

**LDWA
WATER TAPS, SHARES, RIGHTS, FEES, PROCUREMENT
RULE 2015**

I. LDWA CLASSIFICATIONS OF TAPS: ACTIVE, STANDBY, [FLOATER, Obsolete].

1. ACTIVE TAP. A Tap that: (i) is assigned one water share; (ii) is designated to a parcel identified by the Tax Parcel ID number recorded with Washington County, Utah; (iii) has a water meter installed; (iv) has water service provided; and (v) is billed monthly based on the Active Tap Fee Rates and any other fees that shareholders may be assessed for debt service, capital improvements, emergency repair, etc. An Active Tap is subject to all Active Tap charges beginning the month the water meter is installed and connected to the LDWA system.

2. ACTIVE TAP, CAPPED & DISCONTINUED. A Tap that: (i) is assigned one water share; (ii) is designated to a parcel identified by the Tax Parcel ID number recorded with Washington County, Utah; (iii) does not receive water, has the water meter removed and capped as a result of: enlarging, altering, repairing, moving, removing, demolishing or other such change to a dwelling or structure previously served by said active tap and where such structural changes require compliance with the International Council Codes (ICC) for construction and plumbing; (iv) is billed monthly based on the Standby Tap Rates and any other fees that shareholders may be assessed for debt service, capital improvements, emergency repair, etc.; and (v) is required to remain capped until such time all required inspections, documentation and permits have been approved by the applicable building and/or construction authority in compliance with the ICC Codes of Construction adopted by the State of Utah.*

3. STANDBY TAP. A Tap that: (i) is assigned one water share, (ii) is designated to a parcel identified by the Tax Parcel ID number recorded with Washington County, Utah, (iii) does not have a water meter installed, and (iv) does not have water service provided. A Standby Tap Fee is billed monthly for the current Standby Tap Rate and any other fees that shareholders may be assessed for debt service, capital improvements, emergency repair, etc.

4. FLOATER TAP [issued from 1979 to 1983, can no longer be purchased]. A Tap that: (i) represented one Water Share and was previously purchased by shareholders to raise capital for the Association, (ii) was/is not assigned to a parcel and originally had no requirement to ‘build right away’ (reference LDWA Meeting Minutes dated Sep 4, 1979), (iii) was based on LDWA’s existing inventory of Water Rights, (iv) did not have monthly fees, and (v) Impact Fees were included. When a Floater Tap is designated to a parcel identified by the Tax Parcel ID number recorded with Washington County, Utah, it becomes a Standby Tap.

Today’s Utah State regulations and requirements for Beneficial Use of Water prohibit the sale of Floater Taps and cannot be acquired from LDWA.

III. FEES.

There are three components relevant to ascertaining fees and costs regarding new connections:

1. CONNECTION FEE. The fee charged for connecting to the LDWA water system which represents the cost analysis as described in the current LDWA Capital Facility Plan for the actual physical connection to the system. The Connection Fee includes the cost of the meter and covers all connection costs, except fees that may be required by local or state government. The Connection Fee does not include the cost to extend a water line from or across the shareholder property for the purpose of connecting to the main LDWA water system, expanded capacity, oversized lines, or expansion costs of LDWA throughout its service area. Those costs must be borne by the applicant (ref: Impact Fee). The Connection Fee is separate from the Impact and Water Share Fee.

2. IMPACT FEE. The fee charged when a shareholder activates culinary water service and delivery through LDWA's infrastructure. As a mutual water company, LDWA requires all shareholders to pay equally for the costs and maintenance of the culinary water delivery system, regardless of when they sign up for water service. The Impact Fee is separate from the Water Share and Connection Fee.

3. WATER SHARE FEE. The fee charged for purchase of a Water Share. Applicants are required to pay LDWA for Water Shares OR provide warranted Water Rights to LDWA, before they may become a shareholder and obtain water service. The Water Share Fee is separate from the Impact and Connection Fee.

In circumstances not specified herein, the Association will provide written notification to the developer of the effective billing date.

IV. WATER RIGHTS and WATER SHARES: THEY ARE NOT THE SAME.

In Utah, all water is owned by the public. The Utah Code provides that "All waters in this state, whether above or under the ground are hereby declared to be the property of the public, subject to all existing rights to the use thereof." The Utah Division of Water Rights administers the water on behalf of the public. In order to legally use water, a person must have a water right; in other words, the person must have permission from the Utah Division of Water Rights to use some of the public's water.

Many water rights are owned or held by mutual water companies (e.g., canal companies, ditch companies, or irrigation companies). The company issues stock to shareholders. By owning stock, a shareholder is entitled to use a portion of the company's water right. For example, if a ditch company owns a water right for 1,000 acre-feet of water and the company has 1,000 shareholders, each share represents the right to use 1 acre-foot of water from the company's water right.

The two terms are not interchangeable. Water shares ARE NOT water rights. The distinction between water rights and water shares is important for many reasons. For example, the manner of transferring water rights and water shares differs drastically. To transfer water rights (which are generally considered real property), a seller must convey the water right by deed, the deed must be recorded in the proper county recorder's office, and a Report of Conveyance must be filed with the Division of Water Rights. Water shares are transferred according to the Utah Uniform Commercial Code and the water company's rules and regulations--generally by the seller endorsing the back of the share certificate and then having the company secretary issue a new share certificate to the buyer.

WATER SHARE. Applicants are required to pay LDWA for each Water Share, or provide Water Rights to LDWA from which Water Shares are designated to each parcel. All Water Rights conveyed to LDWA are owned by LDWA for the benefit of all shareholders and no Water Rights are owned by individual shareholders or attached to specific property. For each new connection, LDWA must first ascertain whether there are Water Rights previously conveyed to LDWA to service the property in question. If not, the applicant must either: (i) convey Water Rights to LDWA; (ii) have LDWA procure Water Rights on behalf of the applicant; or (iii) pay LDWA the cost of Water Rights in LDWA's inventory that can then be allocated to the new connection.

WATER RIGHTS. All Water Rights conveyed to LDWA are owned by LDWA for the benefit of all shareholders, and no Water Rights are owned by individual shareholders or attached to specific property. For each new connection, LDWA must first ascertain whether there are Water Rights previously conveyed to LDWA to service the property in question. If not, the applicant must either: (i) convey sufficient Water Rights to LDWA; OR (ii) have LDWA procure sufficient Water Rights on behalf of the applicant; OR (iii) pay LDWA the cost of Water Rights in LDWA's inventory that can then be allocated as Water Shares for each new connection.

Water Rights provided LDWA by an Applicant. Where the Water Rights for property have been provided to LDWA by the applicant and the Water Rights deeded are sufficient to supply the development, the applicant is required to pay the Standby Tap Fee, Water Connection Fee, Impact Fee and any other applicable fees.

Water Rights Procured by LDWA on behalf of an Applicant. LDWA has the discretion to procure Water Rights on behalf of an applicant, at applicant's request. The cost of procuring those rights, to include any extraordinary costs, such as legal fees, together with LDWA's reasonable administrative costs, must be paid for by the applicant.

Water Rights in LDWA Inventory. Unallocated Water Rights in the LDWA inventory have been acquired at varying times and costs, and are required by the Division of Drinking Water and State of Utah, to be reserved expressly for future development of all existing land within the municipality. These Water Rights are not designated for specific property and are required to provide water for infill developments of three (3) lots or less. LDWA may waive the requirement

that the applicant provide the Water Rights and source of water and allow the applicant to pay LDWA directly for the cost of the Water Rights. Where LDWA provides Water Rights from its own inventory, it will charge the current fair market value as determined by the sole discretion of the LDWA Board.

SHAREHOLDER RESPONSIBILITY FOR PAYMENT OF FEES. Shareholders are liable for all fees assessed by LDWA against their property. If fees are not timely paid, LDWA may (i) shut off water service to Active Taps, (ii) revoke the shareholder rights to the water share until such time the Reinstatement Fees are paid in full, (iii) place a lien against the property serviced by Active or Standby Taps, and (iv) institute collection action, as appropriate. In the event a shareholder owns multiple taps of Active or Standby Taps, or any combination thereof, and one or more of the accounts is not timely paid, LDWA may take the foregoing actions with regard to any of the shareholder's taps, including those for which the accounts may be current. Shareholders are responsible for all LDWA costs of collecting fees, including attorney fees and court costs. Reference: LDWA BYLAWS ARTICLE IX, DISTRIBUTION OF WATER, SECTION 5, NEW DEVELOPMENTS.

*References.

ICC Code Section 105, Permits: “any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the municipal building official and obtain the required permit.”)

The DDW/DEQ International Council Building Code, Chapter 33, Section 3303.6 for Utility Connections requires water service connections be discontinued and capped in accordance with the approved rules and requirements of the applicable authority, until such time the municipal building authority approves the completed construction required under the current ICC Codes as adopted by the State of Utah.