

**Town of Erie
Ordinance No. 024-2026**

**An Ordinance of the Town Council of the Town of Erie Amending
Chapter 1 of Title 8 of the Erie Municipal Code to Amend the Water
Dedication and Fee in Lieu of Water Dedication Requirements**

Whereas, the Town of Erie’s (the “Town”) water supply currently serves approximately 14,000 housing units and 1,700,000 square feet of non-residential, private development;

Whereas, the Town is a participant in the Windy Gap Firming Project, which was originally scheduled to begin filling in 2025 and begin deliveries as soon as 2026 and add 1,900 Acre Feet (“AF”) of firm capacity to the Town’s water supply;

Whereas, due to delays out of the Town’s controls, the Windy Gap Firming Project is not anticipated to distribute water to the Town until 2032;

Whereas, as of May 2026, the Town has limited inventory of unallocated water that is available for (i) the extension of the Town water service for which a tapping charge is assessed or (ii) any increase in Town water service resulting from a change in use of property, an increased use of property, or an increase in irrigated area;

Whereas, the Town has continued to acquire additional Colorado-Big Thompson (“CBT”) units to increase the Town’s available and unallocated water supply;

Whereas, pursuant to Chapter 1 of Title 8 of the Erie Municipal Code (the “Town of Erie Water Ordinance”), the Town has historically required property owners who desire to be served with water from the Town’s water system, or who desire to change land uses which increase the water usage at a property, to pay a fee in lieu of water dedication rather than dedicate water rights to the Town; and

Whereas, with the Town facing a limited water supply for the extension of water service, until deliveries from the Windy Gap Firming Project, Town Council desires to amend the Town of Erie Water Ordinance to allow for the dedication of water as an additional option to property owners for tapping into the Town’s water system.

Now Therefore be it Ordained by the Town Council of the Town of Erie, Colorado, as follows:

Section 1. Section 8-1-2 of the Erie Municipal Code is hereby amended as follows:

8-1-2 Interpretation.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the terms and conditions for the dedication of water to and the

sale of treated water from the town water system. However, this chapter shall not be applied in a manner inconsistent with annexation agreements in existence prior to the effective date hereof.

Section 2. Section 8-1-3 of the Erie Municipal Code is hereby amended as follows:

8-1-3 Definitions.

Whenever in this chapter, the words hereinafter defined or construed in this section are used, they shall, unless the context requires other uses, be deemed to have the following meanings:

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Day: ~~A 24-hour period beginning at 12:00 noon and ending at 12:00~~ measured from midnight to the next midnight of the same 24-hour period.

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Fee in lieu of water dedication: ~~A "fee in lieu of water dedication" is required pursuant to section 8-1-9 of this chapter and related sections of this Code. The "fee in lieu of water dedication" is used primarily to acquire water rights for all beneficial uses. The "fee in lieu of water dedication" is a separate and distinct fee from tap fees as required in sections 8-1-8 and 8-1-18 of this chapter, and related sections of this Code. A fee in lieu of water dedication is an option made available, at the town's sole discretion, to satisfy water dedication requirements as described herein.~~ This definition is not intended to revise references to the term "water tap", "water tap fee" or similar terms used in previous documents at such times when those terms were intended to include both the water tap fee and fees in lieu of water dedication.

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Single-family equivalent unit or SFE unit (SFE): A number related to the volume of water necessary to meet the demand and use requirements, including consumptive use requirements, of an average dwelling unit on an average lot size of 7,000 square feet or less. The SFE unit value assigned to such average dwelling unit is 1.0. The SFE unit value assigned to each small home is 0.75, and an additional 0.1 SFE for each additional 1,000 square feet lot size over 2,000 square feet. The SFE unit value assigned to any particular dwelling unit on a lot size greater than 7,000 square feet may be greater than or equal to 1.0. The SFE unit value assigned to other uses shall be based on the town's estimated volume of water demanded and consumed by such uses as compared to the volume of water demanded and consumed by such average dwelling unit.

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Water tap fee: A "water tap fee" is required for issuance of a water tap pursuant to sections 8-1-8 and 8-1-18 of this chapter and related sections of this Code. It is a separate and distinct fee from fees in lieu of water dedication ~~as required in section 8-1-9 of this chapter and related sections of this Code.~~ This definition is not intended to revise

references to the term "water tap", "water tap fee" or similar terms used in previous documents at such times when those terms were intended to include both the water tap fee and fees in lieu of water dedication.

Section 3. Section 8-1-9 of the Erie Municipal Code is hereby amended as follows:

8-1-9 Water rights dedications.

A. *Intent and purpose:* It is the intent and purpose of this chapter to require dedication of water rights or the payment of fees in lieu of water dedication for all uses ~~except the irrigation of parks and open space. For parks and open space, a person may elect to either pay such fees or dedicate water rights to the town.~~ Any dedication of water rights or payment of fees in lieu of water dedication ~~or dedication of water rights required for the irrigation of parks and open space~~ shall be sufficient to satisfy any new or additional demand for town water service resulting from the extension of water service, or any change in land use, within or outside the limits of the town, which will require new or additional water supply from the town, and thereby to assure an adequate and stable supply of water to all town water users, to ensure the financial stability of the town water utility, and to promote the general welfare of the public. However, water dedication or payment of fees in lieu of water dedication shall not be required for irrigation of new public parks and open space owned by the town or for new public buildings or structures owned by the town.

B. *Dedication required:*

1. From and after the effective date hereof, any person who seeks approval of any of the following:
 - a. An extension of water service;
 - b. Subdivision;
 - c. Any change in land use, within or outside the limits of the town, if such change in land use will increase the demand for town water service;

shall comply with the water dedication requirements of this section by the dedication of water rights or payment of paying fees in lieu of water dedication for all uses ~~except the irrigation of parks and open space. For parks and open space, a person may elect to either pay such fees or dedicate water rights for the irrigation of parks and open space in accordance with this chapter. The amount of water to be dedicated pursuant to this chapter will be determined based on the water and sewer demand analysis required by subsection C.~~ Wastewater from in house or in building uses shall either be treated by the town's municipal wastewater treatment facilities or other wastewater treatment facilities of equal efficiency which provide similar return flow patterns. If wastewater from in house or in building uses will not be treated by the town's municipal wastewater treatment facilities or other wastewater treatment facilities of equal efficiency and which provide similar return flow patterns, the

town shall increase the fee-in-lieu-of-water dedication requirement so that, after the payment of such fees, the water rights to be purchased by the town will produce an amount of deliverable and fully consumable water per year for each SFE which is sufficient to ensure an adequate supply of water to satisfy the proposed use or uses. However, water dedication or payment of fees in lieu of water dedication shall not be required for irrigation of new public parks and open space owned by the town or for new public buildings owned by the town.

2. Any person who ~~elects to dedicate~~ dedicates water rights to the town for ~~irrigation of parks and open space~~ pursuant to this chapter, shall designate, on forms to be prescribed by the town, all water rights proposed to be dedicated to the town and shall provide a legal description of the land for which an extension of water service is requested or for which approval of subdivision or a change in land use is sought and, in addition, shall provide a water and sewer demand analysis in conformance with subsection C. of this section. The form shall be accompanied by a historical use affidavit; except, that if the total number of acre feet is greater than 15-acre feet, the town may, in its discretion, require, in addition to the historical use affidavit, an engineering report prepared at said person's expense by an engineer experienced in water rights matters, which report is determined by the town to sufficiently analyze the historical use of the water right(s) proposed for dedication to the town.

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4. The town shall have the right to make a redetermination of the water rights dedicated to the town for ~~the irrigation of parks and open space~~ in the event that revisions to the proposed extension of water service, subdivision, or change in land use are made subsequent to the determination set forth in subsection B.3. of this section.
5. The water dedication requirement shall be satisfied by the person seeking approval of the extension of water service, subdivision or a change in land use, whether or not that person will be the ultimate user of the town water service.

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7. Any person required to ~~pay the town fees in lieu of~~ satisfy the water dedication requirements of this chapter, ~~as defined above~~, shall convey to the town all nontributary and not nontributary ground water underlying the land to be served. Said ground water shall be in addition to any water dedication hereunder, and no credit shall be given to said water for dedication purposes.

C. *Water and sewer demand analysis:*

1. Any person required to ~~pay the town fees in lieu of~~ satisfy the water dedication requirements of this chapter shall include with the subdivision submittal, or the request for extension of water service or change in land use, data sufficient to allow the town to fully analyze the probable water demand and consumption and the sewer service requirements for all uses of the property to be developed,

except single-family residential use that meets the definition of a "single-family equivalent unit (SFE)" in section 8-1-3 of this chapter. Said water and sanitary sewer demand data shall be based upon the specific development plan proposed by such annexor, developer or owner. The data shall include the entire property and shall provide information regarding all uses of the property. The data shall be sufficient to allow the town to analyze the water demands and consumption separately for all use categories except property which is platted and developed for single-family residential use that meets the definition of an SFE in section 8-1-3 of this chapter (e.g., single-family residential units and other uses that do not meet the definition of an SFE in section 8-1-3 of this chapter: multi-family residential, duplexes, apartments, commercial, industrial, parks, open space or others), and irrigation demands and consumptive use shall be set forth separately for each use category which is applicable to the property. However, indoor use for all dwelling units shall be 0.5 SFE's.

2. The person required to ~~pay the town fees in lieu of~~ satisfy the water dedication requirements of this chapter shall be responsible to pay the town for the analyses set forth in subsection C.1. of this section. If the town and said person agree on applicable water and sanitary sewer demands for the property prior to the town commencing the analyses referenced above, the town may advise such person that he is not required to pay for said analyses.
3. The town may conduct an annual audit of any project, except single-family residential uses that meet the definition of a SFE ~~"single-family equivalent unit" in section 8-1-3~~, to confirm the adequacy of the water demand projections made in the analysis required by subsection C.1 ~~by the annexor, developer or owner~~, and the town may require additional water rights dedication or payments of fees in lieu of water dedication ~~cash in lieu payments~~ based on actual water usage. In the event that the town and the ~~annexor, developer or owner~~ person cannot reach an agreement regarding the additional water rights dedication or cash-in-lieu payments based on actual water usage, the town reserves all remedies at law and equity to resolve any such dispute.

D. *Dedication of rights for park, open space or recreation use:*

1. If any person required to satisfy the water dedication requirements of this chapter ~~pay the town fees in lieu of water dedication~~ also dedicates land to the town pursuant to this Code, and such land is to be used for park, irrigated open space or recreation uses, such person shall also comply with the provisions of this section, including the dedication of water rights pursuant to this chapter or payment of fees in lieu of water dedication sufficient to irrigate said land, as determined by the town.
2. Where the town council enters into an agreement to accept cash in lieu of in kind land dedication for parks, open space or recreation uses, and the town is unable to specifically determine the irrigation demand for the public project for which the cash is contributed from a specific town construction plan, master

plan or otherwise, the amount of water right dedication, ~~or cash or payment of fee~~ in lieu of water right dedication, at the town council's discretion, which shall be required to meet the requirements of subsection D.1. of this section shall be equal to the amount required to irrigate 80 percent of the land area which otherwise would have been required for in kind land dedication by this Code.

E. *Procedure:*

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9. The town reserves the right to review projected water usage and actual water usage within a project at any time to confirm the adequacy of the water demand projections made in the analysis required by subsection C.1 ~~by the annexor, developer or owner~~, and to require additional water rights dedication or payments of fees in lieu of water dedication ~~cash-in-lieu payments~~ based on actual water usage. The town may conduct an annual audit of any project, except single-family residential uses that meet the definition of a SFE "single-family equivalent unit" ~~in section 8-1-3~~, to confirm the adequacy of the water demand projections ~~made by the annexor, developer or owner~~, and the town may require additional water rights dedication or payments of fees in lieu of water dedication ~~cash-in-lieu payments~~ based on actual water usage. In the event that the town and the ~~annexor, developer or owner~~ person cannot reach an agreement regarding the additional water rights dedication or payment of fees in lieu of water dedication ~~cash-in-lieu payments~~ based on actual water usage, the town reserves all remedies at law and equity to resolve any such dispute.

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- F. *Fees in lieu of dedication:* ~~The town shall require~~ may, at its sole discretion, allow the water dedication requirements of this chapter be satisfied by the payment of fees in lieu of water dedication ~~to satisfy all dedication requirements for all uses on lands annexed to the town;~~ which are provided water service by the town, except, that a person may elect to dedicate water rights ~~for the irrigation of parks and open space~~ in accordance with the requirements of this section, or as may be provided in an intergovernmental agreement. Said fees in lieu of water dedication shall be set by resolution of town council ~~forth in section 2-10-6 hereof~~. The firm annual yield of a CBT unit for all purposes in this Municipal Code is one-half acre foot per unit. All determinations required by this section shall be made by the town in its sole judgment. However, water dedication or payment of fees in lieu of water dedication shall not be required for irrigation of new public parks and open space owned by the town or for new public buildings owned by the town.

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Section 4. Section 8-1-13 of the Erie Municipal Code is hereby amended as follows:

8-1-13 Water meters.

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- G. *Hydrant meters:* Any and all construction not addressed in subsection D. of this section requiring town water shall be controlled by the use of a hydrant meter obtained from the town pursuant to the following requirements:
1. *Deposit required:* Prior to the assignment of a hydrant meter, a hydrant meter deposit is required as provided by resolution of the town council ~~as provided in section 2-10-4 of this Code~~. The deposit shall be paid to the town finance department which shall issue a receipt. When the receipt is presented to the director of utilities, a hydrant meter will be issued with the proper location assignment. The deposit will be held until such time as the hydrant meter has been returned and the water usage paid in full.
 2. *Charges:*
 - a. *User charge:* The charge for the town water service shall be established by resolution of the town council ~~as provided in section 2-10-4 of this Code~~.
 - b. *Rental charge:* Rental for the hydrant meter shall be established by resolution of the town council ~~in accordance with section 2-10-4 of this Code~~.

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Section 5. Section 8-1-18 of the Erie Municipal Code is hereby amended as follows:

8-1-18 Fees and charges.

- A. *Tap fees:*
1. *Fees established:* Tap fees shall be established by resolution of the town council ~~as set forth in section 2-10-6 of this Code~~. The town council shall have the right and authority to adjust tap fees at any time pursuant to ordinance.

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- B. *User charges:* Charges, fees, rents and/or rates shall be levied and assessed for water and water service at the following rates:

1. *Service rates:*
 - a. Rates for town water service shall be established by resolution of the town council ~~as set forth in section 2-10-4 of this Code~~. The town council shall have the right and authority to adjust rates at any time pursuant to resolution.
 - b. Rates for water service provided outside the corporate limits of the town shall be established by resolution of the town council ~~as set forth in section 2-10-4 of this Code~~.

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G. *Water rates and water tap fees for nonpotable water:* As of March 22, 2016, the town imposes certain water rates and water tap fees for the provision of nonpotable water. The water rates for nonpotable water ~~are set forth in section 2-10-4 of this Code,~~ and the water tap fees for nonpotable water are established by resolution of the town council set forth in section 2-10-6 of this Code. As with all other water tap fees and water service rates, pursuant to subsections A.1. and B.1.a. of this section, respectively, ~~the Town of Erie~~ town council shall have the right and authority to adjust tap fees by appropriate action at any time.

Section 6. Severability. If any article, 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 Town Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 7. Safety. The Town Council finds that the adoption of this Ordinance is necessary for the protection of the public health, safety, and welfare.

Section 8. Emergency Declaration. Pursuant to Section 6.04 of the Town's Home Rule Charter, the Town Council hereby declares that this Ordinance is necessary for the immediate preservation of public property, health, welfare, peace, or safety. Town Council hereby finds and declares that the Town is facing limited water supply for the extension of water service until deliveries from the Windy Gap Firming Project become available, and Town Council finds it in the best interest of the Town to immediately allow for the dedication of water to the Town.

Section 9. Effective Date. This Ordinance shall take effect immediately upon adoption.

EXPLANATORY NOTE:

STRIKETHROUGHS INDICATE MATERIAL DELETED FROM EXISTING LAW;
UNDERLINES INDICATE MATERIAL ADDED TO EXISTING LAW;
ASTERISKS * * * INDICATE MATERIAL UNCHANGED BY THIS ORDINANCE.

Introduced, Read, Passed, and Ordered Published this 26th day of May, 2026.

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk