

ARTICLE 7 - **Inclusions and Exclusions**

7.1 Service Within District Boundary.

Water System service will be furnished in accordance with the District's Rules and Regulations to property included within and subject to the Rules and Regulations of the District and taxation by the District.

7.2 Letter of Intent.

Ability to serve letters for new projects shall be issued only upon proof of inclusion within the District boundaries and submission of review fee deposit as estimated by District staff. The finding of compliance with the necessary criteria and ultimate issuance of the Letter of Intent shall be at the sole discretion of the District. Prior to issuance of the Letter of Intent, no connections to the Water System shall occur.

7.3 Inclusion of Property into The District.

Notwithstanding anything herein to the contrary, all Petitions for Inclusion shall be considered and processed in accordance with Part 4, Article 1, Title 32, C.R.S. This policy of the District shall apply to the inclusion of lands that are not within the District as of July 1, 2010. The board will consider Petitions for Inclusion at its discretion, but not less than once per calendar year. If a need exists to consider a Petition for Inclusion on an individual basis for subdivision approval or a building permit, written request shall be made for expedited consideration and an additional fee as determined by the Board and shown in Exhibit I -Rates and Charges shall be submitted with the Petition.

7.3.1 A fee in an amount as determined by the Board and shown in Exhibit I - Rates and Charges shall be paid and a check for said amount shall be remitted with any Petition to be paid by the petitioner to the District. Such fee shall be nonrefundable whatever the Board's determination may be to grant or deny the Petition.

7.3.2 The Petition shall be on the standard form provided by the District, see Exhibit II. Only complete Petitions will be considered by the Board.

7.3.3 The Petition shall include and describe all of the fee owner's real property that is contiguous to the parcel, tract or lot that is capable of being served by the Water System, specifically including any improved residential or commercial property. Any Petition which is determined not to include all such real property shall be denied by the Board.

7.3.4 Without limiting the Board's discretion, inclusion requests will not be granted unless made by the owner(s) of record (i.e., on file with the County

Assessor) of a surface estate that is capable of being served by the District. Except for inclusion of property previously excluded by the Board of County Commissioners or the District Court, inclusion requests will be denied if made by: 1) owners of subsurface estates only; or 2) owners of personal property only; or 3) petitioners who are not owners of record with the County Assessor. For purposes of inclusion, the surface estate shall control the treatment of all other taxable property within the parcel. If inclusion is granted, it shall include any subsurface estate and personal property appurtenant to the surface estate. The Board shall determine, in its sole discretion and judgment, whether the granting of the Petition for Inclusion is in the best interests of the District's existing residents and property owners.

7.3.5 The Board may withhold entry of any final order granting the Petition for Inclusion until the petitioner has fully satisfied any conditions imposed by the Board, including payment of all fees and expenses, or has entered into an agreement which details the terms and conditions of inclusion.

7.3.6 Any failure by the fee owner(s), their successors or assigns, to comply with the conditions imposed by the Board for inclusion shall be grounds for termination of service, in the sole discretion of the Board.

7.3.7 In addition to the fee for the Petition for Inclusion and any fee imposed for expedited processing of a Petition for Inclusion, the CIF shall be collected when connection to the Water System is requested and may be subject to a credit for property taxes paid to the District during the period when water service was not available to the property to be served in the discretion of the Board.

7.4 Exclusion Of Property From The District:

7.4.1 Notwithstanding anything herein to the contrary, all Petitions for Exclusion shall be considered and processed in accordance with Part 5, Article 1, Title 32, C.R.S. Without taking any formal position thereon at this time, the Board shall defer to any exclusion determination previously made by the La Plata County assessor prior to the organization of the District both as to form and substance.

7.4.2 A fee in an amount set by the Board as shown in Exhibit I- Rates and Charges per property identified by a Parcel Number by the La Plata County Assessor shall be paid and a check for said amount shall be remitted with any Petition for Exclusion as a deposit to be credited to the costs of exclusion proceedings which are required to be paid by the petitioner to the District. Such fees shall be nonrefundable whatever the Board's determination may be to grant or deny the Petition.

7.4.3 The Petition shall be on the standard form provided by the District, see Exhibit III. Only complete Petitions will be considered by the Board.

7.4.4 Property excluded from the District shall still obligated to pay any charge or lien or obligation of any bonds existing at the time of filing the Petition. No Petition shall be considered unless all unpaid charges, taxes and liens shall be paid by the petitioner at the time of filing the Petition.

7.4.5 Without limiting the Board's discretion, the Petition for Exclusion will not be granted unless made by the owner(s) of record (i.e., on file with the County Assessor) of a surface estate and includes all of the property of the petitioner within the District. Exclusion requests will be denied if made by: 1) owners of subsurface estates only; or 2) owners of personal property only; or 3) petitioners who are not owners of record with the County Assessor. For purposes of exclusion, the surface estate shall control the treatment of all other taxable property within the parcel. Petitions for Exclusion of property that is exempt from taxation shall not be considered by the Board and any such Petition shall be returned to the property owner/petitioner.

7.4.6 The Board shall consider and make findings regarding each of the following factors when determining whether to grant or deny a Petition for Exclusion:

- a) The best interests of all of the following: (i) the property to be excluded, (ii) the District and (iii) the County;
- b) The relative cost and benefit to the property to be excluded from the provision of the District's services;
- c) The ability of the District to provide economical and sufficient service to both the property to be excluded and all of the properties within the District's boundaries;
- d) Whether the District is able to provide services at a reasonable cost compared with the cost that would be imposed by other entities in the surrounding area to provide similar services;
- e) The effect of denying the Petition for Exclusion on employment and other economic conditions in the District and surrounding area;
- f) The economic impact on the region and District, surrounding area, and State as a whole if the Petition is denied or the Resolution is finally adopted;
- g) Whether an economically feasible alternative service is available; and
- h) The additional cost to be levied on other property within the District if the exclusion is approved.

7.4.7 In addition, exclusion shall only be granted under the following conditions:

- a) In the opinion of the District's staff and consultants, it will never be feasible for the District to serve the property; or
- b) In serving the property, the District would be duplicating existing public water service; or
- c) The Board, in its sole and absolute discretion, determines the original inclusion of the property was improper.

7.4.8 If the property to be excluded from the District will be served by a special district not yet organized, the Board shall not order that the Petition be granted until such special district has been organized pursuant to the Special District Act.

7.4.9 For any exclusion granted by the District, the fee owner of the excluded property shall be responsible for the payment of all exclusion charges as determined by the Board, including the exclusion fee in effect at the time the Petition is filed.

7.4.10 The Board may withhold entry of any final order granting the Petition for Exclusion until the petitioner has fully satisfied any condition or conditions imposed by the Board, including payment of all fees and expenses, or has entered into an agreement which details the terms and conditions of exclusion.

7.5 Service to Excluded Properties within District Boundary

No Water System service shall be provided to property which was excluded from the District until such time as the owner of such property petitions for inclusion into the District and that petition has been approved by the Board.

7.6 Service Outside District Boundaries.

No Water System service shall be provided to property outside the boundaries of the District, except upon the express written consent of the Board. Charges for furnishing service outside of the District shall be at the discretion of the Board. The charge for such service shall be set by the Board. In every case where the District furnishes service to property outside the boundaries of the District, the District reserves the right to discontinue the service which, in the judgment of the Board, it is in the best interest of the District to do so.