

TITLE 7

Public Ways and Property

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CHAPTER 1

Streets, Sidewalks and Public Ways – Excavations

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7-1-1. Authority.

All work on any excavation, cut, trench or opening in or under any street, sidewalk, curb, gutter, curbside, alley or other public place shall be done only on authority of a permit issued through the office of the Town Clerk.

7-1-2. Permit required; specifications.

It shall be unlawful for any person other than those under contract with the Town to excavate, cut, open or trench in or under any street, sidewalk, curb, gutter, curbside, alley right-of-way or other public place without having first obtained a permit from the office of the Town Clerk. The permit shall contain rules and regulations which shall be fully complied with by the applicant. The permit shall be substantially similar to the excavation permit attached to Ordinance 307 and adopted herein by reference, and may be changed from time to time in order to accomplish the objectives of this Chapter.

7-1-3. Definitions.

The following definition shall apply in the interpretation and enforcement of this Chapter:

Excavation permit. A permit for excavation that requires an excavation in the public right-of-way.

7-1-4. Application.

Every person desiring to do any of the said excavation work shall apply to the office of the Town Clerk for a permit therefor by filing an application stating the applicant's name, the location and purpose of the proposed excavation, the dates of commencement and completion of the work, and a statement that the work will be performed in strict compliance with the plans, specifications and procedures as found on the permit.

7-1-5. Permit fee.

A fee of one hundred dollars (\$100.00) shall be paid to the Town prior to the issuance of excavation permits for paved or unpaved streets and alleys.

7-1-6. Bond required.

Every person applying for an excavation permit and prior to the issuance thereof shall file a letter of corporate responsibility, post a bond or cashier's check in favor of the Town in the penal sum of at least seven hundred fifty dollars (\$750.00), but in any event no less amount than the reasonable anticipated cost of restoring the surface of the ground to its original condition after such excavation and conditioned upon the faithful performance of such work in strict compliance with the specifications, rules, regulations and ordinances of the Town and within the specified time limit; and shall state that such person will indemnify and save harmless the Town against any and all damages or claims for damages, loss, cost, charges or expenses that may be brought against it by any person by reason of such work. The bond shall be discharged or the cashier's check amount refunded to the applicant upon completion of the work, a review of said work by the Public Works Director and/or the Board of Trustees and a sworn statement by the applicant that he has done the work in strict compliance with the specifications, rules and regulations and ordinances of the Town. (Ord. 281, 5-19-94)

7-1-7. Commencement and completion.

All work authorized by permit issued pursuant to this Chapter shall be commenced within a reasonable time after issuance of the permit and shall be diligently and continuously performed until completion. In the event that weather, process of law or any other unexpected obstacles to the work cause it to be stopped for so long a time that public travel shall be unreasonably obstructed or public safety is at risk or adversely affected, the Public Works Director and/or Board of Trustees may order the excavation refilled and repaved as if the work contemplated in the permit was actually completed. (Ord. 281, 5-19-94)

7-1-8. Barricades and lights.

Every person making or causing to be made any excavation shall keep the excavation barricaded at all times, and, between the hours of sunset and sunrise, he shall keep such excavation properly lighted so as to warn all persons thereof. (Ord. 281, 5-19-94)

7-1-9. Width and minimum of inconvenience to public.

No opening or excavation shall be undercut or have a greater width at the bottom than at the top. In no case shall more than one-half (1/2) of the width of any street, alley or other public place be opened or excavated at any one time, and, in all cases, one-half (1/2) of such street, alley or other public place shall remain untouched for the accommodation of traffic until the other one-half (1/2) is restored for safe use. All such work shall be performed in such a way as to cause minimum inconvenience and restrictions to the public and to both pedestrian and vehicular traffic.

7-1-10. Sidewalks and gutters clear.

It shall be unlawful for any person to perform any excavation or to place any dirt or other materials upon any sidewalk or in any gutters, and such work shall be performed so as to permit the free passage of water along the gutters.

7-1-11. Cutting pavement.

In any excavation work on or under any paved street, the pavement must be cut with an asphalt spade or other tool designed for that purpose, to be approved by the Public Works Director and/or Board of Trustees. The width of all cuts in the pavement shall be sufficient so that all excavation in or under any paved street can be accomplished without disturbing or lifting the surrounding pavement.

7-1-12. Penalty.

Any person who violates this Chapter shall be subject to forfeiture of his bond or certified check, restitution to the Town in the amount required to repair any damages to the public way or places and/or a fine. The minimum fine imposed shall be one hundred dollars (\$100.00) with a maximum equal to the maximum fine amount authorized in Subsection 1-4-1(B) of this Code and the Municipal Court shall not reduce or suspend any portion thereof. In addition to fines, costs and restitution, the Municipal Court may impose a maximum ninety (90) days' imprisonment. (Ord. 2013-6-1-390 §6)

CHAPTER 2

Reserved

CHAPTER 3

Use of Town Hall

- 7-3-1 Priority use of Town Hall**
- 7-3-2 Conditions of public use**
- 7-3-3 Responsibilities of user**
- 7-3-4 User's statement**

7-3-1. Priority use of Town Hall.

The Town, as greater holder in deed of the Town Hall, and the Hot Sulphur Springs/Parshall Fire Protection District Number Three as the lesser holder in the deed of the Town Hall, shall, in every case, have first rights to the use of the Town Hall, and no individual, group or entity shall ever have the right to displace or attempt to displace any event, function or activity of the Town or the Fire District. Within the meaning of *event, function or activity*, as used above, shall specifically be included all meetings, gatherings, hearings, fund-raising events and all activities to properly maintain and repair the interior and the exterior of the building. Regardless of any agreement to the contrary, the Town may, at any time, cancel outside or general public usage of the Town Hall in order to use the Town Hall for its own event, function or activity.

7-3-2. Conditions of public use.

Any individual, group or entity (whether public or private) may be permitted to use the Town Hall subject to the following conditions:

(A) The Town Hall is not needed by the Town or by the Fire Protection District, as set forth by Section 7-3-1 of this Chapter. (Res. 1986-6, 11-20-86)

(B) The individual has contacted the Town Clerk/Treasurer in person to explain the function and activity involved, time Town Hall will be used and who will be responsible for clean-up. If any fundraisers or events leading to monetary gain are planned, then they must pass the review and approval of the Board of Trustees.

(C) The Town Clerk/Treasurer has approved such use.

(D) The user has signed a written agreement concerning use of the Town Hall. (Res. 1986-6, 11-20-86)

7-3-3. Responsibilities of user.

(A) All users shall be responsible for any and all damage to the Town Hall and its furnishings caused by them or their invitees and shall indemnify and hold harmless the Town from any and all claims arising out of their use of the premises, and further, all users shall be responsible for cleaning the premises after use and for the disposal of all trash or other solid waste accumulated on the premises as a result of the user thereof.

(B) All users shall pay the following charges, if applicable, as set forth below:

(1) If the premises are not restored to satisfactory condition, to be determined by the Board of Trustees, the user will be billed for such expenses and is expected to pay the bill within ten (10) days.

(2) If, upon billing, the user fails to pay the costs incurred by the Town, the user shall be responsible for paying all of the Town's costs and attorney's fees incurred in collecting such costs.

(3) No user shall leave any supplies, equipment or projects on the premises. The Town shall not be held responsible for the damage to or loss of any such supplies, equipment or projects left on the premises.

(4) Upon scheduled usage and signing of the use agreement, the key to the Town Hall will be issued by the Town Clerk/Treasurer or a Board of Trustees member. The key will be returned immediately after use by putting the key in the payment slot in the front door after locking the front door or by giving it in person to the Town Clerk/Treasurer or Board of Trustees member.

(5) If, after usage, it has been determined that the Town Hall was left in an unsatisfactory condition, the Board of Trustees reserves the right to forbid future use of the Town Hall to the person and/or organization responsible.

7-3-4. User's statement.

A true and full copy of this Chapter, when acknowledged by the user below, shall serve as the agreement between the Town and the user.

USER'S STATEMENT

I have read and I understand and accept the terms and conditions of Title 7, Chapter 3 of the Town Code. I hold harmless the Town of Hot Sulphur Springs from any and all claims arising out of the use of the Town Hall. I know that I am responsible for the condition of the premises and all furnishings within, and will pay for all damages caused by me or my invitees.

_____ User

_____ Date of agreement

Date of use _____

Intended _____ use _____

(Ord. 271, 3-21-91)

CHAPTER 4

Water and Sewer Service

- 7-4-1 Purpose**
- 7-4-2 Unlawful acts/penalty**
- 7-4-3 Adoption of rules and regulations governing water and sewer system**
- 7-4-4 Definitions**
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- 7-4-6 Water and sewer connections**
- 7-4-7 Ownership of service lines**
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- 7-4-22 Repair and extension of mains**
- 7-4-23 Metering of water**
- 7-4-24 Frozen water lines and water mains**

- 7-4-25 Waste of water prohibited
- 7-4-26 Water rates
- 7-4-26.5 Service fee for transfer of service
- 7-4-27 Connection with sanitary sewer required
- 7-4-28 Sewer tap fee
- 7-4-29 Sewer line construction and maintenance
- 7-4-30 Discharge of unacceptable wastes into sewer prohibited
- 7-4-31 Control manhole required
- 7-4-32 Abandonment of connection
- 7-4-33 Deposit of unsanitary wastes on property prohibited
- 7-4-34 Deposit of untreated industrial waste into natural outlets prohibited
- 7-4-35 Sanitary sewer rates and charges for use of sewers

7-4-1. Purpose.

The purpose of this Chapter is to provide for regulations and procedures to govern the provision of water and sewer service to users within the corporate limits and outside of the corporate limits of the Town, to establish rates, fees and charges in connection therewith and to provide for the collection of the same.

7-4-2. Unlawful acts/penalty.

(A) It shall be unlawful for any person to use or take water from the Town waterworks without a permit therefor or to make any fraudulent representation for the purpose of obtaining water, or for any person to take or use water from the waterworks for a different purpose or purposes other than as provided in the customer's permit, or for any person to willfully or unreasonably waste water, or for any person to violate any of the regulations set forth in this Chapter.

(B) No person shall in any way interfere with the employees of the Town in any discharge of their duties in the tapping or maintenance of any water or sewer pipe, main or lateral.

(C) No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the Town's sanitary sewer or water system.

(D) Each and every such unlawful act and each day the violation persists shall constitute a separate violation of this Code and shall be punishable as herein provided.

(E) Any violation of any section, paragraph, clause or provision of this Chapter or of any regulation adopted pursuant thereto shall be punishable by a fine not to exceed three hundred dollars (\$300.00), plus restitution to the Town for any cost incurred by the Town in remedying any problem with the water or sanitary sewer system caused by such violation, or imprisonment not to exceed ninety (90) days, or both such fine and imprisonment.

7-4-3. Adoption of rules and regulations governing water and sewer system.

The Board of Trustees shall make and enforce such rules and regulations as it may deem necessary for the safe, efficient and economical management of the Town's water and sanitary sewer system.

Such rules and regulations, when not repugnant to any ordinances of the Town and laws of the State, shall have the same force and effect as ordinances of the Town.

7-4-4. Definitions.

The following terms shall have the meanings ascribed:

Sanitary sewage. The waste from water closets, urinals, lavatories, sinks, bathtubs, showers, household laundries, commercial laundries, cellar floor drains, bars, soda fountains, cuspidors, refrigeration drips, drinking fountains and any other waterborne waste not constituting an industrial waste.

Sewer main. All sewer lines and manholes transporting sewage from more than one (1) property with the means to have more consumers connected without loss of quality of service. Sewer mains shall be no smaller than six (6) inches in size and shall be located within the public right-of-way maintained by the Town.

Sewer service lines. All apparatuses (tapping saddle, tapping Y or tapping T's) attached to the sewer main, and sewer service lines four (4) inches or larger from the sewer tap to the household, including all apparatuses (clean-out, etc.), whether on public or private property.

Unacceptable wastes. The following constitute *unacceptable wastes*:

- (a) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit;
- (b) Any water or waste having a five-day biological oxygen demand which may contain more than two hundred (200) milligrams per liter as average during any twelve-hour period;
- (c) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;
- (d) Any garbage that has not been properly shredded;
- (e) Any ashes, cinders, sand, mud, straw shavings, metal, rags, feathers, tar, plastics, wood, paunch, manure grit, brick, cement, onyx, carbide, or any other solid or viscous substance capable of obstruction of the flow of the sewers or other interference with the proper operation of the sewage works;
- (f) Any water or waste having a pH lower than five-point-five (5.5) standard units or higher than nine (9) standard units or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the sewage works;
- (g) Any water or waste containing a toxic or poisonous substance in sufficient quantities to injure or interfere with the sewage process, constituting a hazard to humans or animals or creating any hazard in the receiving waters of the sewage treatment plant;
- (h) Any waters or wastes containing suspended solids of such character or quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.

In any event, the maximum amount of suspended solids shall not exceed three hundred (300) milligrams per liter; or

- (i) Any noxious or malodorous gas or substance capable of creating a public nuisance.

Water mains. All water lines used for the transporting of water to more than one (1) property with the means to have more consumers connected without the loss of quality of service. No water lines smaller than one and one-half (1½) inch shall be considered water mains. All water mains shall be placed in the public right-of-way maintained by the Town.

Water service lines. All apparatuses (tap and curb/stop) attached to the water main, water service line (three-quarter [¾] inch or larger) from the curb/stop into the household, including curb/stops and riser boxes, whether on public or private property.

7-4-5. Public Works Director's powers.

The Public Works Director is responsible for management of all things pertaining to the Town water and sewer works system and shall perform all acts as may be necessary for the prudent, efficient and economical management and protection of said water and sewer works, subject to the approval and confirmation of the Board of Trustees.

7-4-6. Water and sewer connections.

All structures used for residential and business purposes shall be served by the Town's water and sewer systems.

7-4-7. Ownership of service lines.

The property owner shall own and maintain in good repair the service line from the tap to the premises served, and all work upon the service line shall be performed by a licensed plumber or other competent person to be approved by the Public Works Director.

7-4-8. Inspections and notice of defect.

(A) After written notification is given, the Public Works Director is authorized to inspect the premises or buildings of any water or sewer service consumer for the purpose of examining the condition of all pipes, motors, meters, drains and water and sewer fixtures, or the manner in which the water or sewer lines are used or installed. Inspection is authorized for the purposes of protecting and remedying all abuses, whether from waste or other improper use of water or sewer lines.

(B) When the inspection authorized by this Section reveals to the Public Works Director that there appears to exist a condition in the service line which constitutes a danger to the public health or a waste of water, he may forthwith, by certified mail, return receipt requested, notify the owner of the property and/or service line of the defect. For the purposes of this Section, the owner shall be the party shown in the records of the County Assessor. Said request shall identify the defect discovered by the Public Works Director and direct the owner to repair said defect within forty-eight (48) hours. As well as sending notice by certified mail, return receipt requested, to the owner of the property, the Public Works Director shall serve said notice upon anyone residing upon the property. Said notice

shall be served by handing it to and leaving it with any person over the age of eighteen (18) years who claims the property is his permanent residence. In the event service cannot be obtained as stated herein, the Public Works Director may post said notice at a conspicuous place upon the premises and accomplish service thereby.

7-4-9. Remedying a defect.

(A) In the event that the owner elects to perform the work to repair a defect himself after receiving notice, all work shall be done in a workmanlike manner, and the entire cost thereof shall be borne by the owner.

(B) If any excavation performed by the owner or anyone on his behalf shows the defect to be in the main rather than the service line, all work shall cease and the owner shall immediately call the Public Works Director before proceeding with any further excavation or repair. No further excavation or repair shall be done until the Public Works Director has had an opportunity to inspect the defect.

(C) In the event that the defect is not remedied within forty-eight (48) hours of the date of service of notice, the Public Works Director shall report to the Board, which may take one (1) or more of the following actions:

(1) Discontinue water service to the property until the defect is remedied; or

(2) Make the repairs or contract for the making of the repairs with any private contractor and cause said repairs to be made and to bill the owner for the full cost thereof.

(D) Any repairs made or caused to be made by the Public Works Director on private property are hereby declared to be in the public interest for the protection of the health and safety of the public, and the Town, the Public Works Director, its agents, employees or contractors shall not be held liable for trespass for any act taken pursuant to this Section.

(E) The owner shall be billed for the cost of repairs if such repairs are performed by the Town or at the Town's direction by a contractor. The Town may, if necessary, take action to collect such charges, as provided in Section 7-4-20.

7-4-10. Permit required.

(A) It shall be unlawful for any person to open, uncover or in any manner make connection with any water or sewer main or line of the Town or to lay drain or sewer pipes on any premises or in any street or alley in the Town without first obtaining a written permit therefor from the Town.

(B) No person shall cut into any street or alley in the Town for the purpose of connecting with the sewer system of the Town without first obtaining a permit. All persons with a street cut permit shall, upon completion of the work, return the street or alley to its original condition within the time authorized in the permit.

7-4-11. Application for service.

Application for a permit for water and sewer service shall be made to the Town Clerk by the owner or agent of the property to be served, designating the location of the property and stating the purpose for which the service is requested. The application for said permit shall be in writing and shall contain the following information:

- (A) Name and address of applicant; and
- (B) Name and address of owner of the premises where said connection is to be made or drain or line to be laid; and
- (C) Location of the proposed connection, drain or sewer pipes; and
- (D) Statement as to the type of connection and type of materials to be discharged into the sewer; and
- (E) Statement as to size of water and or sewer lines desired; and
- (F) Approximate date service is desired; and
- (G) If the proposed connection involves an excavation of the type described and defined by Title 7, Chapter 1, of this Code, then the information called for in such Chapter shall also be supplied and the excavation permit fee paid in addition to any fees called for by this Chapter.

7-4-12. Issuance of a permit.

If the proposed connection does not violate any provision herein and does not violate any other laws of the Town, the Town Clerk shall issue a permit for such connection. Such permit shall contain all information contained in said application.

7-4-13. Main or trunk line extensions.

(A) The provisions contained herein shall apply to all water and sewer main and trunk line extensions of the Town water and sewer system. Nothing contained herein shall prohibit the Town from extending any water or sewer line under such conditions as the Town deems appropriate.

(B) The supplying of water or sewage treatment and water or sewage service to an area within the corporate limits of the Town where no water main or trunk line is available shall be accomplished, made, done and performed by the following method:

- (1) The person requesting such services (the "applicant") shall construct the necessary main or trunk line extensions with his own work force at his own expense in accordance with reasonable plans, specifications, drawings, engineering and other reasonable requirements established, designated and approved by the Public Works Director.
- (2) The Public Works Director may establish such design and construction standards as he may deem appropriate from time to time.

(3) All construction and material shall be subject to inspection and approval by the Public Works Director prior to installation and backfilling.

(C) Any such lines or mains being installed by persons at their own expense must nevertheless receive prior approval from the Town before any construction begins, and must conform to any ordinances, rules, regulations and specifications adopted from time to time and pertaining to such construction, including applicable permits and fees. A representative from the Town shall have the right to inspect the construction from time to time.

(D) The Town will not accept the lines or mains so installed for maintenance by the Town until at least one (1) year has passed after the date the line or main was installed and, with respect to sewer lines, after having passed testing satisfactory to the Town and, with respect to water lines, after having been permanently pressurized for immediate usage and having passed a pressurization test satisfactory to the Town (or the Town may decide, at its option, to accept a water line that has passed a satisfactory pressure test upon installation even though the line will not be immediately used and even though pressure in the new line will then be decreased until the Town needs to re-pressurize for actual usage at a later date) that the line or main is operating in a proper manner at the end of said one-year interval, and that all materials so installed have been transferred by appropriate conveyance to the Town of Hot Sulphur Springs, effective no later than the date that maintenance by the Town is to commence. The Town shall not be liable for the maintenance, repair, replacement or installation of the water line or mains which are located on private property, unless appropriate easements have been granted.

(E) The person causing the installation of the water and sewer lines and mains shall indemnify the Town and its agents and employees from and against any injury or damage caused by such person, their agents and employees in the course of constructing the water and sewer lines and mains.

7-4-14. Reimbursement from future connectors.

(A) The Board of Trustees recognizes that the water and sewer lines or mains constructed in public rights-of-way or proper easements for the benefit of the Town may be used in the future by other persons who may not have contributed to the initial costs of installation. The Board of Trustees deems it reasonable to require of certain of these later connectors that they make monetary payments for these water and sewer lines and mains. Further, the Board of Trustees has determined that any extensions of a water main by the construction of another water main of six (6) inches in diameter or larger by continuation of an existing water main or by intersection with an existing water main at any point in its length should not be required to make any reimbursement. Further, the Board of Trustees has determined that any extensions of a sewer main at any point in its length should not be required to make any reimbursement.

(B) No reimbursement shall be required for any connections made by the Town, or any of its departments or political subdivisions, even though a reimbursement would be required if the person so connecting were not the Town or any of its departments or political subdivisions.

(C) Any applicant who extends a main or trunk line in accordance with this Chapter may be eligible for reimbursement from future connectors to that extension.

(D) Any applicant wishing to be considered for reimbursement shall present an application in writing to the Board of Trustees, with proof satisfactory to the Board of Trustees as to the cost of the main or trunk line extension. Upon receipt of said application and approval by the Board of Trustees of a reimbursement plan, the Town may specifically contract in writing with the applicant for the recovery of costs incurred by the applicant in the construction of the main or trunk line.

(E) The only type of line or main that will qualify for such a reimbursement arrangement is one that is capable of being tapped into by one (1) or more separate water or sewer users and that is located in a public road or alley or in a permanent access easement at least fifteen (15) feet wide that has been conveyed to the Town.

(F) The Town shall be entitled to an administrative fee of two percent (2%) of any amount so collected or charged by the Town pursuant to any such reimbursement arrangements, which fee shall be paid at the time that the person to be reimbursed has the reimbursable funds made available to them.

(G) No reimbursement shall be required for any person's connection into a subject water or sewer line or main more than ten (10) years after substantial completion of the installation of the subject line or main.

(H) Interest on the amount due from any person later connecting shall be computed at the rate in effect from time to time specified in Section 5-12-101, C.R.S., as amended, now being eight percent (8%) per annum. Interest shall accrue on date of substantial completion of the subject line or main and continue until paid to the Town pursuant to the specific reimbursement agreement.

(I) The reimbursement charge to be paid by any future connector connecting into a line or main for which reimbursement has been previously agreed to by the Town shall be based on the front footage of the property of such property owner desiring to connect. Special circumstances may arise for particular parcels of property for which the front footage determination would not be capable of being utilized or which would be grossly unfair. In such event, the reimbursement charge shall be determined by another method that will be consistent with the intent of this policy statement.

(J) The reimbursement charge shall be determined, unless made impractical as discussed in Subsection (I) above, by using the following formula:

$$\frac{A \times C \times D \times (1 + (I \times t))}{B} = \text{Amount to be paid.}$$

A = Length of frontage owned by property owner now desiring connection which fronts on the public right-of-way, alley or easement through which the line or main has been installed and for which the reimbursement agreement is applicable, and which frontage is contiguous to said line or main.

B = Length of all property fronting on the public right-of-way, alley or easement through which the line or main has been installed, and for which the reimbursement agreement is applicable, and which frontage is contiguous to said line or main, less the length of any streets, alleys or public rights of way that intersect said line or main and to the extent that said intersection is contiguous to said line or main. All property on both sides of a line or main must be included whether or not it is already connected or incapable of being connected, or is exempt from these reimbursement charges.

C = Length of the subject line or main for which reimbursement is allowed.

D = Cost per foot of the reimbursable line or main.

I = Interest rate applicable, shown in decimal form (i.e., 8% = .08).

t = Time in years, or fraction thereof, between completion of the subject line or main and the date of payment by property owner of the proper reimbursable charges.

(K) Any person who is entitled to be reimbursed shall keep the Town notified of the current address where the person may receive the reimbursement payment. If any reimbursement charge is made and, upon mailing to the recipient, the check is returned indicating inability to deliver as addressed or if the addressee has moved, then Town shall hold said funds available for payment, without accrual of additional interest, for the balance of the applicable ten-year reimbursement period. If no proper claim is made during said period, said funds shall thereafter be owned by the Town and the Town shall spend said funds in any manner it determines to be in the best interest of the Town.

(L) Upon completion of construction of the line or main for which reimbursement arrangements have been made, the person entitled to reimbursement shall provide the Town with the final cost of construction of the line or main subject to reimbursement, including labor and materials. The reimbursable costs shall not include any tap fees, permit fees or other charges made by the Town which relate directly to the connection of the installer's property to the water or sewer line or main which the installer constructed.

7-4-15. Water and sewer lines and appurtenances to become Town property.

(A) Consumers, applicants, land owners, subdividers or developers who have completed construction of main or trunk lines and appurtenances shall, before these lines and appurtenances are accepted by the Board of Trustees for service, dedicate these lines and appurtenances, except for service lines and including all necessary easements, to the Town, free and clear of all liens and encumbrances, properly described, including, when determined to be necessary by the Board of Trustees, as-built drawings and descriptions prepared by a licensed Colorado Surveyor. Such persons shall be responsible for all maintenance for one (1) year after acceptance of the lines by the Town, and the Board of Trustees may require such persons to furnish a bond to cover all maintenance for one (1) year from the date of acceptance of the lines by the Town.

(B) During any period of time prior to the deeding of the main or trunk lines and other appurtenances to the Town by the applicant, it shall be agreed that the Town shall have the control of these lines as though they were deeded to the Town except that the applicant will be responsible for maintenance of the lines until they are deeded to the Town. This means that the Town will have the exclusive authority to determine what additional uses will be made of the line, including but not limited to such items as who will be allowed to tap on, the conditions under which the taps will be made, the rates to be charged and the conditions of service.

7-4-16. Standards for water main installation.

(A) All water mains shall be a minimum of six (6) inches or larger at the direction of the Public Works Director or Board of Trustees. Ductal iron pipe that is cement lined, Class 52, shall be used for all mains within the Town.

(B) All joints shall be of the compression type or mechanical joints and the line shall be so constructed that it will be capable of being thawed by electrical current.

(C) All water mains shall be installed at a depth of at least eight (8) feet below the surface of the ground.

(D) Main shut-off valves shall be installed at all branches of the mains, at the direction of the Public Works Director. Mains shall be valved at each intersection, and all valves shall be left-hand opening (counter-clockwise). In addition, all valves shall have stop boxes extending to the finished grade of the street or roadway surface.

(E) Where feasible, all mains shall be located ten (10) feet from the property line most immediately adjacent to the street or roadway right-of-way.

(F) All changes in directions of mains shall be completed with appropriate fittings. All fittings shall be properly secured to the pipe, with mega-lugs or other mechanical means. Concrete thrust blocks may be used where applicable.

(G) The mains shall be laid at a uniform grade and all joints shall be hydrostatically tested to one hundred fifty (150) pounds and shall be visually inspected by the Public Works Director prior to backfilling.

(H) Chlorine shall be deposited in all new main lines prior to flushing by placing chlorine tablets on the top of the line at each joint.

(I) Fire hydrants shall be installed at locations determined by the Public Works Director, and all connections of hydrants to the main shall be buried a minimum of eight (8) feet below the surface of the ground. If there are no blocks in the area where the main is being installed, fire hydrant installation shall be as directed by the Public Works Director. The area in the immediate vicinity of the point of connection of all fire hydrants to the main shall be graveled for drainage purposes and a stop box shall be installed at each hydrant. Standards for fire hydrants shall be as established by the Public Works Director.

(J) All mains shall be looped when possible, and appropriate fittings shall be installed for future extensions of the system. The bedding of the mains shall be as soil conditions may require but no rocks over four (4) inches in diameter may be within two (2) feet of the water main. All backfill is to be compacted in accordance with specifications to be determined by the Public Works Director.

(K) The installer of a water main shall be responsible for the maintenance and repair of the main for one (1) year from the date of installation.

(L) Upon written application, the Board of Trustees may waive the strict enforcement of these requirements when undue hardship would occur and the resulting modification of these requirements would not reduce the quality of the water main to be installed.

7-4-17. Standards for sewer main installation.

(A) All sewer mains shall be eight-inch minimum diameter and shall be made of polyvinyl chloride (PVC) sewer pipe which shall meet or exceed all of the requirements of ASTM Specification D30-34-77c, or the latest revision thereof, extra strength with a SDR of 35 maximum.

(B) All joints shall be made with a rubber ring and all fittings and accessories shall be as manufactured and furnished by one (1) pipe supplier.

(C) Each pipe shall be set at the proper grade according to the pipe size, and all grades shall be uniform and the alignment shall be straight.

(D) No pipe shall be in direct contact with rocks over two (2) inches in diameter, and pipes shall be bedded in gravel where high ground water conditions exist so that there shall be adequate drainage to prevent infiltration.

(E) Infiltration and/or exfiltration rate shall be not more than one hundred (100) gallons per day per inch of pipe diameter per mile of pipe.

(F) All sewer mains shall be visually inspected from manhole to manhole prior to Town acceptance and shall be flood or air-tested to ensure there is no leakage prior to covering.

(G) All mains shall have a minimum ground cover of at least four (4) feet. There shall be a manhole at all changes in direction and at each intersection. The manhole shall extend to the finished grade of the ground surface, and manhole bases shall be of concrete extending at least six (6) inches below and six (6) inches above the entrance of the main into the manhole. The invert and the outlet of the manhole shall be at the same grade unless the manhole is a dropped manhole.

(H) The installer of a sewer main shall be responsible for the maintenance and repair of the main for one (1) year from the date of installation.

(I) Upon written application, the Board of Trustees may waive the strict enforcement of these requirements when undue hardship would occur and the resulting modification of these requirements would not reduce the quality of the sewer main to be installed.

7-4-18. Receipts and deposits.

The Town Clerk shall keep a correct account of all receipts, shall be responsible for the billing of water and sewer charges and material furnished to consumers, shall collect the same and shall deposit the proceeds so collected to the credit of the water and sewer works fund of the Town, in accordance with the direction of the Board of Trustees ("Board") and the applicable provisions of law.

7-4-19. Water and sewer bills – payment – penalty.

(A) Water meters shall be read between the fifteenth (15th) and twenty-fifth (25th) days of each third month as nearly as possible, and bills shall be mailed at the end of that month as nearly as possible.

(B) Sewer charges shall be payable quarterly and shall be added to and made part of the quarterly water bill.

(C) All accounts for water and sewer shall be kept in the name of the owner of the property, and the owner or his legal authorized agent shall be held responsible to water and sewer bills. The Town will mail copies of bills to renters or tenants other than the property owner at the written request of

the property owner. However, in no event shall that relieve the owner from the obligation to satisfy the water and sewer bills.

(D) All water and sewer bills shall be due thirty (30) days after the mailing date of the bill. A check, including bank drafts and other forms of noncash payment, for the amount due will be accepted but will not be credited until the check has cleared the bank and the amount is credited to the Town's account. If any check presented to the Town for payment of fees and charges is returned from the bank as a result of no payment due to insufficient funds or any other reason, such check amount shall be collected, together with an administrative processing charge of twenty-five dollars (\$25.00), in the same manner as provided in Subsection (E) of this Section.

(E) Delinquencies, penalties and collection. Any bill not paid in full within thirty (30) days of mailing the bill shall be deemed delinquent. The Board of Trustees may, in its sole discretion and upon written request of the delinquent account holder showing good cause, waive all or a part of any penalty imposed hereunder for failure to timely pay any water or sewer bill. In the event an account is delinquent, the Town may initiate the following late fee, interest and collection procedures:

(1) The Town shall assess interest on any delinquent amounts on a monthly basis in the amount of one percent (1%) per month or twelve percent (12%) per annum.

(2) Thirty (30) days delinquent. The Town shall assess a monthly late fee equivalent to ten percent (10%) of the delinquent bill amount and shall mail, by regular mail, to the property owner at his billing address, a notice of delinquency. The notice shall notify the property owner that he has thirty (30) days from the date of said notice to pay the total amount due, including accumulated charges, fees and interest, in full, in cash or certified funds.

(3) Sixty (60) days delinquent. If the delinquency and all accumulated charges are not paid in full within thirty (30) days of the date of notice provided under Paragraph (2) above (sixty [60] or more days delinquent from the original due date), the Town shall assess a late fee equivalent to ten percent (10%) of the delinquent bill amount and shall send a certified letter for the total amount due, including all accumulated charges, fees and interest. The certified letter shall notify the owner that he has thirty (30) days from the date of the letter to pay the total amount due, in full, in cash or certified funds.

(4) Ninety (90) days delinquent. If the delinquency and all accumulated charges are not paid in full within thirty (30) days of the date of the certified letter provided under Paragraph (3) above (ninety [90] days or more delinquent from the original due date), the Town shall assess an additional fifty dollars (\$50.00) administrative fee in addition to all accrued interest authorized under Paragraph (1) and the late fee authorized by Paragraph (3).

(5) At any time after an account becomes delinquent for ten (10) days or more, the Town may terminate water service to the property. The Town Clerk shall send by regular mail to the owner of the property a notice advising that, if full payment is not received by a specified date, said date to be not less than ten (10) days after the mailing date of the letter, a Town employee shall personally deliver to the property a red tag, said tag to be fastened to the entrance of the premises. The red tag shall demand full payment of the delinquent bill with two (2) days following the date of delivery of the red tag. If payment is not received by the specified date, water service may be terminated and, if terminated, shall not be reinstated until payment of all funds due, including the

billed amounts for service and usage and all accrued interest and late fees and including a fifty-dollar termination and a fifty-dollar reconnection fee have been paid (said fees shall be double for users outside the corporate limited of the Town). The mailed notice shall specify when the owner or occupant of a water using unit may appear before the Town Clerk to contest the alleged delinquency. If payment is not made within the time specified in the red tag and if the termination or collection procedure is not stopped by the Town Clerk as provided above, water service to the property may be terminated and remain terminated until all fees and charges have been paid. Unless a previous check has been returned as a result of insufficient funds, a check for the amount due will be accepted but will not be credited until the check has cleared the bank and the amount is credited to the Town's account.

(6) The rates and charges due and unpaid, including any penalties authorized hereunder, as well as an administrative fee for recording a lien in the amount of thirty-five dollars (\$35.00), may be certified by the Town to the Board of County Commissioners and, until paid, shall constitute a lien against the served property for all delinquent fees, charges, interest and penalties. All such amounts due constitute a lien which is prior and superior to all other liens, claims, titles and encumbrances, whether prior in time or not, and shall remain a lien on the property from the date such fees are delinquent until the same are paid. The failure of the Town to record such lien with the County shall not affect the validity or enforceability of the Town's statutory lien rights or any other remedies the Town may have to collect the amounts due and owing. The property owner shall be liable for all water and sewer services furnished and fees and charges for said property. The lien against the property or liability against the owner may be enforced by the Town by action of law or an action to enforce the lien. The Town shall in no event be required to look to any person other than the owner of the real property served by the water and sewer system.

(7) If the owner or occupant of the delinquent premises appears before the Town Clerk and presents evidence satisfactory to the Town Clerk that the alleged delinquency is erroneous, the Town Clerk shall have the authority to stop all procedures that may have been initiated for the termination of services or collection of delinquent amounts. The decision of the Town Clerk shall be final and shall be put in a written, dated format. The Town Clerk shall advise the Board of Trustees of all termination of water service.

(8) No error or mistake in Town records or billings, past or present, shall constitute an estoppel or waiver or otherwise prevent the Town from billing, collecting or enforcing the correct amount of any amount owed.

(9) No change in ownership or occupancy shall affect the application of this Section or any of the provisions of this Section, and the failure of any owner to learn that he purchased any property against which a lien for water or sewer service or tap fee exists shall in no way affect the lien against any property for such payment in full or be the basis for any claim of any kind whatsoever against the Town for refusing to turn on water service until all charges authorized hereunder are paid in full.

(10) Record of payments. The Town will maintain records of all water and sewer fees and charges paid and an up-to-date record of delinquent charges, in accordance with accepted accounting procedures. (Ord. 2012-5-385)

7-4-20. Water tap fees.

(A) An applicant for water service to benefit property located entirely within the corporate limits of the Town shall pay, and shall tender, along with the application, a tap fee in an amount as set by the Board of Trustees by resolution. Any such tap fee so set shall be in addition to any actual costs for additional equipment or facilities which the Town is required to install in order to provide service.

(B) For property outside of the corporate limits of the Town, the application must first be approved by the Board of Trustees, and the tap fees set forth above in Subsection (A) shall be doubled. Any such tap fee so set shall be in addition to any actual costs for additional equipment or facilities which the Town is required to install in order to provide service.

(C) Tap fees shall be in addition to all other fees or charges relating to water service. Any base fee imposed by the Town for quarterly water service shall be charged each quarter to each consumer commencing thirty (30) days following the date of purchase of a water tap on a pro rata basis regardless of whether the tap has been installed or service is provided to the property.

(D) No fees paid as required by this Section shall be refunded or rebated. If the water service for which all or part of the tap fees are being charged as described above is not physically installed at the earlier of the following: (1) within ninety (90) days after the date the application for water service was approved, or (2) on or before November 1 of the same year in which such fee was paid, then the tap fee shall be forfeited and thereafter a new application must be filed with appropriate materials, data and fees in effect at the time of the new application. Upon a showing of good cause by the applicant, the Board of Trustees may grant the applicant an extension of time for physical installation. (Ord. 327, 09-18-01)

(E) If, at any time, a change of use or expansion results in the need for a larger service line, an application must be filed and the appropriate charge for the increase shall be paid to the Town.

(F) All necessary pipes, fittings, valves, shut-off, trenching, back filling and tap installation shall be at the expense of the applicant under the supervision of Town staff or consultants. All water service connections and all water service extensions, both within and out of the corporate limits, are subject to special fees as adopted by the Board of Trustees. Materials and tapping shall be approved by Town staff or consultants. (Ord. 327, 09-18-01; Ord. 2011-4-1-380)

7-4-21. Water service line regulations.

(A) Water service lines shall serve no more than one (1) building or structure unless advance written approval is obtained by the Public Works Director or Board of Trustees, upon showing of good cause.

(B) Only Type K copper pipes shall be used for the installation of a service line, and all service lines shall be installed at a depth of at least eight (8) feet below the surface of the ground.

(C) Each service line shall contain a curb stop at the property line where the water may be turned off.

(D) No consumer shall be permitted to install water pipes across lots or buildings.

(E) There shall be no cross-connections with any other water supply.

(F) The Town shall not be responsible for the service of pipes and fixtures. All owners, at their own expense, must keep service lines from the point of the tap on the Town main to end and all their apparatus in good working order and properly protected from frost and other disturbances.

(G) No claim shall be made against the Town on account of breakage of a service pipe or apparatus or for failing to supply water. No reduction in rates will be made for any time that service pipe or fixtures may be frozen.

7-4-22. Repair and extension of mains.

The Town reserves the right, upon reasonable notice, to shut off its main lines for the purpose of making repairs or extensions or for any other purpose, and no claim shall be made against the Town by reason of the breakage of any service pipe or service cock or from any other damage that may result from shutting off water for repairing and relaying mains, hydrants or other connections.

7-4-23. Metering of water.

(A) All water sold by the Town shall be metered; the Town will supply standard five-eighths-inch, three-quarter-inch and one-inch meters at no charge. Meters over one (1) inch shall be supplied at cost to the owner. Meters are to be sized to correspond to service line size.

(B) All new meters installed shall have remote readouts and shall be installed at the expense of the property owner by a licensed plumber at the time water service is requested.

(C) All old meters which are, in the judgment of the Public Works Director or Board of Trustees, sufficiently inaccessible to allow convenient, regular and consistent reading by the Public Works Department shall be replaced by remote meters at the expense of the Town.

(D) All water meters shall be owned by the Town and kept in good working order and repair by the property owner.

(E) Any damage to a meter caused by a water user shall be repaired at the expense of the water user and added as a charge to the water bill.

7-4-24. Frozen water lines and water mains.

(A) The Town shall not pay any costs incurred in thawing frozen water lines, whether service lines or water mains, unless the Public Works Director is first advised of the purported problem and authorizes the efforts and related costs to thaw frozen lines.

(B) If a water service line or water main is determined to be frozen, the Public Works Director shall be notified and the Public Works Director may authorize employment of equipment and operators to thaw the frozen line.

(C) If, upon thawing, it is determined that the cause of the blockage is a water service line rather than a water main, the owner of the property served by the service line shall be responsible for the

cost of thawing the line. Said cost shall be charged as other water fees and, if not paid, shall become a lien upon the property served as provided for in Section 7-4-19.

(D) The person employed to thaw the line or main shall resolve any question regarding what line was frozen. If found to be the service line, the owner shall be responsible for the cost of thawing.

7-4-25. Waste of water prohibited.

(A) It shall be unlawful to waste water unnecessarily. Upon determination of the waste of water, water service may be terminated. Determination of waste of water shall be made by the Public Works Director or Board of Trustees.

(B) The Board of Trustees may adopt outdoor watering restrictions from time to time by resolution. Upon adoption, such resolution shall be posted in the Town Hall and at all other places where notices of Board of Trustee meetings are posted.

(C) It shall be unlawful for any person to use or take water from the Town in violation of any outdoor watering restrictions adopted pursuant to the authority set forth in Subsection (B).

(D) Each and every such unlawful act and each day the violation persists shall constitute a separate violation of this Code and shall be punishable as herein provided.

(E) Any violation of Subsection (C) above or of any resolution or restriction adopted pursuant thereto shall be punishable by a fine not to exceed seventy-five dollars (\$75.00) for a first offense, one hundred fifty dollars (\$150.00) for a second offense, and three hundred dollars (\$300.00) or imprisonment not to exceed ninety (90) days, or both such fine and imprisonment for any third or subsequent violation. (Ord. 2009-6:1/366)

7-4-26. Water rates.

(A) Water shall be sold by the Town in accordance with rates and charges established by the Board of Trustees by resolution from time to time and in accordance with the rate structure authorized in this Section and with the reasonable value of the services rendered and the financial needs of the system and the laws applicable thereto.

(B) Each property and user served with water by the Town shall be charged, in addition to a charge for metered water consumption, a quarterly base rate for the purposes of funding the operational costs of the water treatment plant, contingency or emergency operational expenses, expenses necessary to rehabilitate the Town's water treatment plant, capital improvements to ensure the safety and quality of the Town's water in the future, and debt service, if any. Such quarterly base rate shall separately state the amount charged for capital improvements and such capital improvement funds shall not be expended for any other purpose.

(C) Each property and user served with water by the Town shall be assigned a single-family equivalent (SFE) value based on its use classifications in accordance with a schedule to be adopted by the Board of Trustees by resolution. Quarterly base rates shall be determined by multiplying the quarterly base rate times the number of SFEs.

(D) Each property and user served with water by the Town shall, in addition to the quarterly base rate, pay for actual water usage as determined by meter, pursuant to the rate schedule adopted by the Board of Trustees by resolution.

(E) The quarterly base rate and the metered water rate for properties located outside the Town shall be based on the rate structure set forth herein and as adopted by resolution of the Board of Trustees, and shall be two (2) times the rate imposed for properties located inside the boundaries of the Town.

(F) The base rate shall be charged for all properties for which a tap has been purchased and all properties to which service is available, regardless of whether services are being utilized by the property or whether services have been voluntarily and temporarily discontinued. A base rate shall not be charged to any property served by a tap where the owner has declared in written letter submitted to the Town Clerk that such tap has been abandoned and forfeited by the owner. (Ord. 327, 09-18-01; Ord. 2008-9-1-359; Ord. 2009-2:1/362; Ord. 2011-4-1-380)

7-4-26.5. Service fee for transfer of service.

Prior to or upon closing of any conveyance, sale or other transfer of ownership of property connected to or served by the Town's water or wastewater utility, the owner shall pay to the Town at the time of sale of the property a service fee of fifty dollars (\$50.00) to cover the administrative costs of meter reading and of the processing a transfer of the water and/or wastewater utility services. Such fee may be collected at the time of closing of sale and remitted to the Town of Hot Sulphur Springs; provided that such fifty-dollar fee may be paid directly to the Town by cash, cashier's check or other form of certified funds prior to closing of the transfer of ownership and, in such event, the Town Clerk shall provide to the owner or purchaser a receipt of payment. Timely payment of the service transfer fee shall be a precondition to the Town's provision of water utility services to property following conveyance, sale or other transfer of ownership. Failure to timely pay the service transfer fee shall constitute a violation of this Code. (Ord. 321, 11-03-00)

7-4-27. Connection with sanitary sewer required.

No person shall maintain within the Town any privy, privy vault, septic tank, cesspool or other facility intended for use for the disposal of sewage except portable toilets temporarily used at a construction site used during construction. All residential and commercial buildings within the Town shall be connected to the sewage system.

7-4-28. Sewer tap fee.

(A) Upon the application for a new sewer tap and connection by any consumer within the corporate limits of the Town, the applicant shall agree to pay, and shall tender, along with said application, a tap fee in an amount as set by the Board of Trustees by separate ordinance, which ordinance shall not be codified, and as may be amended from time to time. Any sewer service requiring a larger tap shall be approved by the Board of Trustees, the cost to be negotiated with the Board of Trustees.

(B) Outside of the corporate limits of the Town, any application for a sewer service tap shall be approved by the Board of Trustees, and the tap fee shall be doubled. Oversize taps shall be approved

by the Board of Trustees, cost to be negotiated with the Board of Trustees. Any such tap fee so set shall be in addition to any actual costs for additional equipment or facilities which the Town is required to install in order to provide service.

(C) The fees set forth in this Chapter shall be in addition to all other fees or charges relating to sewer service elsewhere required. Any base fee imposed by the Town for quarterly sewer service shall be charged each quarter to each consumer commencing thirty (30) days following the date of purchase of a sewer tap on a pro rata basis, regardless of whether the tap has been installed or service is provided to the property.

(D) No fees paid as required by this Chapter shall be refunded or rebated. If the sewer service for which all or part of the sewer tap fees are being charged as described above, is not physically installed at the earlier of the following: (1) within ninety (90) days after the date the application for sewer service was approved, or (2) on or before November 1 of the same year in which such fee was paid, then the tap fee shall be forfeited and thereafter a new application must be filed with appropriate materials, data and fees in effect at the time of the new application, in order for the Town to consider providing sewer service. Upon a showing of good cause by the applicant, the Board of Trustees may grant the applicant an extension of time for physical installation.

(E) If at any time a change of use or expansion results in the need for a larger service line, the appropriate charge for the increase shall be paid to the Town. (Ord. 320, 09-21-00; Ord. 322, 11-03-00; Ord. 327, 09-18-01; Ord. 339, 08-21-03; Ord. 2011-4-1-380)

7-4-29. Sewer line construction and maintenance.

(A) Any user of the sewer system, either inside or outside of the corporate limits, must construct his own sewer service line to connect with the Town's system at his expense.

(B) All necessary pipe, fittings, valves, shutoff, trenching, backfilling and installation of the tap shall be at the expense of the consumer and under the supervision of the Public Works Director. All the materials and methods used to tap into the Town sewer lines shall be approved by the Public Works Director and shall be performed by a licensed plumber or other competent person to be approved by the Public Works Director or Board of Trustees.

7-4-30. Discharge of unacceptable wastes into sewer prohibited.

The discharge of unacceptable wastes into the Town sewer system, whether directly or indirectly, is prohibited, and, where investigation reveals the presence in the system of unacceptable wastes emanating from any lot, land, building or premises, the owner, lessor, renter or occupant of such lot, land, building or premises shall, at his own expense, be required to treat, neutralize or in other ways prepare the noxious substance therein to the satisfaction of the Public Works Director in order to convert the same into acceptable wastes and may be liable for the costs incurred as a result of damage to the Town sewer system or the service lines of any connector by the discharge of unacceptable wastes in the system. The Town may, without notice, discontinue the sanitary sewer service to any premises discharging unacceptable wastes into the sanitary sewer system.

7-4-31. Control manhole required.

When required by the Public Works Director, the owner of any property served by a sewer carrying industrial waste shall install a suitable control manhole in the sewer to facilitate observation and sampling of the waste. Such manholes, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Public Works Director. The manholes shall be installed by the owner at his expense and shall be maintained so as to be safe and accessible at all times.

7-4-32. Abandonment of connection.

No person shall abandon any sewer connection without first obtaining a written permit therefor. Such sewer connection shall be effectively abandoned as directed by the Public Works Director or Board of Trustees.

7-4-33. Deposit of unsanitary wastes on property prohibited.

No person shall deposit or permit to be deposited in any unsanitary manner upon public or private property within the Town human waste of any quantity or animal waste in quantities that endanger the public health and safety.

7-4-34. Deposit of untreated industrial waste into natural outlets prohibited.

No person shall discharge into any natural drainage within the Town or any area within the jurisdiction of the Town any sanitary sewer industrial waste or other polluted waste, except where suitable treatment has been provided and approval of such discharge has been given by the Board of Trustees.

7-4-35. Sanitary sewer rates and charges for use of sewers.

(A) All sanitary sewer service provided by the Town shall be in accordance with rates and charges established by the Board of Trustees by separate ordinance, which ordinance shall not be codified, and as may be amended from time to time in accordance with the reasonable value of the services rendered and the financial needs of the system and the laws applicable thereto. Such quarterly base rate shall separately state the amount charged for capital improvements, and such capital improvement funds shall not be expended for any other purpose.

(B) Each property and user served by or having connection with the sanitary sewer system of the Town shall be charged a quarterly base rate for the purposes of funding the operational costs of the wastewater treatment plant, contingency or emergency operational expenses, expenses necessary to rehabilitate the Town's wastewater treatment plant, capital improvements to ensure the safety and quality of the Town's wastewater treatment plant in the future, and debt service, if any.

(C) Each property and user served by or having connection with the sanitary sewer system of the Town shall be assigned a single-family equivalent (SFE) value based on its use classifications, in accordance with a schedule to be adopted by the Board of Trustees by resolution. Quarterly base rates shall be determined by multiplying the quarterly base rate times the number of SFEs.

(D) Properties located outside the Town shall be assessed a quarterly base rate based on the rate structure adopted by ordinance of the Board of Trustees, as may be amended from time to time, and shall be two (2) times the rate imposed for properties located inside the boundaries of the Town.

(E) Over and above the rates and charges established by this Section, there may be established, in special instances and by special agreement between the Town and the owner of the premises served by the Town sanitary sewer system, such additional charges for commercial or industrial wastes of unusual strength or composition that are accepted by the Town for treatment, as may be determined to be fair and equitable. Such special agreements and charges shall be established by ordinance of the Board of Trustees. The Town may re-evaluate the SFE of any person discharging into the Town's sanitary sewer system should the impact of the discharge exceed the equivalent of a single-family residential unit.

(F) Nothing in this Section shall be construed to prevent any special agreement or arrangement between the Town and other persons, municipalities, quasi-municipalities, sanitation districts, additions and development areas outside the Town concerning sewage facilities, which may be adopted from time to time by resolution or ordinance of the Board of Trustees. (Ord. 314, 11-18-99; Ord. 327, 09-18-01; Ord. 2008-9-1-359; Ord. 2009-2:1/362; Ord. 2010-10:1/377; Ord. 2011-4-1-380)

CHAPTER 5

Public Parks

- 7-5-1 Applicability**
- 7-5-2 Closed areas**
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7-5-1. Applicability.

This Chapter shall apply to all public recreation lands or facilities owned, leased or operated by the Town.

7-5-2. Closed areas.

It is unlawful to enter, use or occupy any public recreation lands or facilities, or any portion thereof, during the time as such lands or facilities are closed to entry, use or occupancy.

7-5-3. Hours.

Park lands shall be open from dawn until dusk and closed from dusk until dawn. It shall be unlawful for any person to enter into any public park or open space except during hours of normal operation.

7-5-4. Camping.

Overnight camping is prohibited in any public park.

7-5-5. Domestic animals.

An owner or person having control of any dog or other domestic animal shall not permit such animal to defecate on maintained park lands unless such defecation is removed immediately and disposed of properly.

7-5-6. Group permit required.

Any group of twenty-five (25) or more persons who wish to use park lands for any purpose shall first obtain a permit from the Town. Groups of less than twenty-five (25) may also reserve shelters or other facilities by obtaining a permit.

7-5-7. Use of motorized vehicles.

It is unlawful to operate any motorized vehicle on any park lands, except on roadways intended for vehicular traffic and open for public use.

7-5-8. Horses.

Horses shall be kept on trails, paths or areas designated for equestrian use, or on roadways intended for vehicular traffic and open for public use.

7-5-9. Advertisement.

No handbill, poster, placard or painted or printed matter shall be stuck, posted or pasted upon any public building or upon any fence, power or light pole, telephone pole or other public structure without the permission of the Town.

7-5-10. Disposal of refuse.

It shall be unlawful for any person utilizing any public park or open space or other recreational area or facility to leave such area or facility before placing in disposal receptacles, where provided, all trash in the nature of boxes, papers, cans or other containers, garbage and other refuse in the possession of such person. If no disposal receptacle is available, then such person shall remove said refuse or trash in his possession from the premises. Said refuse or trash shall be disposed of in a proper and legal manner elsewhere.

7-5-11. Weapons.

Possession of any weapon or the discharge of any weapon, including but not limited to rifles, shotguns, air guns, archery equipment and slingshots, is prohibited in any public park or open space. Discharging any weapon in such a manner so that the discharged projectile lands within or passes through any public park or open space shall be deemed to violate this provision.

7-5-12. Prohibited items.

The following items are prohibited on or in public parks:

- (A) Glass containers;
- (B) Fires, except in enclosed grills; and
- (C) Alcoholic beverages containing more than 3.2 percent alcohol.

7-5-13. Concessions.

No commercial concessions shall be operated nor charge or donation of any kind be solicited of the general public on the premises.

7-5-14. Installation of structures.

Installation of any structure, including but not limited to tents, booths, stands, awnings, tree houses, rope swings and canopies, is prohibited without express written permission of the Town.

7-5-15. Violations – penalties.

Violations of this Chapter shall be governed by Chapter 4 of Title 1 of this Code. (Ord. 354, 2006)

CHAPTER 6

Water Supply Protection District

- 7-6-1 Intent of Water Supply Protection District**
- 7-6-2 Jurisdiction and map**
- 7-6-3 Definitions**
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7-6-1. Intent of Water Supply Protection District.

The purpose for which this Water Supply Protection District is established is the full exercise of the powers of the Town in maintaining and protecting the Town's waterworks from injury and its water supply from pollution or from activities that will create a hazard to health and water quality or a danger of pollution to the water supply of the Town. This Water Supply Protection District is created under the authority granted in Section 31-15-707(1)(b), C.R.S., 1973, as amended, and other Colorado statutes. Further, this Water Supply Protection District and the following regulations are created for the purpose of regulating land use. The regulation of land use within the Water Supply Protection District shall be and remain the responsibility of the respective county or municipality having jurisdiction over the area in question, and nothing herein shall restrict or supersede the respective jurisdiction's land use authority. The Town's authority herein shall be for the purpose of reviewing and restricting any activity within the Water Supply Protection District which creates a foreseeable risk of damage or injury to the Town's water supply. The Town's review authority within the Water Supply Protection District shall therefore be concurrent to the authority of the Town and any other governmental entity to review and/or require permits for the same or related activities regulated under any other laws or regulations. (Ord. 2010-10:1/377)

7-6-2. Jurisdiction and map.

The jurisdiction of the Water Supply Protection District shall extend over the entire territory occupied by the Town and all tributary water sources for five (5) miles above the supplying public water systems serving the Town. The Water Supply Protection District is divided into three (3) zones: Water Supply Protection Zones 1, 2 and 3m, as defined in Section 7-6-3 below. The Water Supply Protection District Map accompanies this Ordinance and, with all notations, references and other information shown thereon, is incorporated herein as part of this Ordinance. The official Water Supply Protection District Map is located in the office of the Town Clerk.

7-6-3. Definitions.

Whenever the following words or phrases are used in this Chapter, they shall have the following meanings:

Activity is conduct secondary to the land use or zoning designation. (Ord. 2010-10:1/377)

Best management practice means the most effective means of preventing or reducing harmful effects of certain activities to a level compatible with Town standards.

Foreseeable risk means the reasonable anticipation that harm or injury may result from acts or omissions.

Inflow pipe means any pipe or other source used to supply water to the public water system owned and operated by the Town, or to any other public water system operated by a governmental entity that provides domestic water service to the Town or its residents. The approximate location of existing public inflow is shown on the Water Supply Protection District Map. (Ord. 2010-10:1/377)

Person means any individual, corporation, business trust, estate trust, partnership, association or any other legal entity.

Pesticide shall be as defined in Section 35-9-103, C.R.S., as amended.

Pollution means man-made, man-induced or natural alteration of the physical, chemical, biological and/or radiological integrity of water or soil.

Pollution-hazard activity means any of the following activities:

(a) Constructing a sewage disposal system.

(b) Drilling operations.

(c) Surface and subsurface mining operations.

(d) The storage and application of pesticides (herbicides and/or insecticides) in any manner, except for private residential or business use.

(e) The storage and application of fertilizers in any manner except for private residential or business use.

(f) Using, handling, storing, dispensing or transporting toxic or hazardous substances, including but not limited to radioactive materials.

(g) Using, handling, storing, dispensing or transporting flammable or explosive materials, including petroleum products, except for storage of not more than twenty-five (25) gallons of petroleum products in a private home or business except for fuel in vehicular fuel tanks.

(h) Using, handling, storing, dispensing or transporting organic nutrients, including phosphorous and nitrates, or engaging in activity that creates the same.

(i) Any solid or liquid waste disposal.

Sewage disposal system means a septic tank or other facility designed and constructed for the purpose of receiving and disposing of sewage, including individual septic disposal systems but excluding mechanical wastewater treatment plants. (Ord. 2010-10:1/377)

Surface water means any water flowing over the land, including the Colorado River and tributaries in the Colorado River Basin, located within five (5) miles of the inflow pipe. (Ord. 2010-10:1/377)

Use or land use is the purpose for which land or a building is designed, arranged or intended, or the purpose for which land or a building is, or may be, occupied or maintained. *Use or land use* is synonymous with zoning categories such as residential, commercial, industrial or agricultural. (Ord. 2010-10:1/377)

Using shall refer to an activity and not a right conferred by the land use or zoning designation. (Ord. 2010-10:1/377)

Water Supply Protection Zone 1 or Zone 1 means that area within a five-hundred-foot radius of any inflow pipe and the area within a one-hundred-fifty-foot setback from the high water mark on each side of the Colorado River.

Water Supply Protection Zone 2 or Zone 2 means that part of the Water Supply Protection District outside of Zone 1 but within the immediate surrounding watershed of the Town.

Water Supply Protection Zone 3 or Zone 3 means that area within a five-mile distance above the well field supplying the public water systems serving the Town but outside of the corporate boundaries of the Town.

Waterworks means any and all components of the public water system or systems providing domestic water service to residences and businesses within the Town, including but not limited to all pumps, filtration facilities, transmission and distribution lines, and storage facilities, regardless of ownership of said facilities. (Ord. 2010-10:1/377)

7-6-4. Prohibited and restricted activities.

(A) It shall unlawful for any person to cause injury or damage to the inflow pipes or other waterworks. (Ord. 2010-10:1/377)

(B) It shall be unlawful for any person to engage in any pollution-hazard activity within Water Supply Protection Zone 1 of the Water Supply Protection District. The Board of Trustees finds that the conduct of any such pollution-hazard activity within Zone 1 poses an unreasonable risk of the release of contaminants that could cause pollution to the public water systems serving the Town, and due to the proximity to the inflow pipes and major water courses, the Town would not have adequate time following any such release of contaminants to protect or provide for a substitute water supply. Consequently, the prohibition of any such pollution-hazard activity within Zone 1 is required to adequately protect the health, safety and welfare of the inhabitants of the Town. (Ord. 2010-10:1/377)

(C) It shall be unlawful for any person to engage in any pollution-hazard activity within Water Supply Protection Zone 2 unless such person shall, prior to undertaking such activity, obtain a permit for such activity under the provisions of this Chapter and applicable federal and state laws and regulations. The Board of Trustees finds that the conduct of any such pollution-hazard activity within Zone 2 poses a potential threat of pollution to the Town water supply, but it may be possible to satisfactorily manage and mitigate such threat through the permit process and standards provided in this Chapter.

(D) In the event that any activity not included in the definition of pollution-hazard activity set forth above is being conducted in such a manner that the Board of Trustees finds that a foreseeable risk of pollution to the Town's water supply exists from such activity, the person responsible for such activity shall be notified by the Town of such finding, and the Town may require that such activity cease and desist until such person obtains a permit for such activity under the provisions of this Chapter. (Ord. 2010-10:1/377)

(E) The Town will monitor activities in Water Supply Protection Zone 3 which includes areas of the Water Supply Protection District outside the Town boundaries and will work cooperatively with

other governmental authorities having land use jurisdiction in those areas to protect public water supply sources from pollution. The permit requirements contained in Section 7-6-5 will not normally apply to activities in Zone 3; provided, however, that, if the Board of Trustees finds that any pollution-hazard activity or other activity is proposed or is being conducted in any area included in said Zone 3, which presents a foreseeable risk of pollution to the Town's water supply and which is not being effectively managed by the other governmental authority, the person responsible for such activity shall be notified by the Town of such finding and the Town may require that such activity cease and desist until such person obtains a permit for such activity under the provision of this Chapter. (Ord. 2010-10:1/377)

7-6-5. Permit and hearing procedure.

(A) Application and fees. An applicant for a Water Supply Protection District permit shall submit the following to the Town:

(1) A completed application form as prescribed by the Town. If the applicant is not the owner of the subject property, the owner shall also sign such application and the applicant shall set forth its interest in the proposed activity. An application will not be deemed to be complete until all information required by the Town has been submitted to the Town.

(2) A full and complete description of the proposed activity for which a permit is sought, including, if applicable, a discussion of any future activity anticipated by the applicant, with respect to the subject property for which a permit may be required hereunder.

(3) Two (2) sets of plans and specifications, which shall contain the following information:

(a) A vicinity sketch or other data indicating the site location and legal description for the subject property and showing the location of the inflow pipes or water courses in the vicinity in relation to the proposed activity; (Ord. 2010-10:1/377)

(b) Boundary lines of the property for which the application is sought, if applicable;

(c) Location of any buildings or structures within fifty (50) feet of the proposed activity;

(d) Accurate contours establishing the topography of existing ground;

(e) Accurate locations and volumetric data for any streams that flow through are immediately adjacent to the property whether the stream flow is continuous or seasonal; (Ord. 2010-10:1/377)

(f) An accurate soils, geologic and natural hazards report and map, including a flood plain map, if applicable. The information provided shall include soil types and geologic formations affecting tributary and non-tributary water sources;

(g) Elevations, dimensions, location, extent and the slopes of all proposed excavating, grading, filling or surfacing shown by contours and/or other means;

(h) Details of all drainage devices in connection with the proposed activity;

(i) A statement of the amount and location of any matter proposed to be deposited in areas other than that shown on the plans; and

(j) Nature and location of existing vegetation and a statement as to the effect of the proposed activity on such vegetation. (Ord. 2010-10:1/377)

(4) Identification of any activity that may present or create a foreseeable risk of pollution to the water supply of the Town, along with a specific description of the measures, including best management practices, specific federal and state laws and regulatory guidelines and industry standards that will be employed by the applicant to obviate such risks.

(5) Any and all additional information as may be specifically requested by the Town, including but not limited to the following:

(a) A map showing the drainage pattern and estimated runoff of the area of the proposed activity;

(b) Revegetation, stockpile management and reclamation plans and specifications including a timetable for the same;

(c) A soils analysis, including the nature classification, infiltration capacity, distribution and strength of existing soils, and recommendations for earth-moving procedures and other design criteria;

(d) A geologic analysis of the site and adjacent areas and its impact on the proposed activity;

(e) An operation and maintenance analysis, including reporting requirements and schedules of the proposed activity; and

(f) Water use analysis, including legal basis, source, quality, amount of consumptive use, impact on ground water and discharge characteristics.

(6) Each applicant shall submit a Water Supply Protection District application fee to the Town at the time of filing such application. The applicant shall be assessed a fee sufficient to cover the costs of publication, hearing, processing, administration, inspection and enforcement of such requested permit. The minimum fee hereunder shall be fixed by resolution of the Board of Trustees. In the event the fee charged by the Town at the time of application is determined to be insufficient to cover the Town's costs, the Town shall have the right to charge the additional fee prior to the issuance or denial of any permit. No Water Supply Protection District permit shall be issued until all such assessed fees have been paid.

(B) Review analysis and risks.

(1) Within thirty (30) days following receipt of a completed application and following a site inspection if necessary, as determined by the Town, the Town staff shall review the application and prepare an analysis of the proposed activity, including a discussion of any factor that may present or create a foreseeable risk of pollution to the water supply of the Town, along with an

analysis of the measures, including best management practices, if any, that are proposed by the applicant to obviate such risks and submit such analysis to the Board of Trustees.

(2) In undertaking the analysis of any proposed activity, the following factors, among any others that may be deemed relevant, shall be considered:

- (a) Nature and extent of the proposed activity;
- (b) Proximity to existing public wells and water course;
- (c) Drainage patterns and control measures;
- (d) Soil criteria;
- (e) Geologic factors;
- (f) Point source effluent emissions into water or groundwater;
- (g) Ambient and nonpoint source effluent emissions into water or groundwater; and
- (h) Vehicular and motorized activity.

(3) The Town staff may classify in writing an application as "minor impact," based upon the analysis set forth above, if the proposed activity clearly does not present or create a foreseeable risk of pollution to the water supply of the Town. Within thirty (30) days after any such minor impact classification, the Board of Trustees shall conduct the hearing required hereunder and render a decision regarding the issuance or denial of a Water Supply Protection District permit to such applicant. The failure of the Board of Trustees to render such decision within the time limits set forth shall be deemed and considered affirmative action on the issuance of the requested permit for any application as "minor impact."

(4) The Town staff may classify in writing an application as "no impact" in the following fashion. A potential applicant for a Water Supply Protection District permit may apply for a "no impact" finding relative to the proposed activity. Such application shall be accompanied by such information, in writing, as the Town staff needs to determine whether a "no impact" finding is warranted. Such information may be less than is required under Subsection (A) above, and required permit fees may be waived. Upon such application, the Town staff shall determine whether the proposed activity is of a type or location that no negative impact on the Town's water sources is reasonably foreseeable. If such a "no impact" finding is made, the Town staff shall immediately issue a Water Supply Protection District permit for the proposed activity. After issuance of said permit, the Town staff shall report same to the Board of Trustees at its next regular or special meeting and shall also keep a record of such "no impact" permits for the purpose of assessing the cumulative impact of "no impact" activities. If the Town staff does not make a "no impact" determination, that decision may be appealed to the Board of Trustees at its next regularly scheduled meeting. At said meeting, the Board of Trustees may, based upon the same standards as set forth above, grant a "no impact" permit for the proposed activity, or uphold the Town staff's determination.

(C) Hearing. Upon receipt of the analysis from the Town staff, the Board of Trustees shall conduct a public hearing to review the application and analysis and shall render a decision regarding the issuance or denial of a Water Supply Protection District permit to such applicant within three (3) months after the conclusion of such hearing, unless the activity requires approval of permit from any agency of the county, state or federal government and which approval or permit procedure exceeds the time requirements of this Chapter. In that event, the Town shall have an additional sixty (60) days following the final decision of such county, state or federal government approval or permit procedure to conduct the public hearing required hereunder and render a decision regarding the issuance or denial of a Water Supply Protection District permit to such applicant. The Board of Trustees may require additional information from any applicant, in which event the public hearing and decision may be delayed or continued until receipt of such additional information.

(D) Standards for issuance of permit. A Water Supply Protection District permit shall be issued when the Board of Trustees finds that the applicant has sustained the burden of proof that the proposed activity, including best management practice, if any, does not present or create a foreseeable risk of pollution to the water within the Water Supply Protection District. A Water Supply Protection District permit shall be denied when the Board of Trustees finds that the applicant has not sustained such burden of proof. (Ord. 2010-10:1/377)

(E) Permit conditions. The Board of Trustees, in issuing any Water Supply Protection District permit, may prescribe any conditions it may deem necessary to effect the intent of the Water Supply Protection District. The Board of Trustees may require any applicant to post surety bond or cash in an amount sufficient to ensure compliance with the Water Supply Protection District permit, including but not limited to the cost of maintenance, operation, revegetation, reclamation, remediation and/or other requirements of proposed activities. The Board of Trustees may release to the applicant portions of any such bond or cash from time to time when no longer necessary to ensure compliance with the Water Supply Protection District permit. (Ord. 2010-10:1/377)

(F) Duration of permit. A Water Supply Protection District permit shall remain valid so long as the applicant complies with the approved terms and conditions of the permit, unless a specific time limit for the activity is set forth as part of the permit approval. If an approved activity for which a Water Supply Protection District permit is issued is not commenced within nine (9) months from the date of issuance of such permit, or if the activity is discontinued for any reason for a period of one (1) year, the permit shall be deemed to have expired, unless otherwise provided in the permit itself.

(G) Notice of hearing. Notice of any public hearing hereunder shall be given at least fourteen (14) days in advance of the public hearing by not less than one (1) publication in a newspaper of general circulation in the Town or by other such means of publication as approved by the Board of Trustees for official publications.

(H) Joint review process. Any permit required hereunder can be reviewed and issued pursuant to a joint review process with any other government entity or agency charged with the review and approval of the same activity or activities. (Ord. 2010-10:1/377)

7-6-6. Enforcement.

(A) Right of entry. Whenever necessary to make an inspection to enforce any provision of this Chapter, an authorized representative of the Town may go upon any land at any reasonable time to

inspect the same or to perform any duty imposed hereunder provided that he identify himself, and, if such land be unoccupied, that he make a reasonable effort to locate the applicant or other persons having control of such land to notify them of such entry. (Ord. 2010-10:1/377)

(B) Stop work order. Whenever any work or activity is being done contrary to the provisions of this Chapter or in violation of the terms of any Water Supply Protection District permit issued hereunder, the Town or its authorized representatives may order the work stopped by notice in writing served on the applicant or any person engaged in or causing such activity to be done, and any such person shall cease such activity until authorized by the Town to proceed. The Town shall reserve the right to revoke or suspend any permit issued hereunder if work or activity is not done in accordance therewith. (Ord. 2010-10:1/377)

7-6-7. Regulations.

The Board of Trustees may issue regulations providing guidelines and criteria to carry out the purposes of this Chapter.

7-6-8. Activity in progress.

A lawful use or activity being carried on in or on any buildings, structures or land at the time of the enactment of this Chapter may be continued even though it does not conform to the requirements of this Chapter. Ordinary repairs and maintenance of any existing building, structure or land shall be allowed. Any change, expansion, alteration or enlargement of such existing lawful use or activity shall be subject to all requirements of this Chapter.

7-6-9. Violation and penalty.

(A) Violations. Violations of the provisions of this Chapter shall be punishable by a fine not to exceed the maximum fine amount authorized in Subsection 1-4-1(B) of this Code or by imprisonment for a period not to exceed one (1) year, or by both such fine and imprisonment. Each day that such violation continues to exist shall be considered a separate offense.

(B) Actions. Any activity which is continued, operated or maintained contrary to any provision of this Chapter is unlawful. The Town may institute injunction, abatement or any other appropriate action to enjoin, abate or remove such violation, in which event the Town shall be entitled to recover court costs and attorney fees.

(C) Remedies. The remedies herein provided shall be cumulative and not exclusive and shall be in addition to any other provided by law. (Ord. 2009-2:2/363; Ord. 2010-10:1/377; Ord. 2013-6-1-390 §7)