

AMENDED ORDINANCE 2018-C

AN ORDINANCE AMENDING THE TOWN OF SAGUACHE MUNICIPAL CODE BY REPEALING SECTIONS 4-2-60 (SEWER FUND CREATED) AND 4-2-70 (WATER FUND CREATED AND CONSOLIDATING SUCH SECTIONS INTO A NEW SECTION ENTITLED "WATER AND SEWER ENTERPRISE FUND" IN ARTICLE 2 (GENERAL AND SPECIAL FUNDS) OF CHAPTER 4 OF SAID CODE AND DESIGNATING THE SEWER AND WATER FUND AS AN "ENTERPRISE FUND"

WHEREAS, the Town of Saguache Municipal Code presently contains Article 2 (General and Special Funds), Section 4-2-60 (Sewer Fund Created) and Section 4-2-70 (Water Fund Created) of Chapter 4 (Revenues and Finances) which refer to the Sewer Fund and Water Fund as a Special Fund but lacks specificity concerning the provisions of the Colorado Revised Statutes (C.R.S § 37-45.1-101, et seq.) designating the Water Fund and Sewer Fund as an Enterprise Fund; and

WHEREAS, the town is presently in the process of incurring significant debt in renovating its sewerage collection system and desires to insure that its obligations are governed by the statutory provisions of § 37-45.1-101 *et seq* rather than any general obligation of the town for such debt and, therefore, not subject to requirements of Article 10, Section 20 of the Colorado Constitution (TABOR) by classification of the Sewer Collection System and Water System as an Enterprise within the meaning of TABOR.

NOW THEREFORE, be it Ordained by the Board of Trustees of the Town of Saguache that Article 2 (General and Special Funds), Section 4-2-60 (Sewer Fund Created) and Section 4-2-70 (Water Fund Created) of Chapter 4 (Revenues and Finance) be repealed and reenacted into one section as follows:

Sec. 4-2-60 Sewer and Water Enterprise Fund Created

(1) Definitions.

Unless the context specifically indicates otherwise, the following words and phrases shall have the following meanings as used in this Article:

Governing body shall be the Board of Trustees; provided that the Board of Trustees may delegate by resolution any or all of said functions to a committee which shall be known as and shall function as the Town of Saguache Sewer Authority.

Grant means any direct cash subsidy or other direct contribution of money from the State or local government in the State which is not required to be repaid. Grant does not include:

a. Any indirect benefit conferred upon the sewer and water enterprise from the State or local government in the State;

b. Any revenues resulting from rates, fees, assessments or other charges imposed by the Sewer and Water Enterprise for the provision of goods or services by such enterprise; or

(e) To enter into Joint operating agreements, contracts or arrangements with consumers concerning sewerage and water facilities, whether acquired or constructed by the Sewer and Water Enterprise or the consumer, and to accept monies and contributions from consumers for the construction of sewer and water facilities.

(f) To prescribe, revise and collect in advance or otherwise, from any consumer or any owner or occupant of any real property connected therewith or receiving service therefrom, rates, fees, tolls and charges or any combination thereof for the services furnished by, for the direct or indirect connection with, or the use of or any commodity from such sewerage and water facilities; in anticipation of the collection of revenues of such sewer and water facilities, to issue revenue bonds to finance in whole or in part the cost of acquisition, construction, reconstruction, improvement, betterment or extension of the sewerage and water facilities; and to issue temporary bonds until permanent bonds and any coupons appertaining thereto have been printed and exchanged for the temporary bonds.

(g) To pledge, to the punctual payment of said bonds and interest thereon, all or any part of the revenues of the sewerage and water facilities, including the revenues of improvements or extensions thereto thereafter constructed or acquired, as well as the revenues from existing sewer and water facilities.

(h) To enter into and perform contracts and agreements with other governmental entities and utility activity enterprises for or concerning the planning, construction, lease or other acquisition and the financing of sewer and water facilities and the maintenance and operation thereof.

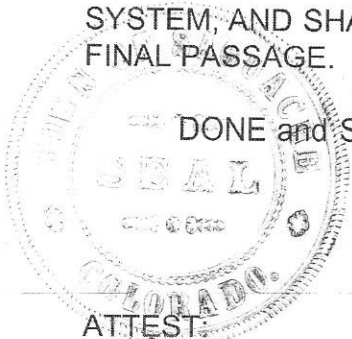
(i) To make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted in this Section or elsewhere in state law or this Article, in the performance of its covenants or duties, or in order to secure the payment of its bonds if no encumbrance, mortgage or other pledge of property, excluding any pledged revenues of the Sewer and Water Enterprise is recreated thereby, and if no property, other than money, of the Sewer and Water Enterprise is liable to be forfeited or taken in payment of said bonds, and if no debt on the credit of the Sewer and Water Enterprise or Town is thereby incurred in any manner for any purpose.

(j) To issue Sewer and Water Enterprise refunding bonds pursuant to this Article or other applicable law to refund, pay or discharge all or any part of its outstanding sewer revenue bonds issued under this Section or under any other law, including any interest thereon in arrears or about to become due, or for the purpose of reducing interest costs, effecting a change in any particular year in the principal and interest payable thereon or in related utility rates to be charged, affecting other economies or modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds, or to any municipal sewer and water facilities.

(3) Revenue bonds.

(a) In accordance with and through the provisions of this Section and Section 37-45.1-104, C.R.S., the Sewer and Water Enterprise, through the Board of Trustees, is authorized to issue bonds or other obligations payable solely from the revenues derived or to be derived from the functions, services, benefits or facilities of the Sewer and Water Enterprise or from any other available funds of the Sewer and Water Enterprise. Such bonds or other obligations shall be authorized by ordinance and adopted by the governing body of the Sewer and Water Enterprise in the same manner as other ordinances of the Town. Such bonds or other obligations may be issued without voter approval, provided that, during the fiscal year of the Town preceding the year in which the bonds or other obligations are authorized, the Sewer and Water Enterprise

IMMEDIATE PRESERVATION OF THE PUBLIC PEACE, HEALTH, AND SAFETY DUE TO PENDING TOWN APPLICATIONS TO RENOVATE THE SAGUACHE SEWER SYSTEM, AND SHALL TAKE EFFECT AND BE ENFORCED IMMEDIATELY UPON FINAL PASSAGE.



DONE and SIGNED this 12th day of March, 2018.

Elvie M. Samora
Elvie Samora, Town Mayor

ATTEST:

Iris Garcia
Iris Garcia, Town Clerk
APPROVED AS TO FORM:

Eugene L. Farish
Saguache Town Attorney

Certification and Attestation

I hereby certify that the within Ordinance was introduced, read in full, approved and adopted at the regular meeting of the Board of Trustees of the Town of Saguache, Colorado on the 12th day of March, 2018, and published by title in the Saguache Crescent, a legal newspaper in the Town of Saguache on March 21, 2018

Iris Garcia
Iris Garcia, Town Clerk