's installed line up to the meter pit, including the contents of the meter pit, is the responsibility of the District. The tap owner is responsible for the installation, maintenance and cost of domestic water line and all connections from the meter pit to their household. No meters, valves, connections, or any other equipment shall be installed in the meter pit unless prior express, specific, approval of the District and of the Operator in Responsible Charge have been obtained.
- e. Each tap shall include a water meter which shall be furnished and installed by the District upon such consideration as the Board of Directors may determine. Water meters and readouts shall be maintained by the District, provided that a readout or support post damaged or destroyed by the negligence or willful act of a tap owner shall be replaced by the District at the tap owner's expense.
- f. The payment of all water charges and fees shall be the responsibility of the individual tap owner, and all charges will be billed directly to the tap owner. Meters will be read at the end of each month, and invoices will be mailed within seven (7) days.
- g. An account is delinquent when payment is not received by last day of the month in which the invoice is mailed. When an account becomes delinquent, a flat fee per month will be added until the account no longer has any delinquency or overdue balance.

If water charges are not paid when due as required and if the outstanding balance is 60 days past due, the District shall cause written notice to be sent by certified mail to the tap owner that the water will be shut off if the bill is not paid within thirty (30) days from the date of the notice and the water will not be restored to service until the water charges arrearage is paid in full together with a not less than \$150.00 fee for turning the water off and a not less than \$150.00 fee for turning the water on. The District shall have a perpetual lien on and against the premises for payment of any connect or disconnect fees and for any monthly fees or other rates, fees, tolls and charges assessed by the District, and any such lien may be foreclosed in the same manner as provided for the foreclosure of mechanics' liens. In addition, the Board may certify the amount owed to the Delta County Treasurer pursuant to C.R.S. 32-1-1101 (1) (e).

The Board of Directors shall have full authority to shut off the water of any tap owner who is in violation of the Rules and Regulations of the District provided that the tap owner has failed to comply with said Rules and Regulations within thirty (30) days of written demand from the District for such compliance.

- h. In the event that a water tap has been shut off for nonpayment of water charges or due to a violation of the Rules and Regulations of the District by the tap owner for a period of one (1) year or more, that tap shall be deemed abandoned and the District shall be entitled to reclaim and sell at auction the tap if the accumulated charges are not paid in full within 30 days after notice of such forfeiture.
- i. The ownership of a water tap shall be evidenced by a written certificate with District seal affixed, issued by the officers of the District. The District shall receive a fee for the transfer of each certificate.

Certificates of ownership may be transferred and the transfer shall be noted on the books of the District to such transferee upon surrender of the certificate properly endorsed. No transfer of ownership shall be valid until all of the indebtedness owed to the District is paid or adjusted to the satisfaction of the Board of Directors. No transfer of ownership shall be valid when made to a transferee who is not eligible for service. A property owner holding a water tap in the Bone Mesa Domestic Water District and selling said water tap shall be required to inform the buyer of the Rules and Regulations of the District.

- j. Each water tap at the time of installation is assigned to a specific parcel of land and may not be moved to a different parcel without District approval. The tap must be issued in the same name as the owner of the land to which the tap is assigned. Within 90 days of the date of any sale or other transfer of the land, the tap must be transferred into the name of the new property owner. This includes, but is not limited to, transfers of the property into trust, gifts of the property, a sale of the property or upon death of the owner (or if held in joint tenancy, the death of all owners). If property will be held in a decedent's estate, the water tap must be transferred into the name of the estate within 240 days of the date of death. No transfer is necessary if a guardian or conservator is appointed for the owner of the land. If a tap is not transferred in accordance with this paragraph, the District will, after proper notice, discontinue service.
- k. Effective April 30, 2019, in the event of a transfer of ownership of an uninstalled tap or a tap purchased directly from the District, the new tap owner must install the tap within two years of acquisition.
- l. The District does not guarantee water flow from fire hydrants under high demand use and does not assume any liability for the operational integrity and flow rates of any system that is currently installed or may be installed in the future. This District shall not be liable for damages for failure to provide water

for household, domestic, livestock or firefighting purposes at any time due to line breaks, excess usage, lack of water volume or pressure in the system, unavailability of water, or any other circumstances reasonably beyond the control of the District.

- m. No unauthorized person shall tamper in any way with any structure, equipment, appurtenance, facility, or any other part or component of the District's water system, or in any way interfere with the District's ability to serve its customers. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, or deface any structure, equipment, appurtenance, facility, part or component of the District's water system. Any person who violates a provision of this paragraph may be subject to criminal prosecution pursuant to state law and upon conviction, shall be subject to fines and/or imprisonment as established by the court for each violation. Any person violating any provision of this paragraph or any other provision of these Rules and Regulations shall be liable to the District for any expense, loss, or damage occasioned by reason of such violation and, in addition, may be subject to a fine in accordance with the District's published fee schedule.

Section 12. Water Preservation. Household use shall take priority over non-household use when the inflow of water is insufficient to meet household demand.

During times of severe drought conditions, or any other emergency situation, when the inflow of water is significantly less than the outflow of water, it is the Board of Directors' responsibility, at their discretion, to enact emergency measures regarding the individual tap owner's consumption of that said water.

Water Preservation. It is the intent of the Water District to have the capacity to supply the Basic Monthly Allotment of domestic water per month, per water tap. Usage in excess of the Basic Monthly Allotment may occur when excess water is available. When excessive use and/or low water flow jeopardizes the supply of the Basic Monthly Allotment of water per month per water tap, a level of jeopardy will be determined and mandatory conservation or a water emergency will be implemented.

Mandatory Conservation – Level I.

When a Mandatory Conservation – Level I is enacted, usage will be limited to no more than two times the Basic Monthly Allotment per month per water tap. Jeopardy includes but is not limited to overflow of raw water at less than 20%.

A Mandatory Conservation Notice – Level I will be sent to all tap owners by mail and will be effective the date of the notice. Notification to the tap owners of such action will be made through regular delivery of the U.S. Postal Service either as a separate mailing or included with a monthly invoice. When the notification is postmarked more than 7 days into the current billing month, meters will be read at the time of notification.

Usage in excess of two times the Basic Monthly Allotment per water tap in the month following the Mandatory Conservation Notice – Level I will be subject to a fine of not less than \$250 in addition to the standard usage rates.

Usage in excess of two times the Basic Monthly Allotment per water tap in the second month following the Mandatory Conservation Notice – Level I will be fined not less than \$500 in addition to the standard usage rates.

If usage continues to exceed two times the Basic Monthly Allotment beyond the second month following the Mandatory Conservation Notice – Level I, the user will be fined not less than \$500 and water service will be discontinued. The fines associated with the cessation and resumption of water service will apply. Water service will not be resumed until all outstanding fines and balances have been paid.

Mandatory Conservation – Level II.

When a Mandatory Conservation – Level II is enacted, usage will be limited to no more than the Basic Monthly Allotment per water tap. Jeopardy includes but is not limited to overflow of raw water at less than 10%.

Usage in excess of the Basic Monthly Allotment per water tap in the month following the Mandatory Conservation Notice – Level II will be fined not less than \$500 in addition to the standard usage rates.

Usage in excess of the Basic Monthly Allotment per water tap in the second month following the Mandatory Conservation Notice – Level II will be fined not less than \$500 in addition to the standard usage rates.

If usage continues to exceed the Basic Monthly Allotment beyond the second month following the Mandatory Conservation Notice – Level II, the user will be fined not less than \$1,000 and water service will be discontinued. The fines associated with the cessation and resumption of water service will apply. Water service will not be resumed until all outstanding fines and balances have been paid.

Water Emergency.

During times of severe drought conditions, or any other emergency situation, when the inflow of water is insufficient to provide the Basic Monthly Allotment per month per water tap, it is the Board Directors' responsibility, at their discretion, to enact emergency measures regarding the individual tap owner's consumption of said water. In a Water Emergency, the District, through the Board of Directors may reduce the Basic Monthly Allotment.

A Water Emergency Notice will be sent to all tap owners by mail and will be effective the date of the notice. Notification to the tap owners of such action will be made through regular delivery of the U.S. Postal Service either as a separate mailing or included with a monthly invoice. When the notification is postmarked more than 7 days into the current billing month, meters will be read at the time of notification.

Usage in excess of the restricted usage of water per water tap in the month following the Water Emergency Notice will be fined not less than \$500 in addition to the standard usage rates.

Usage in excess of the restricted usage of water per water tap in the second month following the Water Emergency Notice will be fined not less than \$1,000 in addition to the standard usage rates.

If usage continues to exceed the restricted usage beyond the second month following the Water Emergency Notice, the user will be fined not less than \$1,500 and water service will be discontinued. The fines associated with the cessation and resumption of water service will apply. Water service will not be resumed until all outstanding fines and balances have been paid.

Failure on the part of any tap owner to comply with any part of this emergency action will result in the greatest legal action possible to force compliance for the greatest benefit of the tap owners of the Bone Mesa Domestic Water District. In the event that a tap owner does not completely pay a water bill resulting from any emergency action described herein, the Bone Mesa Domestic Water District will file a lien against the tap owner's property for the unpaid portion.

Section 13. Amendment. These Rules and Regulations may be amended by a majority vote of the Directors of the District at any regular or special meeting.

Section 14. Violations of the Rules and Regulations. The Board of Directors shall have full authority to shut off the water of any tap owner who is in violation of the Rules and Regulations of the District provided that the tap owner has failed to comply with said Rules and Regulations within thirty (30) days of written demand from the District for such compliance. No waiver of the District's rights to enforce these Rules and Regulations shall be implied by any failure of the District to take enforcement action at any given time or in any given circumstance.

In the event that a water tap has been shut off for nonpayment of water charges or due to a violation of the Rules and Regulations of the District by the tap owner for a period of one (1) year or more, that tap shall be deemed abandoned and the District shall be entitled to reclaim and sell at auction the tap if the accumulated charges are not paid in full within 30 days after notice of such forfeiture.