

TOWN OF WELLINGTON

ORDINANCE NO. 04-2023

AN ORDINANCE AMENDING AND RECODIFYING CHAPTER 13 OF THE MUNICIPAL CODE CONCERNING MUNICIPAL UTILITIES.

WHEREAS, the Town of Wellington has adopted Chapter 13 of the Town Code of the Town of Wellington, Colorado (the “Town Code”), addressing municipal utilities and their operations; and

WHEREAS, the Town Board of Trustees of the Town of Wellington, Colorado (the “Board of Trustees”) has reviewed Chapter 13 and wishes to adopt provisions addressing billing procedures, clarifying operations of the municipal utility, and increasing consistency of language throughout the Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, AS FOLLOWS:

1. Adoption. Chapter 13 of the Municipal Code is hereby repealed and replaced in its entirety as follows:

**ARTICLE 1 Water, Wastewater and Storm Drainage Utility**

***Division 1 General Provisions***

**Sec. 13-1-10. Definitions.**

The words used in this Chapter shall have their common meaning unless that meaning is specifically modified by the definitions contained herein.

*Delinquent account* means any utility account assessed for Utility user charges which is not paid in full prior to the twentieth day of the month in which the bill is forwarded to the User.

*Development* shall be as defined in Chapter 15 of this Code.

*Licensed plumber* means a master plumber, journeyman plumber or residential plumber holding a current state license.

*Meter size* shall be determined by the inside diameter of the outlet side of the meter.

*Person* shall mean any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, limited liability company, partnership, association, or other legal entity.

*Tap* shall mean the point where the service line connects to the Town's main line.

*Town of Wellington Construction Standards* means the Standard Design Criteria and Standard Construction Requirements as adopted by the Town.

*User* means either the tenant or owner of a premises which is connected to the Town's water, wastewater or storm drainage facilities.

*Utilities or Utility* means water, wastewater, storm drainage utilities of the Town.

*Utility Billing Coordinator* means that Person designated by the Town Administrator as the Town's Utility Billing Coordinator.

*Utility user charges or user fees* means all charges imposed by the Town or the specific Town enterprise for water, wastewater, storm drainage usage, including any administrative fees, interest, penalties and service charges imposed in accordance with this Chapter or imposed by State or other applicable law.

( Ord. No. 15-2020 , § 1, 7-28-20)

### **Sec. 13-1-20. Ownership; responsibility.**

- (a) The Town shall own and maintain all parts of the water facilities used in the collection, treatment or distribution of water for municipal beneficial uses, except those portions identified as the property of the owner of property served. These facilities shall be known as the water Utility.
- (b) The Town shall own and maintain all parts of the wastewater facilities used in the collection, treatment or disposal of sewage, except those portions identified as the property of the owner of property served. These facilities shall be known as the Wastewater Utility. The wastewater tap and all facilities from the tap extending to and located on the owner's property shall be owned by and be the responsibility of the property owner.
- (c) Any Person who connects any pipe, tube, curb stop, wire, cord, motor or other instrument or contrivance with any main or service line supplying water to any property, or who turns on water for service to any property, without the knowledge and consent of the Town is guilty of a civil infraction of this Code. Each day that such violation continues to exist shall be considered a separate offense.
- (d) Any Person who in any manner alters, obstructs or interferes with the action of a water meter or the remote read-out attached to a water meter, without the knowledge and consent of the Town is guilty of a civil infraction of this Code. Each day that such violation continues to exist shall be considered a separate offense.
- (e) Any Person who causes damage in any form to the water or wastewater facilities is guilty of a civil infraction of this Code. Each day that such violation continues to exist shall be considered a separate offense.
- (f) In addition to any other remedies, the Town Attorney, acting on behalf of the Town, may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such violations, or to recover the cost of repairs to the facilities.
- (g) The Town shall own and maintain the water service line including the water Tap from the water main to the meter pit. The Town shall also own and maintain the curb stop, the meter pit, yoke, meter and remote readout associated with the water service. The property owner shall own and maintain the water service line from the customer side of the yoke to the customer.

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- (h) The property owner shall own and maintain the wastewater tap and the wastewater service line from the tap to the owner's property including from the owner's premises to the connection to the wastewater main.
  - (i) It shall be the duty of the User to promptly notify the Town of any leaks in the water service line or apparent malfunction of the water meter or remote readout. The Town shall investigate User-reported problems and repair or replace any malfunctioning water meter or remote readout. The Town shall use reasonable efforts to repair or replace any malfunctioning water meter or remote readout within three (3) working days of notification and repair or replace that portion of the water service line owned by the Town found to be leaking within five (5) working days. If the Town discovers that a meter or remote readout is not recording properly, the Town shall use reasonable efforts to repair or replace the water meter or remote readout within three (3) working days of its discovery. In those instances, where it is necessary to make arrangements with the User for access to the property to investigate complaints or accomplish necessary repairs, those arrangements shall constitute compliance with this Subsection.
  - (j) The property of any User may be inspected at any time for the purpose of examining the condition of all pipes, meters, service lines or other parts of the Utility systems. If at any time the Town determines that the tap, service line(s) or other facilities owned by the owner are defective in any manner or in need of repair or replacement, the owner shall cause such repairs or replacement to be made within ten (10) days of notification by the Town of said defect. The repairs or replacement shall be at the owner's sole expense, shall be made by a Licensed plumber and must be approved by the Public Works Director. Failure by the User to accomplish the repairs within the time allowed shall be a civil infraction of this Code. Each day that such violation continues to exist shall be considered a separate offense.

( Ord. No. 15-2020 , § 1, 7-28-20)

### **Sec. 13-1-30. Utilization of Town services.**

- (a) All premises in the Town, including all premises connected to and receiving municipal water from the Town's municipal water system, shall, unless approved by the Town, be connected to and discharge sewage into the Town's municipal wastewater system. No individual residence, business or other property Development shall be permitted to create or expand a separate wastewater system without approval of the Town.
- (b) The owner of separate water or wastewater systems existing prior to January 1, 1987, or systems created thereafter, may be required to connect to the Town's facilities at the property owner's expense upon thirty (30) days' written notice from the Town. The owner shall be liable and responsible for any improvements necessary to protect the general health and welfare, including emptying, cleaning and filling any non-Town owned disposal systems.
- (c) Any developer of new Development of property within the Town shall make the necessary improvements to the Utility facilities of the Town to provide Utility service to the Development. These improvements shall include, but not be limited to, the installation of water and wastewater trunk and main lines, valves, service lines, meters, meter pits and their appurtenances, booster and lift stations, storm water facilities and water storage

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facilities required as a result of the Development. All facilities and equipment installed by the owner of any Development shall be in conformance with the Town of Wellington Construction Standards and shall not cause a degradation of the existing service to the Town's residents. These capital improvements shall be subject to a separate agreement between the Town and the developer and shall be dedicated to the Town, free and clear of all encumbrances.

- (d) The Town may require oversizing of capital improvements and may provide for participation in the cost of such oversizing in the case that it is recognized that the Development of subsequent properties will occur and the Development will require use of Town Utilities.

( Ord. No. 15-2020 , § 1, 7-28-20)

#### **Sec. 13-1-40. Water and wastewater rates.**

All buildings or premises connected to the Town water and wastewater facilities shall be held and deemed to be occupied, and Utility user charges collected thereon. The obligation to pay Utility user charges shall include charges to those buildings or premises for which service has been terminated by the Town or the property owner. All rates shall be established by ordinance or resolution of the Board of Trustees.

( Ord. No. 15-2020 , § 1, 7-28-20)

#### **Sec. 13-1-50. Capital investment fees, water rights dedication requirements.**

- (a) Uniform water capital investment (tap or impact) fees. There are hereby imposed uniform water capital investment (tap or impact) fees, payable upon application for a water Tap in the Town as established by ordinance or resolution of the Board of Trustees.
- (b) Uniform wastewater capital investment (tap or impact) fees. There are hereby imposed uniform wastewater capital investment (tap or impact) fees, payable upon application for a wastewater tap in the Town as established by ordinance or resolution by the Board of Trustees.
- (c) Water rights dedication. In order to offset the impact upon the Town's system, a dedication or transfer of water rights to the Town or a cash payment in lieu thereof shall be required for all Development or properties connected to or expanding use of the Town's Utilities, as required by the Town, as follows:
  - (1) Prior to approval of the annexation of any land to the Town, prior to the approval of the subdivision or replatting of any land previously annexed, or prior to the approval of any new or modified Development;
  - (2) Prior to all new extensions of water services which will thereafter be used for domestic, commercial or industrial purposes. This Subsection shall not apply to the extension of a new municipal service to property for which the basic dedication requirement was met at annexation, subdivision or re-platting, or Development approval.

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- (3) The Town may by separate agreement provide for the transfer of water rights, or cash payments in lieu thereof, at times other than provided in Paragraphs (1) and (2) above.
- (d) Basic water rights dedication requirements. Water rights shall be dedicated in the following quantities:
- (1) Developers of residential uses shall dedicate to the Town water rights yielding such amount of water as may be established by ordinance or resolution of the Town Board for each dwelling unit to be served by the Town water Utility.
  - (2) Developers of commercial or industrial uses shall dedicate to the Town water rights in the quantity sufficient to satisfy the ultimate water demand of the commercial or industrial uses as determined by the Town.
- (e) Procedure for dedicating water rights. The Town shall have the sole right of determination to accept or reject any water rights proposed for dedication pursuant to the provision of this Section, or to allow a cash payment in lieu of water rights dedication to satisfy the basic dedication requirement. At the time of submission, the applicant shall indicate the water rights proposed to be dedicated to the Town, or the amount of cash in lieu thereof that is proposed to be paid to the Town.

The Town will accept the following water rights to satisfy the Town's Raw Water requirements:

Water source	Allotment per unit
One share of North Poudre Irrigation Company stock	2.0 AF/share
Class D water allotment contracts representing acre foot units of water in the Colorado-Big Thompson Project	0.5 AF/unit

- (f) Cash in lieu of water rights dedication. Cash payments in lieu of water rights dedication shall be equal to the fair market value of the water rights necessary to satisfy the basic water rights requirement. The Town Board, by ordinance or resolution, shall determine from time to time the cash in lieu payment amount per acre foot required.
- (g) Any utility fee to be imposed by the Town or imposed by any enterprise of the Town shall as required by the Town Code be set by ordinance or resolution of the Town Board of Trustees.

( Ord. No. 15-2020 , § 1, 7-28-20)

### **Sec. 13-1-60. Water and Wastewater tap requirements and permits.**

- (a) Water and wastewater tap permits required. It is unlawful for any Person to tap or make any connection with the Town's water or wastewater facilities or to take or to use any water from said water facilities without having first obtained a permit from the Town. Any Person desiring to tap the water or wastewater mains or use water from the Town's water system shall make application in writing for a tap permit to the Town Administrator. The application shall state the size of the tap to be made with the water or wastewater system, the location of the proposed tap, the premises for which the service is sought, the purpose

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for which the water is to be used and the type and quality of the wastes to be discharged. All plant investment fees and other charges assessed by the Town shall be submitted with the application.

- (b) Issuance of tap permits. If the application complies with the provisions of this Code and the applicant pays the requisite capital investment fee, a permit shall be issued subject to review by the Town Engineer. Capital investment fees for water and wastewater taps are adopted by resolution or ordinance by the Town Board and identified in the Town fee schedule. Permits shall be signed by the Town Administrator and shall set forth the name of the Person for whose benefit the permit shall be granted, the date issued, the point on the water or wastewater main at which the tapping is to be done, the size of the tap and the curb stop, the premises to be served and the use to be made of the water and any restrictions on the discharge to the wastewater facilities.
- (c) Time limitation on tapping.
  - (1) Each water and wastewater tap permit issued by the Town pursuant to this Code shall expire one hundred eighty (180) days after the issuance of the permit unless the tap applied for has been installed during the one-hundred-eighty-day time period and unless the construction of the premises for which the tap has been issued has been commenced.
  - (2) The holder of any water or wastewater tap permit may apply for an extension of the one-hundred-eighty-day time period. Extensions may be granted for good cause established by the permit holder. Any extension shall be limited in time to an additional one-hundred-eighty-day period and only one (1) extension shall be granted for any tap.
  - (3) If a water or wastewater tap permit expires, all charges paid to the Town to serve the permit to the applicant shall be forfeited and are nonrefundable.
  - (4) The holder of a tap permit may relinquish the permit to the Town at any time prior to its expiration. The Town shall, upon demand, refund seventy-five percent (75%) of the permit fee paid to the owner.
- (d) Transfer of tap permits. Tap permits are for a specific address or location and may not be transferred to any other site or another owner except as specifically authorized by the Board of Trustees.

( Ord. No. 15-2020 , § 1, 7-28-20)

### **Sec. 13-1-70. Tapping of water or wastewater lines; specifications.**

- (a) *Tapping to be done by Licensed plumber.* All connections or taps to water or wastewater mains shall be made by a Licensed plumber or Licensed contractor and shall be at the sole expense of the applicant. The applicant shall furnish at his or her sole expense all materials and labor necessary for the tap or connection, except that the Town shall furnish the water meter and remote readout with cable, the price of which is included in a meter fee set by the Board of Trustees by resolution or ordinance or, if no meter fee is so established, the price is included in the capital investment fee set forth pursuant to this Chapter.

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- (b) *Tapping requirements.* All connections or taps shall be made in accordance with the Town of Wellington Construction Standards and shall be made under the supervision of the Public Works Director or other authorized Person. Materials used shall be compatible with the Town's mains and the service lines used.
  - (c) *Restoration of street pavement and right-of-way.* Any Person cutting street pavement or excavating within the public right-of-way for the purpose of tapping a water or wastewater main or for maintenance of a service lateral shall obtain the appropriate permit from the Town and restore the street pavement or the public right-of-way to its previous condition. All work performed must be in accordance with the Town of Wellington Construction Standards.
  - (d) *Charges for extra inspections.* Where the installation of water or wastewater services under paving or where other exceptional conditions occur, the Town shall make an additional charge, sufficient to cover the cost of additional inspections.
  - (e) *Standard water tap size, service pipe, curb stop.* All water taps shall be sized in accordance with the International Plumbing code as adopted by the Town but shall in no case be less than three-fourths ( $\frac{3}{4}$ ) inch. All Taps, service pipes and curb stops shall be of materials required by and shall be installed in accordance with the Town of Wellington Construction Standards
  - (f) *Standard wastewater tap size, service pipe, cleanout.* Except as provided by this Article, all wastewater taps shall be sized in accordance with the International Plumbing Code as adopted by the Town, but in no case shall the Town permit less than a four (4) inch Tap, and all taps shall be of materials required by and shall be installed in accordance with the Town of Wellington Construction Standards.
  - (g) *Water Meter size required for multiple-family Developments.* All water taps serving multifamily developments shall be sized in accordance with the International Plumbing Code as adopted by the Town, but in all cases single family and single family attached units shall be served by separate water Taps. Multi-family complexes may, if approved by the Town Administrator or Public Works Director, be served by appropriately sized Taps based on design documents approved by the Town.
  - (h) The Town may require separate irrigation water taps for commercial developments, multi-family developments, or other residential developments as deemed appropriate and beneficial to the Town.
  - (i) *Separate taps/meters required for individual ownership.* The Town may require separate water and wastewater taps and meters for premises with multiple occupancies. The requirement for separate taps and meters may be imposed by the Town upon the application for a Tap permit, or upon application for initiation of service or transfer of billing, or during the review of minor or major impact permit under the Land Use Code.

( Ord. No. 15-2020 , § 1, 7-28-20)

### **Sec. 13-1-80. Water service initiation.**

*Application for initiation of service or transfer of billing.* Application to have water turned on or transferred from one (1) party to another shall be made in writing to the Town

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Administrator. The Town may require written agreement by the applicant to abide by and accept all of the provisions of this Code pertaining to water or wastewater service or other health, engineering or service limitations relative to service as conditions governing the use of the Town's Utility facilities by the applicant.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-90. Payment of user charges.**

- (a) *Owner responsible for payment.* Water service may be requested by the record owner of the property to be served. As a condition of service, the Town may require evidence of the record owner's title to the property. The owner or owners of any building or premises connected with the Town water or wastewater facilities shall be held and deemed liable for the payment of all Utility user charges levied against such building or premises. The record owner of the property, as landlord, may request that a tenant in the possession of the premises be the named User to be charged. Such request must be in writing on a form to be provided by the Utility Billing Coordinator. Such form shall include a signed statement that the record owner understands that payment of Utility charges by a tenant or other party not relieve the owner of his or her liability for water, wastewater and storm drainage Utility user charges and that unpaid Utility user charges may be levied against the property. Upon receipt of a landlord request for tenant service, the Town will confirm with the named tenant that the tenant agrees to pay any Utility user charges.
- (b) *Utility bills due and payable.* The Town shall issue Utility bills for Utility user charges in the Town's normal course of billing. All Utility user charges shall be due when service is provided. The User's failure to receive a billing shall not relieve the User of the obligation to timely pay Utility user charges. Any Utility user charge becomes a Delinquent account if not paid in full on or before the twenty fifth day of the month after the User receives a billing for such Utility user charges. Water service to a delinquent water account may be discontinued until any Delinquent account is paid in full.

Upon becoming delinquent a late fee (penalty) set by resolution shall be assessed against account balances each month if not paid after the 25th day of the month. Any Delinquent account may be charged reasonable attorney's fees and other costs of collection incurred by the Town.

- (c) *Payment with an insufficient funds or no-account instrument.* The Town shall charge the utility User a fee set by resolution for any insufficient funds or no-account instrument or payment not honored or returned to the Town.
- (d) *Delinquent utility user charges are a lien against property.*
  - (1) All utility user charges when due are and remain a lien upon such building or lot receiving utility service, until such user charges shall be paid in full. The lien is prior and superior to all other liens, claims, titles and encumbrances, whether or not prior in time, except liens for general taxes. Such delinquent charges may be certified to the County Treasurer for collection in the same manner as delinquent general taxes and special assessments upon such property are collected or by any other means provided by law and shall be subject to any penalties and administrative fees as may be set by



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the County Treasurer. No such lien shall be removed by the Town once it is so certified. Any such lien attachable to any building, lot or other premises shall extend to the whole of such building, and likewise to the whole of each lot upon, which such building may be situated. Until all usage charges and penalties due by reason of the use of the Town's water and wastewater and storm drainage facilities are paid and discharged, the Town may refuse to supply and may terminate service of water for use upon the premises against which said lien shall exist.

- (2) At least thirty (30) days prior to certification of the delinquent utility bill to the County Treasurer for collection, the Town shall mail notice to the property owner advising him or her that the delinquent utility bill will be so certified if payment is not made by the date required in the notice. Notice shall be by certified mail, return receipt requested. Failure of the property owner to accept delivery of said notice within the thirty-day notice period shall not prevent the certification of the delinquent utility charges for collection.
  - (e) *Premises considered occupied.* All buildings or premises connected to the Town water and wastewater facilities shall be held and deemed to be occupied water, wastewater and storm drainage usage charges collected thereon.
- ( Ord. No. 15-2020 , § 1, 7-28-20)

#### **Sec. 13-1-100. Town reading of meters.**

If water meters are read by Town staff or subcontractors, the following regulations shall apply:

- (1) *Meters to be read monthly.* Water meters at each premises served by the Town's water system may be read on a monthly basis.
- (2) *Inaccessible meters.* If a meter is inaccessible to the meter reader, the meter reader shall post a notice on the premises advising the User that he or she was unable to read the meter due to its inaccessibility. In the event that the meter is inaccessible for three (3) consecutive months, the Town shall have the right to relocate the meter to a point on the property or the public right-of-way that will be accessible to the meter reader and such cost incurred will be the responsibility of the User.
- (3) *Estimation of water usage.* The Utility Billing Coordinator shall provide for the estimation of water usage in the case where a meter is inaccessible to the meter reader. The Utility Billing Coordinator ~~Clerk~~ shall provide for the estimation of water usage due to inclement weather or other factors beyond the control of the Town where the meter reader is unable to provide meter readings by the last day of the month. Said estimation may be based upon previous usage by the User, the average usage of similar User's during the same time or upon any other reasonable method as determined by the Town Administrator.

( Ord. No. 15-2020 , § 1, 7-28-20)

#### **Sec. 13-1-110. Reserved.**

### **Sec. 13-1-120. Service restoration fees.**

If a utility account is delinquent and the supply has been turned off, or the water has been turned off at the request of the owner or agent due to a vacancy, the water shall not be turned on again until all delinquent user fees have been paid and until a service restoration (turn-on) fee as established by resolution by the Board of Trustees to offset the Town's costs has been paid to the Town.

( Ord. No. 15-2020 , § 1, 7-28-20)

### **Sec. 13-1-130. Discontinuance of utility services by Town.**

Water Utility service to a User may be terminated upon the failure of the User to pay the amount due on the utility bill on or before the twenty-fifth day of the month, for the payment of a utility bill with an insufficient fund or no account instrument, for failure to comply with the conditions of an installment payment plan, for unsafe or hazardous service lines, for tampering in any manner with the Town's utility facilities, for failing to abide by water use imposed by the Board of Trustees or for violation of any of the provisions of this Article. Advance notice of the pending termination shall be given only for the failure of a User to pay the amount due on the utility bill, or for the payment of a utility bill with an insufficient fund or no-account check.

- (1) *Notice of pending termination of utility service.* Any Delinquent account that is more than 31 days past due will be issued a notice informing the account holder of delinquency and pending water account shut off. This notice will be sent no later than the 15<sup>th</sup> of the month. This notice will be sent via first class mail to the mailing address of record for the Utility user and, if the Utility has the technical ability to send a notice via email and the Utility has a confirmed email address on record for the Utility user, to the email address of the Utility user. Prior to sending any pending shutoff notice to a Utility user under this section, the Utility shall notify the Utility user that such notices will not be posted on the property, but will only be sent by mail and, if applicable, by email and requesting that the Utility user confirm the addresses on file with Utility for such notices.
- (2) The notice shall contain the following information:
  - a. The account number;
  - b. The amount of the unpaid bill and the amount that must be collected in order to avoid shut off;
  - c. The date on which the utility service will be terminated if the unpaid bill is not paid in sufficient amount;
  - d. The employee(s) of the Town to be contacted to ask about the notice, and the telephone number and normal office hours during which staff can be reached;
  - e. That an additional service charge set by resolution will be added to the bill if a service is turned off.

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- (3) *Termination of service.* Water utility service to a User may be terminated by turning off the water at the curb stop or at the meter, or by removal of the meter or in such other manner as determined by the town.
- (4) *Restoration of service.* Service to a property that has been terminated for service shall not be restored until:
- a. The delinquent utility user charges have been paid in full, including penalties and the service fee(s) for service restoration; or
  - b. A service fee is paid for restoring services and the owner of the property served enters an installment payment plan with the Town. The Owner's agreement to an installment payment plan shall not satisfy the lien held by the Town against the property served.
  - c. The cause for termination has been corrected.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-140. Installment plan for delinquent accounts.**

*Installment payment plan for Delinquent accounts.* The Utility Billing Coordinator may agree to provide an installment payment plan for delinquent accounts. Any installment plan will adhere to the approved installment payment plan policy.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-150. Corrections in accounts.**

The Utility Billing Coordinator or Town Administrator is authorized to correct billing errors or make other adjustments to a User's account as may be appropriate to comply with this Chapter.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-160. Irrigation, water scarcity, water supply emergencies.**

- (a) *Irrigation, water scarcity.* The Board of Trustees shall have the authority to establish such rules and regulations so as to limit the days and hours of outdoor watering or irrigation or to limit the use of water in such manner as the Town Board shall deem necessary. Such regulations may be adopted by resolution and shall become effective immediately upon passage. Enforcement shall be by summons issued in accordance with Section 2-4-140 of this Code. And the property of any User violating this provision shall be subject to utility service termination. Each day that such violation continues to exist shall be considered a separate offense.
- (b) *Water supply emergencies.* If the water system experiences an emergency due to a water main break, treatment plant or storage system malfunctions, fire, flood or other natural disaster, the Director of Public Works or any authorized law enforcement officer or fire official may direct and require that residents of the Town restrict all usage of water during such time of emergency. Any Person who fails to obey such lawful order of the Public

Works Director, law enforcement officer or fire official commits a civil infraction under this Code.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-170. Pollution of water supply.**

- (a) It is unlawful for any Person to pollute or introduce any pollutant in any manner to any reservoir, stream, trench, pipe or drain within five (5) miles above the point where the Town receives any portion of its water supply, including any pollution or water contamination of any underground water source.
- (b) Any Person placing manure, dead animals or other matter or allowing livestock to stand in any water source within the protected area shall be deemed to have violated this Section.
- (c) It is unlawful for any Person to damage any facilities used by the Town in its water delivery system, including facilities located outside of the boundaries of the Town. The facilities protected shall include, but not necessarily be limited to, any pipeline, plant, building, head gate, valve, water box or other improvements, whether located within or outside of the Town limits.
- (d) Any Person who violates any provisions of this Section, upon conviction thereof, shall be punished in accordance with the provisions of Section 1-4-20 of this Code. In addition to such penalties, such Person shall be liable for all damages resulting from such violation.

( Ord. No. 15-2020 , § 1, 7-28-20)

***Division 2 Wastewater Treatment and Pretreatment Systems***

**Sec. 13-1-200. Purpose and policy.**

- (a) This Article I, Division 2 sets forth uniform requirements for all users of the publicly owned treatment works for the Town and enables the Town to comply with applicable state and federal laws, including the Clean Water Act (33 U.S.C. § 1251 et seq.) and the General Pretreatment Regulations (40 C.F.R. Part 403). The objectives of this chapter are:
  - (1) To prevent the introduction of pollutants into the POTW that will interfere with its operation;
  - (2) To prevent the introduction of pollutants into the POTW that will pass through it, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
  - (3) To enable the Town to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge use, and disposal requirements, and all other state and federal laws to which the POTW is subject;
  - (4) To promote reuse and recycling of industrial wastewater and sludge from the POTW; and
  - (5) To protect the POTW personnel who may be affected by wastewater and sludge in the course of their employment.

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- (b) This Article I, Division 2 authorizes the issuance of a wastewater discharge permit and other control mechanisms; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user monitoring and reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-210. Administration.**

Except as otherwise provided herein, the Town Administrator shall administer, implement, and enforce the provisions of this Article I, Division 2. Any powers granted to or duties imposed upon the Town Administrator may be delegated by the Town Administrator to other water personnel.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-220. Abbreviations.**

The following abbreviations, when used in this Article I, Division 2, shall have the designated meanings:

CWA or Act	Clean Water Act, 33 U.S.C. § 1251 et seq.
gpd	Gallons per day
gpm	Gallons per minute
mg/l	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and maintenance
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-230. Definitions.**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Article I, Division 2, shall have the meanings hereinafter designated.

*Authorized representative of the user:*

(1) If the user is a corporation:

- a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

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- b. The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) The individual described in Section 13-1-210 may designate another authorized representative if the authorization: Is in writing to perform functions provided; specifies the individual or position responsible for the overall operation of the facility from which the discharge originates, such as the position of plant manager, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and is submitted to the Town.

*Best management practices or BMPs.* The activities, practices, operating or maintenance procedures and treatment requirements necessary to meet the objectives of this Article I, Division 2 and to prevent or reduce prohibited discharges into the POTW. BMP's shall be considered local limits and Pretreatment Standards for the purposes of Pretreatment Regulations and Section 307(d) of the Act and as specified in 40 CFR 403.5(c)(f).

*Biochemical oxygen demand or BOD.* The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).

*Categorical pretreatment standard or categorical standard.* Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C § 1317) which apply to a specific category of users and which appear in 40 C.F.R Parts 405—471.

*Domestic wastewater.* (1) Wastewater from normal residential activities including, but not limited to, wastewater from kitchen, bath, and laundry facilities; (2) wastewater from the personal sanitary conveniences (toilets, showers, bathtubs, fountains, noncommercial sinks, and similar structures) of commercial, industrial, or institutional buildings, provided that the wastewater exhibits characteristics that are similar to those of wastewater from normal residential activities.

*Environmental protection agency or EPA.* The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Administrator/Clerk, or other duly authorized official of said agency.

*Fats, oil, and grease or FOG.* A semi-solid, viscous liquid organic polar compound derived from animal or plant sources that contains multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 C.F.R. Part 136.

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*Food service establishment or FSE.* A facility engaged in preparing or serving food. This term does not include single-family residences.

*Grab sample.* A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period not to exceed fifteen (15) minutes.

*Grease interceptor.* An outside, underground, multi-compartment tank designed to reduce the amount of fats, oil and grease in the wastewater discharged to the POTW.

*Grease trap.* An indoor device designed to reduce the amount of fats, oil and grease in wastewater discharged into the POTW. Grease traps usually serve no more than four (4) fixtures.

*Grease removal device.* A grease trap, grease interceptor or other device that is designed, constructed and intended to remove, hold or otherwise prevent the passage of fats, oil and grease to the wastewater collection system.

*Hauled waste.* Any domestic or nondomestic waste from holding tanks, including, without limitation, chemical toilets, vacuum pump tank trucks, and septic tanks. Hauled waste does not include domestic waste from an individual's recreational vehicle (e.g., camper or trailer).

*Indirect discharge or discharge.* The introduction of pollutants into the POTW from any nondomestic source regulated under Sections 307(b), (c), or (d) of the Clean Water Act.

*Industrial user or user.* A direct or indirect discharge source of which contains non-domestic wastewater.

*Instantaneous measurement.* For monitoring requirements, a single reading, observation or measurement independent of the industrial flow rate and the duration of the sampling event.

*Interference.* A discharge that, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of the Town's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory or regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Clean Water Act; the Solid Waste Disposal Act, including Title II, commonly referred to as the Resource Conservation and Recovery Act; any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

*Local limit.* Limit developed for a specific pollutant based on the quantity that the POTW can accept.

*New source:*

- (1) Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Clean Water Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

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- a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)b. or c. above but otherwise alters, replaces or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- a. Begun, or caused to begin, as part of a continuous onsite construction program:
    - 1. Any placement, assembly, or installation of facilities or equipment; or
    - 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - b. Entered a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

*Nondomestic wastewater.* Water carrying wastes from any process or activity of business, trade, manufacturing, industry, or service.

*Oil and sand removal device.* Trap, interceptor or other Town-approved device designed to remove petroleum products, sand, sediment or similar substances.

*Pass through.* A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Town's NPDES permit, including an increase in the magnitude or duration of a violation.

*Person.* Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state and local governmental entities.

*Pollutant.* Includes, but is not limited to, dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes,



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biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

*Pretreatment.* The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alternation may be obtained by physical, chemical, or biological processes, process changes, or by other means except as prohibited by Section 13-1-300. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 C.F.R. 403.6(e).

*Pretreatment Requirements.* Any substantive or procedural requirement related to pretreatment other than a pretreatment standard imposed on a user.

*Pretreatment standard or standard.* Prohibited Discharge Standards, Categorical Pretreatment Standards, and Local Limits, including BMPs.

*Prohibited discharge standards or prohibited discharges.* Absolute prohibitions against the discharge of certain substances as set forth in Section 13-1-250.

*Publicly owned treatment works or POTW.* A treatment works, as defined in Section 212 of the Clean Water Act (33 U.S.C § 1292) which is owned by the Town. This definition includes any devices or systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial waste of a liquid nature and any pipes, and other conveyances which convey wastewater to the treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.

*Significant Industrial User or SIU:*

- (1) All industrial users subject to categorical pretreatment standards under 40 C.F.R 403.6 and 40 C.F.R. Chapter I, Subchapter N; or
- (2) Any other industrial user that:
  - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
  - b. Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - c. Is designated as such by the Town on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

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- (3) Upon a finding that a user meeting the criteria in definition of "significant industrial use or SIU", subsection (2)b. above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Town may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 C.F.R 403.8(f)(6), determine that such user should not be considered a significant industrial user.

*Slug discharge.* Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 13-1-250 or any discharge of a nonroutine, episodic nature including, but not limited to, an accidental spill or noncustomary batch discharge that has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits, or permit conditions.

*Wastewater.* Liquid and water-carried domestic and nondomestic wastes from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

*Wastewater treatment plant or treatment plant.* That portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

( Ord. No. 15-2020 , § 1, 7-28-20)

#### **Sec. 13-1-240. Legal authority.**

- (a) The Town operates pursuant to legal authority enforceable in federal, state, or local courts, which authorizes or enables the Town to apply and enforce the requirements of this Article I, Division 2 and 40 C.F.R Part 403. This authority allows the Town Administrator to:
  - (1) Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants to the POTW by users where:
    - a. Such contributions do not meet applicable federal, state, or local pretreatment standards and requirements; or
    - b. Could cause the treatment plant to violate its NPDES permit; or
    - c. Could cause problems in the POTW.
  - (2) Control through permit, order or similar means the wastewater contributions to the POTW by each user to ensure compliance with applicable pretreatment standards and requirements.
  - (3) Require compliance with applicable pretreatment standards and requirements by industrial users.
  - (4) Identify and locate all possible industrial users which might be subject to the pretreatment program.

( Ord. No. 15-2020 , § 1, 7-28-20)

#### **Sec. 13-1-250. Prohibited discharge standards.**

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- (a) *General prohibitions.* No user may introduce or cause to be introduced into the POTW any pollutant(s) which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other federal, state or local pretreatment standards or requirements.
- (b) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 C.F.R 261.21;
  - (2) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with a pH less than 5.0 or a pH greater than 10.0;
  - (3) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference;
  - (4) Any pollutant released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW, but in no case discharges with a biochemical oxygen demand (BOD) greater than 300 milligrams per liter (mg/L) or total suspended solids (TSS) greater than 300 mg/L or a wastewater having an average daily flow greater than two percent (2%) of the average daily flow of wastewater for the Town;
  - (5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C);
  - (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
  - (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
  - (8) Any trucked or hauled pollutants, except at discharge points designated by the Town Administrator in accordance with Section 13-1-340;
  - (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the wastewater for maintenance or repair;
  - (10) Wastewater which imparts color which cannot be removed by the treatment plant process which consequently imparts color to the treatment plant effluent;
  - (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
  - (12) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
  - (13) Wastewater causing, alone or in conjunction with other sources, the treatment plant effluent to fail a toxicity test;
  - (14) Reserved;
  - (15)Reserved;

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- (16) Fats, oils, or greases of animal or vegetable origin in concentrations which could cause a problem to the collection system or the POTW (e.g., restricted flow in pipes, sewage backups, lift station operation issues, decreased treatment, etc.);
  - (17) Wastewater causing a reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW;
  - (18) Any garbage that has not been properly shredded. Garbage grinders may be connected to the wastewater collection systems from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers. However, garbage grinders shall only be used to grind small amounts of garbage incidental to cleaning of plates, cookware, etc. and not to dispose of large quantities of waste. Waste must be scraped into a garbage can prior to cleaning;
  - (19) Reserved;(20) Wastewater containing pollutants which are not amendable to transport, treatment or reduction in concentration by the POTW and POTW Treatment Plant processes employed, or are amenable to treatment only to such a degree that the POTW Treatment Plant effluent cannot meet the requirements of regulatory agencies having jurisdiction over discharge of effluent to the receiving waters;
  - (21) Wastewater which, by interaction with other wastewater in the POTW, releases obnoxious gases, forms suspended solids which interfere with the collection system, or creates a condition deleterious to structures and treatment processes;
  - (22) Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW of more than five percent (5%) or any single reading over ten percent (10%) of the lower explosion limit of the meter;
  - (23) Liquid Wastes from chemical toilets, trailers, campers, or other recreational vehicles which have been collected or held in tanks or other containers, except as authorized by Town;
  - (24) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW.
- (c) Users processing, storing, or handling pollutants, substances, or wastewater prohibited by this Section in such a manner that they could be discharged to the POTW may be required to develop a slug control plan in accordance with Section 13-1-330.
- ( Ord. No. 15-2020 , § 1, 7-28-20)

### **Sec. 13-1-260. National Categorical Pretreatment Standards.**

The categorical pretreatment standards found at 40 C.F.R Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Town Administrator may impose equivalent concentration or mass limits in accordance with 40 C.F.R 403.6(c).

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- (b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Town Administrator may impose an alternate limit using the combined wastestream formula at 40 C.F.R 403.6(e).
  - (c) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 C.F.R 403.15.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-270. State pretreatment standards.**

State pretreatment standards and requirements adopted pursuant to the Colorado Water Quality Control Act shall apply in any case where they are more stringent than federal standards.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-280. Reserved.**

**Sec. 13-1-290. Town's right of revision.**

The Town reserves the right to establish, by ordinance, resolution, in a wastewater discharge permit, or other appropriate means, more stringent or additional standards or requirements to protect the POTW.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-300. Dilution.**

Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Town Administrator may impose mass limitations on an industrial user who is using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-310. Pretreatment facilities.**

- (a) Users shall provide wastewater treatment as necessary to comply with this Article I, Division 2 and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Sections 13-1-250 through 13-1-280 within the time limitations specified by EPA, the state, or the Town Administrator, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. The Town Administrator may require that detailed plans describing such facilities and operating procedures be submitted for review, and shall be acceptable to the Town before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying

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such facilities as necessary to produce a discharge acceptable to the Town under the provisions of this Article I, Division 2.

- (b) The Town Administrator may require a user to install sampling, monitoring, or other appropriate pretreatment equipment as necessary to assure compliance with the pretreatment standards and requirements. The equipment shall always be maintained in a safe and proper operating condition by the user at its own expense.
- (c) All grease and sand & oil interceptors must be designed and installed in accordance with the Town Standard Design and Construction Requirements.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-320. Additional pretreatment measures.**

- (a) Whenever deemed necessary, the Town Administrator may require that a user's wastewater be discharged only into specific wastewater lines, separate domestic wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Article I, Division 2.
- (b) Backflow prevention devices shall be installed and maintained by the user in accordance with Section 13-2-30 wherever there is a possibility of the user's process or activity contaminating the Town water supply. Such devices shall be tested, inspected, and repaired as needed by the user at its expense.
- (c) Oil and sand removal devices and grease removal devices shall be provided in accordance with Section 13-350
- (d) Grease removal devices shall be provided in accordance with Section 13-1-350.
- (e) Users with the potential to discharge flammable substances shall install devices or construct to prevent the discharge of flammable substances into the POTW.
- (f) Individual water meters, sub-meters or flow meters shall be installed where the Town Administrator has determined it is necessary to ascertain flow data. Such devices shall be tested, inspected, and repaired as needed by the user at its expense.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-325. Control manholes.**

When required by the Town Engineer, the owner of any property carrying industrial wastes shall install a suitable control manhole to facilitate observation, sampling and measurement of wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Town. The manhole shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

( Ord. No. 15-2020 , § 1, 7-28-20)

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**Sec. 13-1-330. Accidental discharge; slug control plans.**

- (a) Each user shall provide protection from accidental discharge of substances that have a reasonable potential to violate the POTW's regulations, local limits, or permit conditions.
- (b) The Town Administrator shall evaluate whether a significant industrial user needs a plan or other action to control slug discharge within one (1) year of being designated a significant industrial user.
- (c) The Town Administrator may require any user to develop, submit for approval, and implement a slug control plan or best management practices plan. If the Town Administrator decides that a slug control plan is needed, the plan shall address, at a minimum, the following elements:
  - (1) Description of discharge practices, including nonroutine batch discharges;
  - (2) Description of stored chemicals;
  - (3) Procedures for immediately notifying the POTW of slug discharge, including any discharge that would violate a prohibition under Section 13-1-250 with procedures for follow-up written notification within five (5) days as required by Section 13-1-440; and
  - (4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response. Such procedures shall be compliant with the U.S. Environmental Protection Agency Spill Prevention Control and Countermeasure (SPCC) Rule at 40 CFR 112 or its successor rule.
- (d) A notice shall be posted in a prominent place advising which employees to call in the event of a discharge described in subsection 13-1-330(a), above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.
- (e) Significant industrial users are required to notify the POTW immediately of any changes at their facilities affecting potential for a slug discharge.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-340. Hauled waste.**

- (a) Any hauled waste meeting the definition of a RCRA hazardous waste as defined in 40 C.F.R 261 will not be accepted.
- (b) The Town Administrator may accept hauled wastes on a case-by-case basis and may require such haulers to obtain a wastewater discharge permit. Hauled waste is subject to all the requirements of this Article I, Division 2. Hauled waste may only be discharged at locations designated by the Town Administrator. No load may be discharged without prior consent of the Town Administrator. The Town Administrator may collect samples of each hauled load

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to ensure compliance with applicable standards. The Town Administrator may require the waste hauler to provide a waste analysis of any load or a waste-tracking form for every load prior to discharge.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-350. Fats, oil and grease management.**

(a) *Applicability.* This Section shall apply to all food service establishments connected to the POTW when, in the opinion of the Town Administrator, it is necessary to prevent fats, oil and grease in quantities sufficient to cause sanitary wastewater line restriction or necessitate increased POTW maintenance.

(1) New food service establishments. All new food service establishments shall be required to install a grease removal device as set forth in Section 13-10-350(2) prior to commencing discharge to the POTW.

(2) Existing food service establishments.

a. Unless otherwise exempted under subsection (a)(2)b below, all food service establishments shall install and maintain a grease removal device within the timeline specified by the Town Administrator after notification that such a device is required. A grease removal device shall be required if:

1. the food service establishment does not have a grease removal device and is discharging to the POTW wastewater containing fats, oil, and grease in quantities sufficient to cause wastewater collection line restriction or necessitate increased POTW maintenance;
2. the existing grease removal device, in combination with best management practices, does not cause a reduction in the quantity of fats, oil, and grease sufficient to prevent wastewater collection line restriction or POTW maintenance; or
3. the food service establishment changes in nature or is renovated in such a manner as to increase the likelihood of discharging to the POTW wastewater contributing fats, oil, and grease in quantities sufficient to cause wastewater collection line restriction or necessitate increased POTW maintenance.

b. Existing food service establishments that are unable to comply with this Section due to site or plumbing constraints which make compliance impossible or financially impracticable shall apply in writing to the Town Administrator for an exemption, which may be granted by the Town Administrator in the Town Administrator's sole discretion. The written request shall include the reason(s) why the food service establishment cannot comply with this Section and steps the food service establishment will take to prevent wastewater collection line restriction and increased POTW maintenance.

(b) *Grease removal device requirements.*

(1) Grease interceptors. Unless exempted under subsection (b)(2) below, food service establishments shall install, operate and maintain grease interceptors. Grease



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interceptors shall be seven hundred fifty (750) gallon minimum capacity and provide a minimum of thirty (30) minutes retention time at total peak flow and must be maintained and installed in accordance with manufacturer's instructions and all applicable laws. The maximum size shall be two thousand five hundred (2,500) gallons; a series of interceptors may be necessary for grease interceptor capacities greater than two thousand five hundred (2,500) gallons based on cleaning and maintenance frequency. Grease interceptors shall be located to provide easy access for cleaning and inspection.

- (2) Grease traps. A food service establishment may install, operate and maintain a grease trap in satisfaction of the requirements set forth in subsection (a) above, if the Town Administrator determines that the food service establishment is discharging to the POTW wastewater containing fats, oil, and grease in such small amounts that a grease interceptor is not warranted or that installation of a grease interceptor is not feasible. At minimum, grease traps shall be fifty (50) gpm flow rated or provide one hundred (100) pound grease retention and must be maintained and installed in accordance with manufacturer's instructions and all applicable laws. Grease traps shall be located to provide easy access for cleaning and inspection. A flow restriction device shall be placed upstream of the grease trap and must be accessible for cleaning and inspection.
  - (3) Other grease removal devices may be allowed if it is shown that an alternative pretreatment technology is equally effective in controlling the discharge of fats, oil and grease. The Town Administrator will evaluate the proposed use of other grease removal devices on a case-by-case basis and set appropriate maintenance and record keeping requirements as needed.
  - (4) Unless directed otherwise, a professional engineer registered in the State of Colorado shall size and provide documentation to the Town to support the proposed grease removal device size.
  - (5) Certification. An engineer licensed by the State of Colorado shall file a written, signed certification with the Town Administrator stating that the required grease removal device has been installed and all sources of fats, oil and grease are discharging to the device before discharging wastewater to the POTW.
- (c) *Best management practices.* Food service establishments shall use best management practices designed to reduce the amount of wastewater containing fats, oil, and grease discharged into the POTW. These include:
- (1) Implementing a comprehensive employee training program on the problems associated with fats, oil, and grease and their proper disposal;
  - (2) Disconnecting or minimizing the use of garbage disposals;
  - (3) Installing a 1/8" or 3/16" mesh screen over all kitchen sinks, mop sinks, and floor sinks;
  - (4) Using "dry" clean-up methods, including scraping or soaking up fats, oil and grease from plates and cookware before washing;
  - (5) Using pre-wash sinks to clean plates and cookware;
  - (6) Recycling fats, oil, and grease and beneficial food waste when possible;

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- (7) Pouring remaining liquid fats, oil, and grease from pots, pans, and other cookware into containers to be disposed of in the trash once congealed; and
  - (8) Posting BMPs in the food preparation and dishwashing areas at all times.
- (d) *Maintenance.*
- (1) Grease removal devices shall be inspected, cleaned, and always maintained in proper working order by the user at its expense.
  - (2) Grease interceptor maintenance.
    - (a) Grease interceptors in active use shall be cleaned at least once every three (3) months or when the total accumulation of surface fats, oil, and grease (including floating solids) and settled solids reaches twenty-five percent (25%) of the grease interceptor's overall liquid depth, whichever occurs first.
    - (b) In the event that a grease interceptor is larger than the capacity of a vacuum truck, the interceptor shall be completely evacuated within a twenty-four (24) hour period. The user's documentation shall accurately reflect each pumping event.
  - (3) Grease trap maintenance. Grease traps shall be serviced at least one (1) time per month or when the amount of waste captured reaches twenty-five percent (25%) of the trap's capacity, whichever occurs first. Removable baffles shall be removed and cleaned during the maintenance process.
  - (4) Other grease removal devices. Facilities with grease removal devices other than grease interceptors or grease traps shall follow the Town Administrator's maintenance and recordkeeping requirements as directed in Section 13-1-350(b)(3).
  - (5) The Town Administrator may require that a grease removal device be cleaned more frequently than set forth in this subsection (d) if the cleaning frequency set forth herein is found to be inadequate. The Town Administrator may change the required maintenance frequency to reflect changes in actual operating conditions.
  - (6) After each cleaning, the food service establishment shall inspect the device to verify that:
    - a. The contents of the device have been fully evacuated and that no liquids, semisolids, or solids were discharged back into the device after cleaning; and
    - b. The interior components of the device are in proper working order.
  - (7) Food service establishments shall require the liquid waste hauler, transporter, or any other person cleaning or servicing a grease removal device to completely evacuate all contents, including floating materials, wastewater, bottom solids, and accumulated waste on the walls of the grease removal device. Waste must be disposed of in accordance with federal, state, and local laws.
  - (8) The establishment shall maintain records for three (3) years of any such cleaning or servicing, including amounts of waste removed, date of removal, name of company providing the service, and location of disposal. The establishment shall submit maintenance records to the Town annually.

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- (9) Cleaning frequency variance. Any food service establishment desiring a cleaning schedule less frequent than that required in this subsection (d) shall submit a request to the Town Administrator along with the maintenance records for the last four (4) grease interceptor cleanings, or last eight (8) grease trap cleanings, including measurements of the thickness of the floating fats, oil and grease and bottom solids layer, and total volume removed. A reduction in cleaning frequency may be granted by the Town Administrator when it has been determined that the grease interceptor has adequate detention time for fats, oil, and grease removal. The cleaning frequency will depend on variables such as the capacity of the device, the amount of grease in the wastewater, the amount of solids in the wastewater, and the degree of adherence to BMPs.
- (e) *Prohibitions.* The following are strictly prohibited:
- (1) Connecting garbage grinders, garbage disposals, and dishwashers to grease traps.
  - (2) Discharging wastewater to a grease trap more than one hundred forty (140) degrees Fahrenheit.
  - (3) Altering or tampering with a grease removal device.
  - (4) Discharging or permitting another to discharge any liquid, semi-solid, or solid back into a grease removal device at any time during maintenance or cleaning operations.
  - (5) Discharging or permitting another to discharge any grease removal device wastes into any drain, public or private wastewater collection line, or other grease removal device.
  - (6) Using hot water or chemicals, bacteria, enzymes, or other products to emulsify fats, oil, and/grease prior to discharging wastewater into the POTW; provided, however, that products may be added to floor drains and other kitchen fixtures to keep the plumbing between the kitchen and the grease removal device clear if such products are used according to their labels and do not interfere with the operation or performance of the grease removal device. Labels and other product descriptions must be kept on file with the food service establishment for at least three (3) years.

( Ord. No. 15-2020 , § 1, 7-28-20)

### **Sec. 13-1-360. Wastewater analysis.**

When requested by the Town Administrator, a user must submit information on the nature and characteristics of its wastewater within the time specified by the Town Administrator. The Town Administrator is authorized to prepare a form for this purpose and may periodically require users to update this information.

( Ord. No. 15-2020 , § 1, 7-28-20)

### **Sec. 13-1-370. Signatures and certification.**

When required, user applications, surveys, questionnaires, and reports must be signed by an authorized representative of the user and contain the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified

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personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-380. Other jurisdictions.**

- (a) If another jurisdiction, or user located within another jurisdiction, contributes wastewater to the POTW, the Town shall enter into an intergovernmental agreement with the contributing jurisdiction.
- (b) Such intergovernmental agreement shall ensure that discharges received from entities outside of the Town's jurisdictional boundaries are regulated to the same extent as are discharges from within the Town's jurisdictional boundaries.
- (c) Such intergovernmental agreement shall also include approval of such contributing jurisdiction as to the territory in which service is to be rendered by the Town.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-390. Baseline monitoring reports.**

- (a) Within one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 C.F.R 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Town Administrator a report which contains the information listed at 40 C.F.R 403.12(b)(1)—(7). Sampling types shall be as specified at 40 C.F.R. 403.12(g)(3) and (4).
- (b) At least ninety (90) days prior to commencement of discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Town Administrator a report which contains the information listed 40 C.F.R 403.12(b)(1)—(5). Sampling types shall be as specified at 40 C.F.R. 403.12(g)(3) and (4). A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-400. Compliance schedule.**

If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the user shall submit to the Town Administrator the shortest schedule by which the user will provide such additional pretreatment and/or operation and maintenance to meet the pretreatment standards and requirements. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A

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compliance schedule pursuant to this Section must meet the requirements contained at 40 C.F.R 403.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-410. Reports on compliance.**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the Town Administrator a report containing the information described in 40 C.F.R 403.12(b)(4)—(6) using the sampling types specified at 40 C.F.R 403.12(g)(3) and (4). All compliance reports must be signed and certified in accordance with Section 13-1-370.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-420. Compliance reports.**

- (a) All significant industrial users shall, at a frequency determined by the Town Administrator but in no case less than once per six (6) months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and/or maximum daily flow for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 13-1-370.
- (b) All wastewater samples must be representative of the user's discharge. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (c) If a user subject to the reporting requirement in this Section monitors any pollutant more frequently than required by the Town Administrator, using the procedures prescribed in Section 13-1-480, the results of this monitoring shall be included in the report.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-430. Reports of changed conditions.**

All industrial users shall promptly notify the Town Administrator in advance of any planned substantial changes in the volume or character of pollutants of its discharge including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under Section 13-1-470.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-440. Reports of potential problems.**

- (a) In the case of any discharge, including, but not limited to, a noncustomary batch discharge or a slug discharge, that may cause potential problems for the POTW, the user shall

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immediately telephone and notify the Town Administrator of the incident. This notification shall include, at a minimum, the location of the discharge, type of waste, concentration and volume, and corrective actions taken by the user.

- (b) Within five (5) days following such discharge, the user shall, unless waived by the Town Administrator, submit a detailed written report describing the cause(s) of the discharge and the measure(s) to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this Article I, Division 2.

( Ord. No. 15-2020 , § 1, 7-28-20)

#### **Sec. 13-1-450. Reports and information.**

All users connected to, or proposing to connect to, the POTW shall provide appropriate reports, or information to the Town Administrator as the Town Administrator may require in order to achieve the requirements of this Article I, Division 2.

( Ord. No. 15-2020 , § 1, 7-28-20)

#### **Sec. 13-1-460. Notice of violation; repeat sampling and reporting.**

If sampling performed by a user indicates a violation, the user must notify the Town Administrator within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Town Administrator within seven (7) days after becoming aware of the violation.

( Ord. No. 15-2020 , § 1, 7-28-20)

#### **Sec. 13-1-470. Discharge of hazardous waste.**

- (a) No user shall discharge hazardous waste without first obtaining a permit from the Town.
- (b) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R Part 261. Such notification must include the information specified in 40 C.F.R 403.12(p) and pretreatment standard operating procedures.
- (c) Dischargers are exempt from the requirements of subsections (a) and (b) above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 C.F.R 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

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- (d) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW, the EPA Regional Waste Management Waste Division Town Administrator, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
  - (e) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
  - (f) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Article I, Division 2, a permit issued thereunder, or any applicable Federal or State law.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-480. Analytical requirements.**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 C.F.R Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA. All laboratory testing must be performed by a State of Colorado certified laboratory.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-490. Sample collection.**

- (a) Except as indicated in subsection (b), below, a user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Town Administrator may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.
- (b) Grab samples must be used for oil and grease, temperature, pH, cyanide, total phenols, and volatile organic compounds. Temperature and pH must be an instantaneous measurement.
- (c) Samples shall be collected using protocols (including appropriate preservation) specified in 40 C.F.R. Part 136, approved EPA methodologies, and appropriate EPA guidance.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-500. Reports received.**

Reports will be deemed to have been submitted on the date postmarked. For reports which are not postmarked the date of receipt of the report shall govern.

( Ord. No. 15-2020 , § 1, 7-28-20)

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**Sec. 13-1-510. Record keeping.**

- (a) Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements.
- (b) Records shall include, at a minimum, the date, exact place, method, and time of sampling, and the name of the person(s) taking the sample(s); the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.
- (c) These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Town, or where the user has been specifically notified of a longer retention period by the Town Administrator.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-520. Right of entry: Inspection and sampling.**

- (a) The Town Administrator shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this Article I, Division 2 and any wastewater discharge permit or order issued hereunder. Users shall allow the Town Administrator or other authorized Town representative ready access to all parts of the premises for the purposes of inspection, photographic documentation, sampling, records examination and copying, noncompliance investigation, and the performance of any additional duties.
- (b) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the Town Administrator or other Town authority will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (c) Unreasonable delays in allowing the Town Administrator or other Town authority access to the user's premises shall be considered a violation of this Article I, Division 2.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-530. Search warrants.**

If the Town Administrator or other Town authority has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Article I, Division 2, or that there is a need to inspect and/or sample to verify compliance with this Article I, Division 2 or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Town



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Administrator or other Town authority may seek issuance of a search warrant from the court with appropriate jurisdiction.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-535. Special agreements.**

No statement contained in this Subsection shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefor by the industrial concern and subject to such terms and conditions as might be required by the Town.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-540. Confidentiality.**

- (a) Information and data on a user obtained from reports, surveys, permit applications, discharge permits and monitoring programs, and from inspection and sampling activities, shall be available to the public without restriction subject to the provisions of the Colorado Open Records Law.
- (b) Information and data which is effluent data will not be recognized as confidential information and will be available to the public without restriction.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-550. Publication.**

The Town Administrator shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW or in another manner approved by the Town Administrator, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment requirements.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-560. Criteria.**

An industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of measurements taken for the same parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined in Section 13-1-230;

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- (b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of measurements taken for the same pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined in Section 13-1-230(ah), multiplied by the applicable criteria (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
  - (c) Any other discharge violation of a pretreatment standard or requirement that the Town Administrator determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
  - (d) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Town Administrator's authority to halt or prevent such a discharge;
  - (e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
  - (f) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - (g) Failure to accurately report noncompliance; or
  - (h) Any other violation or group of violations, including violations of BMPs, which the Town Administrator determines will adversely affect the operation or implementation of the local pretreatment program.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-570. Emergency suspensions.**

- (a) The Town Administrator may immediately suspend a user's discharge after notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons, environment, or the POTW.
- (b) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Town Administrator may take such steps as deemed necessary, including immediate severance of the wastewater connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Town Administrator may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Town Administrator that the period of endangerment has passed, unless termination proceedings are initiated against the user.
- (c) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the cause(s) of the

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harmful contribution and the measure(s) taken to prevent any future occurrence, to the Town Administrator.

- (d) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

( Ord. No. 15-2020 , § 1, 7-28-20)

#### **Sec. 13-1-580. Water supply severance.**

Whenever a user continues to violate any provision of this Article I, Division 2, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

( Ord. No. 15-2020 , § 1, 7-28-20)

#### **Sec. 13-1-590. Inspection fees.**

An industrial user may be inspected periodically to determine compliance with applicable requirements of this Article I, Division 2. No fee will be charged where the purpose of the first inspection is to determine compliance. However, if a user is not in compliance, a re-inspection fee shall be charged on the user's utility bill for each inspection thereafter until compliance is achieved. Said fee shall be in an amount as established by resolution of the Town Board and shall be in addition to any other fees and charges permitted under this Article I, Division 2.

( Ord. No. 15-2020 , § 1, 7-28-20)

#### **Sec. 13-1-600. Upset.**

- (a) For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements at 40 C.F.R 403.16(c) are met.
- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

( Ord. No. 15-2020 , § 1, 7-28-20)

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**Sec. 13-1-610. Affirmative defense.**

- (a) A user shall have an affirmative defense to an enforcement action brought against it alleging a violation of the general prohibitions in Section 13-1-250(a), or the specific prohibitions in Sections 13-1-250(b)(3) through (b)(7), if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference; and
  - (1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
  - (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Town was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-620. Bypass.**

For the purposes of this section, bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

- (a) An industrial user may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs b and c of this section.
- (b) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Town Administrator, at least ten (10) days before the date of the bypass, if possible.
  - (1) A user shall submit oral notice to the Town Administrator of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Town Administrator may waive the written report on a case-by case basis if the oral report has been received within twenty-four (24) hours.
- (c) Bypass is prohibited, and the Town Administrator may take an enforcement action against a user for a bypass, unless:
  - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-

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up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The user submitted notices as required in subsection (b) above.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-630. Pretreatment charges and fees.**

The Town may adopt reasonable fees for reimbursement of costs of operating the Town's pretreatment program which may include:

- (a) Fees for wastewater discharge permit applications including the cost of processing such applications;
- (b) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- (c) Fees for reviewing and responding to accidental discharge procedures and construction;
- (d) Fees for filing appeals; and
- (e) Other fees as the Town may deem necessary to carry out the requirements contained herein. These fees may be included on the user's utility bill, relate solely to the matters covered by this Article I, Division 2, and are separate from all other fees, fines, and penalties chargeable by the Town.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-640. Severability.**

If any provision of this Article I, Division 2 is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-650. Fraud and false statements.**

It is unlawful for any person to knowingly make a false statement, representation or certification in any record, report, or other document submitted or required to be maintained under this Article I, Division 2.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-660. Cost recovery.**

Any user that violated any of the provisions of this Article I, Division 2 or that discharges or causes a discharge producing a deposit or obstruction or causes damage to or impairs the POTW

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shall be liable to the Town for any expense, loss, or damage caused by such violation or discharge. The Town shall charge the user for the cost incurred by the Town for any monitoring surveillance, cleaning, repair, or replacement work caused by the violation or discharge and for costs incurred by the Town in investigating the violation or discharge and in enforcement this Article I, Division 2, including reasonable attorney fees, court costs, and other expenses of litigation.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-1-670. Leased property.**

In situations involving leased or rented property, not resolved with the tenant, the owner or authorized representative of the property shall be notified of continued violations and is responsible for assuring compliance with the standards and requirements of this Article I, Division 2.

( Ord. No. 15-2020 , § 1, 7-28-20)

**ARTICLE 2 Cross-Connection Controls**

**Sec. 13-2-10. Purpose.**

The purpose of this Article is to:

- (1) Protect the Town's systems from the possibility of contamination or pollution by isolating within its customers' internal distribution systems or its customers' private water systems such contaminants or pollutants which could backflow or backsiphon into the Town's water systems;
- (2) Promote the elimination or control of existing cross-connections, actual or potential, between its customers' in-plant potable water systems and nonpotable water systems, plumbing fixtures and industrial piping systems; and
- (3) Provide for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of the potable water system.

( Ord. No. 15-2020 , § 1, 7-28-20)

**Sec. 13-2-20. Definitions.**

As used in this Article, the following words shall have the meanings ascribed to them:

*Approved* means accepted by the Town as meeting the applicable specification stated or cited in this Chapter, or as suitable for the proposed use.

*Auxiliary water supply* means any water supply on or available to the premises other than the Town's approved public potable water supply. These auxiliary waters may include water from another supplier's public potable water supply or any natural sources such as wells, springs, rivers, streams, irrigation canals, reservoirs, lakes, etc., or used waters or industrial fluids. These

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waters may be polluted or contaminated or may be objectionable and constitute an unacceptable water source over which the Town does not have sanitary control.

*Back pressure* means backflow caused by a pump, elevated tank, boiler or means that could create pressure within the system greater than the system pressure.

*Backflow preventer* means a device or means designed to prevent backflow or back-siphonage.

*Back-siphonage* means the flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by the sudden reduction of pressure in the potable water supply system.

*Certified inspector and tester* means a person who has passed a state approved and/or sponsored testing and inspection course and who is listed by the state as a certified inspector/tester.

*Check valve* means a self-closing device which is designed to permit the flow of fluids in one (1) direction and to close if there is a reversal of flow.

*Colorado Department of Health Cross-Connection Control Manual* means a manual that has been published by the state addressing cross-connection control practices which will be used as a guide for the Town in implementing the cross-connection control program.

*Contamination* means impairment of the quality of the potable water by sewage, industrial fluids or waste liquids, compounds or other materials to a degree which creates an actual hazard to the public health through poisoning or through the spread of disease.

*Critical level* means the critical level C-L or C/L marking on a backflow prevention device or vacuum breaker which is a point conforming to approved standards and established by the testing laboratory (usually stamped on the device by the manufacturer), which determines the minimum elevation above the flood-level rim of the fixture or receptacle served at which the device may be installed. When a backflow prevention device does not bear a critical level marking the bottom of the vacuum breaker, combination valve, or the bottom of any such approved device shall constitute the critical level.

*Cross-connection* means any physical arrangement whereby a Town's water supply is connected, directly or indirectly, with any other water supply system, wastewater, drain, conduit, pool, storage reservoir, plumbing fixture or other device which contains or may contain contaminated water, sewage or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the Town's water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices and other temporary or permanent devices through which, or because of which, backflow control could occur are considered to be cross-connections.

*Cross-connections—Controlled* means the connection between a potable water system and a non-potable water system with an approved backflow prevention device properly installed that will continuously afford the protection commensurate with the degree of hazard.

*Double check valve assembly* means an assembly of two (2) independently operating approved check valves with tightly closing shut-off valves on each side of the check valves, plus properly located test cocks for the testing of each check valve. The entire assembly shall meet the design and performance specifications and approval of a recognized and Town-approved

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testing establishment for backflow prevention devices. To be approved, these devices must be readily accessible for in-line maintenance and testing.

*Flood-level rim* means the edge of the receptacle from which water overflows.

*Mayor* means the Mayor of the Town or his or her duly authorized representative.

*Non-potable water* means water that is not safe for human consumption or that is of questionable potability.

*Pollution* means the presence of any foreign substance (organic, inorganic, radiological or biological) in the water that may degrade the water quality to constitute a hazard or impair its usefulness.

*Potable water* means water free from impurities in amounts sufficient to cause disease or harmful physiological effects. The bacteriological, chemical, and radiological quality shall conform with the State's Drinking Water Regulations.

*Reduced pressure principal device* means an assembly of two (2) independently operating approved check valves with an automatically operating differential relief valve between the two (2) check valves tightly closing shut-off valves on either side of the check valves, plus properly located test cocks for the testing of the check and relief valves. The entire assembly shall meet the design and performance specifications and approval of a recognized and Town-approved testing agency for backflow prevention on assemblies. The device shall operate to maintain the pressure in the zone between the two (2) check valves at a level less than the pressure on the Town's supply side of the device. At cessation of normal flow, the pressure between the two (2) check valves shall be less than the pressure on the Town's supply side of the device. In case of leakage of either of the check valves, the differential relief valve shall operate to maintain the reduced pressure in the zone between the check valves by discharging to the atmosphere. When the inlet pressure is two (2) pounds per square inch or less, the relief valve shall open to the atmosphere. To be approved, these devices must be readily accessible for in-line maintenance and testing and be installed in a location where no part of the device will be submerged.

*Vacuum* means any pressure less than that exerted by the atmosphere.

*Vacuum breaker, atmospheric non-pressure type* means a vacuum breaker designed so as not to be subjected to static line pressure or installed where it would be under pressure for not more than twelve (12) hours in any twenty-four-hour period.

*Vacuum breaker, pressure type* means a vacuum breaker designed so as not to be subjected to static line pressure.

*Water service connection* means the terminal end of a service connection from the public potable water system; i.e., where the Town loses jurisdiction and sanitary control over the water at its point of delivery to the customer's water system. If a meter is installed at the end of the service connection, then the service connection shall mean the downstream end of the meter. There shall be no unprotected take-offs from the service line ahead of any meter or backflow prevention device located at the point of delivery to the customer's water system. Service connection shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the Town's water system.

( Ord. No. 15-2020 , § 1, 7-28-20)



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**Sec. 13-2-30. Policy.**

- (a) No water service connection shall be installed or maintained by the Town unless the water supply is protected as required by state laws and regulation and this Chapter. Service of water to any premises shall be discontinued by the Town if a backflow prevention device required by this Chapter is not installed, tested and maintained; if it is found that a backflow prevention device has been removed or bypassed; or if an unprotected cross-connection exists on the premises. Service will not be restored until such conditions or defects are corrected. Any person commits a misdemeanor when such person:
- (1) Connects any pipe, tube, curb stop or contrivance with any main or service line supplying water to any property and does not install, test and maintain a backflow prevention device if one (1) is required by this Chapter;
  - (2) Removes or bypasses an existing backflow prevention device; or
  - (3) Allows an unprotected cross-connection to exist on the premises;

Each day that such violation continues to exist shall be considered a separate offense.

- (b) The customer's system shall be open for inspection at all reasonable times to authorized representatives of the Public Works Director to determine whether cross-connections or other structural or sanitary hazards, including violations of these regulations, exist. When such a condition becomes known, the Public Works Director shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the conditions in conformance with state and Town statutes relating to plumbing and water supplies and the regulations adopted pursuant thereto.
- (c) An approved backflow prevention device shall be installed on all Commercial, Industrial, and multi-family dwelling properties. Such a device shall be installed at or near the property line or immediately inside the building being served but, in all cases, before the first branch line leading off the service line.
- (d) The type of protective device required under Paragraphs (1), (2) and (3) below shall depend upon the degree of hazard which exists, as follows:
- (1) In the case of any premises where there is an auxiliary water supply and it is not subject to any of the following rules, the Town's water system shall be protected by an approved protection method, to include an approved reduced pressure principal backflow prevention device.
  - (2) In the case of any premises where there is water or substance that would be objectionable but not hazardous to health, if introduced into the Town's water system, the Town's water system shall be protected by an approved double-check valve assembly.
  - (3) In the case of any premises where there is any material dangerous to health which is handled in such a fashion as to create an actual or potential hazard to the Town's water system, the Town's water system shall be protected by an approved protection method or an approved backflow prevention device. Examples of premises where these conditions will exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants.

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- (4) In the case of any premises where there are uncontrolled cross-connections, either actual or potential, the Town's water system shall be protected by an approved protection method or an approved backflow prevention device at the service connection.
  - (5) In the case of any premises where, because of security requirements or other prohibitions or restrictions it is impossible or impractical to make a complete in-plant cross-connection survey, the Town's water system shall be protected against backflow or back-siphonage from the premises by the installation of a backflow prevention device in the service line. In this case, maximum protection will be required; that is, an approved backflow prevention device shall be installed in each service to the premises.
  - (e) Any backflow prevention device required herein shall be of a model and size approved by the Public Works Director and described in the Town of Wellington Standard Design Criteria and Standard Construction Requirements, as revised.
  - (f) It shall be the duty of the customer-user at any premises where backflow devices are installed to have certified inspections and operational tests made at least once per year. The annual inspection and operational test report must be submitted to the Town. In those instances where the Public Works Director deems the hazard to be great enough, he or she may require certified inspections at more frequent intervals. These inspections and tests shall be at the expense of the water user and shall be performed by a State certified inspector/tester. These devices shall be repaired, overhauled or replaced at the expense of the customer-user whenever said devices are found to be defective. Records of such tests, repairs and overhauls shall be kept and submitted to the Town within thirty (30) days after the device has been tested and/or inspected.

( Ord. No. 15-2020 , § 1, 7-28-20)

Sec. 13-2-40. Repealed.

**Sec. 13-2-50. Specific system requirements.**

- (a) Irrigation systems. The following guidelines relating to backflow prevention devices for irrigation systems shall apply:
  - (1) Atmospheric vacuum breakers shall be installed after the last control valve of each sprinkler circuit and at a minimum of six (6) inches above the highest irrigation head. The atmospheric vacuum breaker shall be installed only on irrigation circuits with heads that will not return any pressure in the circuit when the circuit control valve is closed.
  - (2) Pressure vacuum breakers shall be installed at the beginning of each irrigation circuit and at a minimum of twelve (12) inches above the highest irrigation head on the circuit. Individual irrigation circuits having quick-coupling valves or other similar type heads that will permit pressure to be retained in the circuit shall have a pressure vacuum breaker installed as a minimum requirement for each circuit. Irrigation systems using the subsurface drip method shall have a pressure vacuum breaker on each circuit. A pressure vacuum breaker may not be installed where a double-check valve assembly or reduced-pressure principal backflow prevention device is required.

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- (3) A double-check valve assembly may be installed to serve multiple irrigation circuits in lieu of vacuum breakers on each individual irrigation circuit.
  - (4) A reduced-pressure principal backflow preventer shall be required before any piping network in which fertilizers, pesticides and other chemicals or toxic contaminants are injected or siphoned into the irrigation system.
  - (b) Fire systems. Water systems for fighting fire, derived from a supply that cannot be approved as safe or potable for human use, shall whenever practicable be kept wholly separate from drinking water pipelines and equipment. In cases where the domestic water system is used for both drinking and firefighting purposes, approved backflow prevention devices shall be installed to protect such individual drinking water lines as are not used for firefighting purposes. It is the responsibility of the person causing the introduction of said unapproved or unsafe water into the pipelines to see (1) that a procedure be developed and carried out to notify and protect users of this piping system during the emergency; and (2) that special precautions be taken to disinfect thoroughly and flush out all pipelines which may have become contaminated before they are again used to furnish drinking water. In the event the means of protection of water customers is by disinfection of the auxiliary firefighting supply, the installation and its use shall be thoroughly reliable. When disinfection of the auxiliary supply itself is depended upon to render the water safe, the means of applying the disinfectant under this regulation shall be automatic with operation of the pumps employed with the dangerous water in question. Adequate supplies of chlorine or its compounds must be kept on hand at all times. Chlorine dosing equipment shall be tested daily and kept in good operating condition. The Town's water supply must be protected against backflow from dual domestic fire systems.

( Ord. No. 15-2020 , § 1, 7-28-20)

- 2. Validity. The Board of Trustees hereby declares that should any section, paragraph, sentence, word or other portion of this ordinance or the rules and regulations adopted herein be declared invalid for any reason, such invalidity shall not affect any other portion of this ordinance or said rules and regulations, and the Board of Trustees hereby declares that it would have passed all other portions of this ordinance and adopted all other portions of said rules and regulations, independent of the elimination here from of any such portion which may be declared invalid.
- 3. Necessity. In the opinion of the Board of Trustees of the Town of Wellington, this ordinance is necessary for the preservation and protection of the health, safety, welfare and property of the inhabitants and owners of property in the Town of Wellington.
- 4. Certification. The Town Clerk shall certify to the passage of this ordinance and make not less than three copies of the adopted ordinance available for inspection by the public during regular business hours.

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PASSED AND ADOPTED by the Board of Trustees of the Town of Wellington, Colorado and ordered published this 25th day of April, 2023 and ordered to become effective 30 days from the date of publication.

TOWN OF WELLINGTON, COLORADO

By: \_\_\_\_\_  
Calar Chaussee, Mayor

ATTEST:

\_\_\_\_\_  
Ethan Muhs, Town Clerk