



# Town of Johnstown

## **TOWN COUNCIL WORK SESSION**

**450 S. Parish, Johnstown, CO**

**Monday, November 09, 2020 at 6:00 PM**

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*MISSION STATEMENT: "The mission of the government of the Town of Johnstown is to provide leadership based upon trust and integrity, commitment directed toward responsive service delivery, and vision for enhancing the quality of life in our community."*

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## **AGENDA**

### **AGENDA ITEMS**

- [1.](#) Johnstown Municipal Code - Chapter 2- Administration and Personnel
- [2.](#) Johnstown Municipal Code - Chapter 11 - Cemetery Ordinance
- [3.](#) Johnstown Municipal Code - Chapter 13 - Municipal Utilities
- [4.](#) Regional Sewer Fee on New Construction
- [5.](#) Fee Schedule inclusive of New Rate Schedules
6. Educational Plan for Rate Schedule Changes

### **ADJOURN**

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## **AMERICANS WITH DISABILITIES ACT NOTICE**

**In accordance with the Americans with Disabilities Act, persons who need accommodation in order to attend or participate in this meeting should contact Town Hall at (970) 587-4664 within 48 hours prior to the meeting in order to request such assistance.**

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# Town of Johnstown

## TOWN COUNCIL WORK SESSION COMMUNICATION

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**AGENDA DATE:** November 9, 2020

**SUBJECT:** Information Regarding All Work Session Discussion Items

**ATTACHMENTS:**

1. Johnstown Municipal Code: Chapter 2- Administration Personnel Revisions
2. Johnstown Municipal Code: Chapter 11- Cemetery Ordinance Revisions
3. Johnstown Municipal Code: Chapter 13- Municipal Utilities Revisions
4. Regional Sewer Fee on New Construction
5. New Utility Rate Schedules
6. Educational Plan for Rate Schedule Changes

**PRESENTED BY:** Various Staff Members

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### AGENDA ITEM DESCRIPTION:

The purpose of this memo is to provide a brief overview regarding attached ordinances and new changes that are proposed to go into effect beginning January 1, 2021. The purpose of this work session is to provide you with the proposed changes while touching on the high-level items regarding these legislative changes. Staff desires to receive feedback from the Council regarding any final changes prior to beginning a formal adoption process at regularly scheduled Town Council meetings.

- Johnstown Municipal Code – Chapter 2- Administration Personnel Revision
  - It was recently requested by Town Council members to make some changes to Chapter 2 titled Administration Personnel. Some of these changes include:
    - General definition changes
    - Time for Regular Elections
    - Filling of Vacancies
    - Clarification regarding special meetings
    - Items related to the recent April charter changes

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- Slight modifications to emergency and remote meetings regarding disasters, pandemics, etc. based on our experience from this past year.
- Inclusion of a new Municipal Campaign Finance section based on changes in State Statute.
- Changes to Officers and employees regarding key staff members mentioned in the municipal code.
- Deletion of the Drug Screen and Testing section which is included in the TOJ Personnel Handbook.
- There are a couple questions Staff have regarding the sections that discuss
  - Ethics code
  - Financial disclosure by elected officials.
- Johnstown Municipal Code: Chapter 11 – Cemetery Ordinance Revisions
 

Changes are proposed in the Cemetery Ordinance to remove some general rules and regulations which will become administrative. We will request the Town Council adopt those by resolution and allow for administrative changes to those general rules to take place moving forward. With respect to other items inside the Cemetery Code, fees have been included in the Town Fee Schedule for cemetery lots and columbarium cells.
- Johnstown Municipal Code: Chapter 13 – Municipal Utilities Revisions
 

Chapter 13 has had a complete rewrite. While in general most things haven't changed, organizationally it has changed significantly. Described below are some of the individual Articles within Chapter 13 and highlights of those Articles.

  - Article I – General
 

You will note that there is an inclusion of a general section which applies to all of the Articles as a whole. The section references:

    - General definitions that apply to the entire Chapter
    - Administrative oversight delegating authority to the Town Manager (which will be further delegated as appropriate based on the issue or utility).
    - Clarification on all matters regarding utility bills, late payments, disconnects, ability to lien property for delinquent payments, etc.
  - Article II – Sanitary Sewers
 

The changes in this section do not represent a comprehensive rewrite, but the changes proposed include moving of many of the administrative tasks to Article I and most importantly recognizing and declaring the sanitary sewer utility as an enterprise.
  - Article III – Water
 

The water section does have a number of new rewrites to it. Most importantly is the qualification of the water utility as an enterprise. Additionally, there is clarifying information related to requirements for receiving a tap, the oversight of water meters and testing thereof, clarification of water tap and raw water development fee, and

- responsibilities related to maintenance of the various portions of the water system. Other qualifications under water service charges included the clarification that rates outside the Town's limits will be 1.5 the rate charged for property within the Town, a clarifier on how multifamily units are being charged, and the establishment of construction hydrant meter charges when using water from hydrants.
- Article IV – Water Right Dedication  
Several sections of this section were modified, updated, and in general made more clear in the intent. One key element was a volumetric description of how the Town qualifies a single-family equivalent. This is the basis by which water dedication is quantified, whether it be residential, commercial, industrial or other uses throughout the Town. The need and requirement was also reaffirmed and clarified for a water and sewer demand analysis, water court transfer fees, requirements related to annexation and the dedication of water at annexation, and our standard yield for water types.
  - Article V – Infrastructure Reimbursement  
This section was cleaned up in general and the overall clarity to it has been enhanced. The most notable though, is the inclusion of reimbursement abilities for regional stormwater improvements that were previously not provided in this section as a reimbursement option.
  - Article VI – Water Conservation  
This section does have changes which Council should be aware of, most notable is the fact that it is proposed that there is no watering of lawns between the dates of October 15 through April 15 in any given year. The level of drought conditions was qualified and finally the penalty was adjusted and left more to the discretion of the judge for reasonable enforcement. Overall we hope to move to a more water wise approach in our community water consumption.
  - Article VII – Stormwater Utility  
The most change in Article VII is the assumption of the reinforcement of the stormwater utility as an enterprise. Previously in the code, there was a 25% reduction on the stormwater fees for onsite retention – this discount has been removed. This is simply due to the fact that stormwater detention on a development is a general requirement for any development if it is not utilizing a regional storm water detention system. Discerning what qualifies for the 25% reduction was difficult to quantify based on the previous language and it in fact could be argued that everyone would qualify for it. If a stormwater facility provides benefit to more than just the specific development or property, a reimbursement agreement would be a more appropriate direction moving forward on this impact assessment.
  - Article VIII – Cross Connection Control Program  
No changes are presented. This ordinance was presented and adopted in 2019.

- **Regional Sewer Fee on New Construction**  
As the Town Council continues to move forward with the expansion of the sanitary sewer system, this infrastructure expansion and construction will be paid exclusively by new development at the time of building permit. This will help the Town recover its costs associated with the project. Establishment of this ordinance will allow for the collection of the regional sewer fee based on an SFE basis. This section is proposed to be adopted separately, as it is a completely new section within the municipal utilities and the code does not currently include the regionally sewer fee specifically. This helps to ensure a more transparent method of adoption. The fee at this time, is set for a single-family equivalent of \$9,500 but does have a reduction based on a density and lesser consumptive use compared to a single-family equivalent detached unit for other residential applications.
- **Town Fee Schedule – Inclusive of New Utility Rate Schedule**  
The new Town Fee Schedule is designed to move all Town Fees included in the Johnstown Municipal Code into the Town Fee Schedule. The purpose of this is to serve several objectives:
  1. To allow citizens and visitors to more quickly access our array of fees charged for various services, licenses, permits etc.
  2. To help facilitate and make easier, changes proposed and adopted by the Council with respect to individual fees within the fee schedule. When a fee is changed in the future, we will present a resolution and that resolution will reference the section number and the corresponding new fee amount.
  3. To help prevent what maybe typically characterized as “mundane reading” of the Johnstown Municipal Code. Sections of the code where fees exist will now include a general reference that the fee is set by resolution in the Town Fee Schedule. There may be small clean ups still to come throughout the code providing this information.
  4. The Town Fee Schedule has been updated to reflect the new utility rates with respect to water and sewer based on the critical improvements that are needed in both systems to provide high quality water that minimizes or eliminates taste and order impacts for the water system as well as sewer improvements that allow us to better comply with the Federal Clean Water Act with respect to discharging of waste water.
- **Educational Plan for Rate Schedule Changes**  
Our Communication Manager will be presenting a plan of action on how we will educate and justify utility plan changes for water and sewer services in our community.

# **Chapter 2 Administration and Personnel**

## Sec. 1-21. Definitions.

In the construction of this Code, and of all ordinances and resolutions passed by the Town Council, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Town Council:

- (1) *Board of Trustees* means the Town Council of the Town of Johnstown, Colorado.
- (2) *Charter* means the Town of Johnstown Home Rule Charter, as amended from time to time.
- (3) *Code* means the *Johnstown Municipal Code* as designated in Section 1-1.
- (4) *Computation of time* means, in computing any period of time prescribed within this Code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday. As used in this Section, *legal holiday* includes New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Veteran's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Thanksgiving, Friday following Thanksgiving, Christmas Eve, Christmas and any other day appointed as a holiday by the President or the Congress of the United States or pursuant to state statute. When an authorized holiday occurs on a Saturday or Sunday, the official observance shall be the previous Friday or the following Monday, respectively.
- (5) *Council* or *Town Council* means the elected or appointed governing body constituting the Town Council of Johnstown, including the Mayor.
- (6) *Councilmember* means each member of the Town Council, except the Mayor.
- (7) *County* means the County of Weld or the County of Larimer, State of Colorado, as appropriate.
- (8) *C.R.S.* means the Colorado Revised Statutes.
- (9) *Law* denotes applicable federal law, the constitution and statutes of the State of Colorado, the ordinances of the Town and, when appropriate, any and all rules and regulations which may be promulgated thereunder.
- (10) *Mayor* means the Mayor of the Town.
- (11) *Misdemeanor* means and is to be construed as meaning a violation and is not intended to mean crime or criminal conduct.
- (12) *Oath* includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words *swear* and *sworn* shall be equivalent to the words *affirm* and *affirmed*.
- (13) *Officer, board or commission* shall be construed as if followed by the words *of the Town*.
- (14) *Ordinance* means a law of the Town; provided that a temporary or special law, administrative action, order or directive may be in the form of a resolution.
- (15) *Owner*, applied to a building or land, shall include any part owner, joint owner, tenant in common or joint tenant, of the whole or of a part of such building or land.
- (16) *Person* means associations, corporations, firms, partnerships and bodies politic and corporate as well as individuals.

- (17) *Personal property* includes all property other than real property.
- (18) *Preceding, following* means next before and next after, respectively.
- (19) *Property* shall include real, tangible and intangible personal property.
- (20) *Real property* shall include lands, tenements and hereditaments.
- (21) *Roadway* means that portion of a street improved, designed or ordinarily used for vehicular traffic.
- (22) *Shall* is mandatory; *may* is permissive.
- (23) *Sidewalk* means any portion of the street between the curb, or the lateral line of the roadway and the adjacent property line, intended for the use of pedestrians.
- (24) *State* shall be construed to mean the State of Colorado.
- (25) *Street* shall include any highway, alley, street, avenue, public place, square, bridge, viaduct, underpass, overpass, tunnel or causeway in the Town, dedicated or devoted to public use.
- (26) *Tenant or occupant*, applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.
- (27) *Town* means the Town of Johnstown, Colorado, or the area within the territorial limits of the Town of Johnstown, and such territory outside of the Town over which the Town has jurisdiction or control by virtue of any constitutional or statutory provision.
- (28) *Town Fee Schedule* means a schedule of the Town's fees adopted by resolution of Town Council.

## **ARTICLE I Mayor and Town Council**

### **Sec. 2-1. Corporate authority.**

The corporate authority of the Town is, by state law and by the Charter, vested in the Town Council, consisting of one (1) Mayor and six (6) Councilmembers.

### **Sec. 2-2. Time for regular elections; procedure for special elections.**

Each regular election shall be held on the first Tuesday in April in even-numbered years. All special elections called by the Town Council for any purpose shall be called by a resolution adopted not less than thirty (30) days before the election. The resolution calling a special election shall describe the purpose of the election.

### **Sec. 2-3. Filling of vacancies.**

The Town Council shall have power, by appointment, to fill all vacancies of the Town Council if the vacancy occurs more than ninety (90) days before the next general municipal election. If the term of the person creating the vacancy was to extend beyond the next regular election, the person elected to fill the vacancy shall be elected for the unexpired term. Where a vacancy or vacancies exist and a successor or successors are to be elected at the next election to fill the unexpired term or terms, the three (3) candidates for Councilmember receiving the highest number of votes shall be elected to four (4) year terms, and the candidate or candidates receiving the next highest number of votes, in descending order, shall be elected to fill the unexpired term or terms. If three or more vacancies exist at any one time and there will not be a



regular municipal election within the ninety (90) days immediately after the date that the third vacancy occurred, Town Council shall call a special election.

**Sec. 2-4. Write-in candidate's affidavit.**

No write-in vote for a Town office shall be counted unless an affidavit of intent has been filed with the Town Clerk, by the person who desires the office and is qualified to assume the duties of that office if elected. The affidavit of intent shall be filed with the Town Clerk no later than sixty-four (64) days before the day of the election.

**Sec. 2-5. Election may be cancelled; when.**

- (a) If the only matter before the voters is the election of persons to office and if, at the close of business on the sixty-fourth day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent, the Town Clerk shall certify such fact to the Town Council. Town Council shall thereafter hold a meeting and, by resolution, instruct the Town Clerk to cancel the election and declare the candidates elected.
- (b) Notice of such cancellation shall be published, if possible, and notice of such cancellation shall be posted at each polling place and in not less than one (1) other public place.

**Sec. 2-6. Mayor.**

- (a) **Qualifications.** The Mayor shall be a registered elector who has resided within the limits of the Town for a period of at least twelve (12) consecutive months immediately preceding the date of the election; provided that in case of annexation, any person who has resided in the annexed territory for the time prescribed shall be deemed to have met the residency requirements for the Town to which the territory was annexed.
- (b) **Election and term of office.** At the regular municipal election every four (4) years, a Mayor shall be elected to serve a four (4) year term.
- (c) **Powers and duties generally:**
  - (1) The Mayor shall preside over the meetings of the Town Council, and shall perform such duties as may be required of him or her by the Charter, the provisions of this Code or other ordinances of the Town.
  - (2) Insofar as required by the Charter, and for all ceremonial purposes, the Mayor shall be the executive head of the Town, and shall be the presiding officer of the Town Council.
  - (3) The Mayor shall execute and authenticate by his or her signature such instruments as the Council, or any statutes or ordinances shall require.
  - (4) Except as may be required by the Charter or statute, the Mayor shall exercise only such powers as the Council shall specifically confer upon him or her.

**Sec. 2-7. Mayor pro tem.**

At its first meeting following each election, the Town Council shall choose one (1) of the Councilmembers as Mayor pro tem who, in the absence of the Mayor from any meeting of the Town Council, or during the Mayor's absence from the Town or his or her inability to act, shall perform the duties of Mayor.

**Sec. 2-8. Councilmembers.**

- (a) Councilmember election and terms of office. At each regular municipal election, three (3) members of the Town Council shall be elected to serve four (4) year terms.
- (b) Candidate nomination procedures for mail ballot elections. Any person who desires to be a candidate in a mail ballot election conducted during a regular municipal election shall comply with the nominating procedures set forth in the Colorado Municipal Election Code of 1965, except that:
  - (1) Candidate nomination petitions may be circulated and signed beginning on the ninety-first day prior to the day of election and ending on the seventy-first day prior to the day of the election.
  - (2) Each candidate nomination petition shall be filed with the Town Clerk no later than the seventy-first day prior to the day of the election.
  - (3) Any candidate nomination petition may be amended to correct or replace those signatures which the Town Clerk finds are not in apparent conformity with the requirements of the Colorado Municipal Election Code by filing such changes no later than the close of business on the sixty-third (63<sup>rd</sup>) day before the election.
  - (4) Any person who has been nominated and who has accepted a nomination may cause his or her name to be withdrawn from such nomination by filing a written and signed affidavit withdrawing from such nomination with the Town Clerk at any time prior to sixty-three (63) days before the election. If the only matter before the voters is the election of persons to office and if the withdrawal results in there not being more candidates than offices to be filled at such election, then the election may be cancelled as set forth in Section 2-4.1.
- (c) Qualifications. Councilmembers shall be registered electors who have resided within the limits of the Town for a period of at least twelve (12) consecutive months immediately preceding the date of the election; provided that in case of annexation, any person who has resided within the annexed territory for the time prescribed shall be deemed to have met the residency requirements for the Town to which the territory was annexed.

**Sec. 2-9. Town Council authority.**

The Town Council shall constitute the legislative body of the Town and shall have power and authority to exercise all power conferred upon or possessed by the Town, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof.

**Sec. 2-10. Vacation of office by moving from Town.**

If any Councilmember shall move from, or become, during the term of his or her office, a nonresident of the Town, he or she shall be deemed thereby to have vacated his or her office. Such vacancy shall be filled as provided in the Charter and in this Article.

**Sec. 2-11. Authority to enter into intergovernmental contracts.**

- (a) The Town may cooperate or contract with other local governments to provide any function, service or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs, the imposition of taxes or the incurring of debt, only if such cooperation or contracts shall be authorized by each party thereto with the approval of the Town Council and the other legislative body or other authority having the power to so approve.

- (b) Any such contract shall set forth fully the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the contracting parties.
- (c) Where other provisions of law provide requirements for special types of intergovernmental contracting or cooperation, those special provisions shall control.
- (d) Any such contract may provide for the joint exercise of the function, service or facility, including the establishment of a separate legal entity to do so.

**Sec. 2-12. Time and place for regular meetings.**

The Town Council shall hold regular meetings on the first and third Monday of each month at 7:00 p.m.; provided, however, that when the day fixed for any regular meeting of the Town Council falls upon a day designated by law as a legal or national holiday, such meeting shall be held at the same hour on the following Wednesday. Except as otherwise provided in this Article, all regular meetings of the Town Council shall be held in the Town Hall.

**Sec. 2-13. Special meetings.**

Special meetings shall be called by the Town Clerk at the request of the Mayor and two Councilmembers or at the request of three Councilmembers. A special meeting shall be held on notice to each Councilmember and the Mayor, either personally, in writing or by electronic or telephonic means. The Town Council shall not take action on any item of business at any special meeting of the Council unless it has been stated in the advance notice of the meeting or authorized by unanimous vote of all Councilmembers and the Mayor present at such special meeting.

**Sec. 2-14. Remote meetings.**

- (a) Authorization for a remote meeting. When an in-person meeting is not reasonable or prudent to protect the public health, safety or welfare, the Mayor may, by providing written notice to the Town Manager and each Councilmember, direct that a Town Council meeting be conducted remotely. The Mayor's written notice shall be provided by hand delivery or electronic mail, be posted on the front entryway of Town Hall and, as soon as practicable, on the Town's website and be included in the minutes of the remote meeting. A remote meeting shall be considered a regular meeting or special meeting, as applicable, and, except as set forth herein or otherwise impractical, all meeting requirements shall apply to the remote meeting.
- (b) Type of remote meeting; notice. In the discretion of the Town Manager, remote meetings may be conducted by telephone, video conferencing or other electronic means. The Town Manager shall endeavor to ensure that Town Council, Town staff and the public are able to hear or read the discussion and testimony presented during the remote meeting. The Town Manager shall provide direct notice regarding the manner in which to participate in the remote meeting to Town Council and Town staff and shall post notice for the benefit of the public on the front entryway of Town Hall and, as soon as practicable, on the Town's website.
- (c) Public participation. The Town Manager shall take reasonable and practical measures to ensure that each remote meeting is open to the public and provides the public with an opportunity to be heard, unless public participation is not practicable or feasible due to the emergency situation. If public participation is not available, any action taken at the remote meeting shall be effective only until the next meeting that allows for public participation. At that next meeting, Town Council may ratify any action taken at the remote meeting that did not allow for public participation. If Town Council fails to ratify the action, such action shall be deemed rescinded.

- (d) Voting. All votes during a remote meeting shall be conducted by roll call.
- (e) Minutes. Minutes of the remote meeting shall be taken and retained in the records of the Town and shall be open to public inspection.
- (f) Public meeting with remote public participation. To protect the public health, safety or welfare, in lieu of a remote meeting, the Mayor may request, but not require, that members of the public participate in a public meeting remotely. In such case, the Mayor shall direct the Town Manager to provide notice to the public that attendance at a public meeting is discouraged by posting such message on the front entryway of Town Hall and on the Town's website. The Town Manager's notice shall include the manner in which the public may attend and be heard at the meeting remotely.

**Sec. 2-15. Quorum; authority to demand attendance of absent members.**

No action shall be taken by the Town Council at a meeting unless a quorum is present. A majority of the Town Council shall constitute a quorum. A lesser number may adjourn from time to time and compel the attendance of absent members. Any member of the Town Council, at any regular or special meeting, may, in writing, demand the attendance of the absent members, which demand shall be entered on the record forthwith by the Town Clerk, who shall thereupon notify the absent members of the time and place of the meeting.

**Sec. 2-16. Agenda.**

All reports, communications, ordinances, resolutions, contracts, documents or other matters to be submitted to the Town Council shall, prior to each meeting, be delivered to the Town Clerk, who shall immediately arrange a list of such matters according to the order of business. Each Councilmember, the Mayor, the Town Manager and the Town Attorney will be furnished with a copy of the order of business, together with a copy of the minutes of the last preceding meeting, prior to the Town Council meeting and as far in advance of the meeting as time for preparation shall permit.

**Sec. 2-17. Resolution or motion required; roll call vote.**

Every subject coming before the Town Council meeting for its action shall be submitted by ordinance, resolution or motion. On consideration of every ordinance and of every resolution authorizing the expenditure of money or the entering into of a contract, the yeas and nays shall be recorded.

**Sec. 2-18. Adoption of ordinances.**

Introduction, adoption, approval and publication of ordinances enacted by the Town Council shall be in accordance with the Charter.

**Sec. 2-19. Mayor to vote; votes required for passage.**

The Mayor shall be considered a member of the Town Council and shall have the same voting powers as any member of the Town Council. Except where a greater number is required by the Charter, the final adoption of any ordinance shall require the affirmative vote of a majority of the Council, and resolutions and motions shall require the affirmative vote of a majority of the Council present at the meeting adopting such resolutions and motions. An emergency ordinance necessary for the immediate preservation of public property or assets, health, welfare, peace, or safety shall require the affirmative vote of five (5) members of Town Council.

**Sec. 2-20. Recording and authentication of ordinances.**

All ordinances shall be numbered, authenticated by the signature of the Mayor and Town Clerk and recorded by the Town Clerk in the official records of the Town.

**Sec. 2-21. Suspension of the rules.**

Any of the provisions of this Article may be temporarily suspended in connection with any matter under consideration by a recorded vote of three-fourths ( $\frac{3}{4}$ ) of the members present, except that this shall not be construed to permit any action that is contrary to the Charter.

**Sec. 2-22. Financial disclosure by elected officials.**

- (a) Application. The provisions of this Section shall apply to the members of the Town Council, the Mayor and to all candidates for election to the aforementioned offices.
- (b) Definitions. In this Section, unless the context otherwise requires:

*Business* means any activity which is engaged in for the purpose of earning a profit.

*Business entity* includes a corporation, general or limited partnership, sole proprietorship, joint venture, unincorporated association, real estate investment trust or other business trust.

*Business with the Town* shall mean any one (1) or any combination of sales, purchases, leases or contracts to, from or with the Town, or agency thereof, involving consideration of five hundred dollars (\$500.00) or more on a cumulative basis during the calendar year for which a required statement is to be filed. As of the awarding or execution of a contract or lease, the total then ascertainable consideration thereby committed to be paid, regardless of the period of time over which such payments are to be made, shall be included.

*Description of any real property* means a legal description of the property, or the address of the property if such address is sufficient to enable a reasonable person to locate and identify the property.

*Interest* shall mean:

- a. Any legal or equitable interest, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or part, jointly or severally, directly or indirectly, at any time during the calendar year from which a required statement is to be filed;
- b. An interest in: any stock or similar security, preorganization certificate or subscription, investment contract, voting trust certificate, limited or general partnership or joint venture, business trust, or certificate of interest or participation in a profit-sharing agreement or in an oil, gas or other mineral royalty or lease; or any other equity interest, however evidenced, which entitles the owner or holder thereof, directly or indirectly to receive or direct any part of the profits from, or to exercise any part of the control over, a business entity, as well as any interest which, conditionally or unconditionally, with or without consideration, is convertible thereto;
- c. An interest in a note, bond, debenture or any other evidence of a creditor interest;
- d. However, it shall not include an interest held solely in the capacity of a personal representative, agent, custodian, fiduciary or Council member, nor an interest in a time or demand deposit in a financial institution, nor an interest in an insurance or endowment policy or annuity contract.

*Legal or equitable interest* does not include any interest over which the owner of the interest exercises only ministerial control or from which the owner of the interest derives no tangible benefit. Without limitations, such interests shall not include title, rights or interests held by one as agent, executor or Council member, or in another fiduciary capacity, unless coupled with a beneficial interest in the subject matter.

*Person* includes any natural person, corporation, partnership, trust, unincorporated association, or other organization, entity or enterprise.

*Source of income* means any source from which a person obtained income, except that, in the case of income received in pursuit of a business or profession in the course of which income is received from a number of clients, patients or customers, the source of the income shall be deemed to be the business or profession and not the individuals from whom the income is received.

- (c) Information to be disclosed.
- (1) Every person described in Subsection (a) above shall disclose the following information:
    - a. Any source of income from which the person, his or her spouse or minor children residing with the person derived more than five hundred dollars (\$500.00) during the preceding year.
    - b. The name of any business, however organized, in which the person, his or her spouse or minor children residing with the person have any legal or equitable interest or serve as a director or fiduciary or is a member.
    - c. A description of any real property located in Weld or Larimer County, Colorado, in which the person, his or her spouse or minor children residing with the person have any legal or equitable interest.
    - d. The name of any client, patient, customer or other single source which provides twenty percent (20%) or more of the total income of individual, his or her spouse or minor children residing with the person.
    - e. The name of each creditor for the person, his or her spouse or minor children residing with the person, to whom is owed an amount in excess of five hundred dollars (\$500.00), including the interest rate, excluding customary household expenses, retail credit accounts, contracts for commercial retail sale and mortgage contracts on the principal place of dwelling of the person filing.
  - (2) A schedule of the identity of the person to whom a liability is owed doing business with the Town, owed at any time during the year for which the statement is filed, excluding customary household expenses, retail credit accounts, contracts for a commercial retail sale and mortgage contracts on the principal place of dwelling of the person filing.
  - (3) Notwithstanding the requirements of Subsection (c)(1) above, no person shall be required to disclose any interest which could not be affected materially by any action, failure to act or decision of the person making disclosure, acting within the scope of the official duties of the office which the person holds or seeks.
- (d) Procedure for making disclosure. Every person required by this Section to make disclosure shall file a completed financial disclosure statement in the office of the Town Clerk at the following stated times:
- (1) Every official required by this Section to make disclosure shall file a completed financial disclosure statement on or before April 15 of the year during which the official holds office; provided, however, that no official whose term of office expires before April 15 of any year shall be required to file a financial disclosure statement for that year.

- (2) Every candidate for election to the offices named in Subsection (a) above shall file a completed financial disclosure statement on the date upon which such candidate files a nomination petition for election to municipal office, except that no person shall be required by this Section to file a financial disclosure statement during the same year the person filed a financial disclosure statement pursuant to Subsection (d)(1) above.
  - (3) Any person appointed to fill any office described in Subsection (a) above shall file a completed financial disclosure statement within seven (7) days after being appointed to such office.
  - (4) Every official required by this Section to make disclosure, if the disclosable information required by this Section changes after the annual disclosure has been filed, shall file an updated disclosure statement within seven (7) days after such disclosable change to information occurs.
- (e) Duties of Town Clerk.
- (1) Within thirty (30) days of the effective date of the ordinance codified in this Section, the Town Clerk shall prepare and have available in the office of the Town Clerk a form to be entitled "Financial Disclosure Statement." Said form shall contain instructions, consistent with the provisions of this Section, explaining the manner in which the form is to be filled out. There shall be designated spaces on the form for disclosure of each matter required by this Section to be disclosed, and a space sufficient for an acknowledgment before a notary public. The form shall also contain a place for the signature of the person making disclosure; an affidavit that the information disclosed is true, accurate and complete to the best knowledge of the party making disclosure, and a place for the date upon which the statement was completed and the date upon which the statement was received by the Town Clerk.
  - (2) Any financial disclosure statement filed by any person required by this Section to make disclosure shall be preserved by the Town Clerk until six (6) months after:
    - a. The defeat of the person making disclosure, in the case of an unsuccessful candidate for elective municipal office;
    - b. The date upon which the person leaves office, in the case of an elected or appointed municipal official; or
    - c. Receipt by the Town Clerk of a more current disclosure statement.
  - (3) The Town Clerk shall permit any person who requests permission to inspect any financial disclosure statement on file in the office of the Town Clerk to inspect or copy the same during normal business hours of the office of the Town Clerk. A reasonable charge may be assessed for any copy provided by the office of the Town Clerk.
  - (4) If any person required to file a financial disclosure statement fails to file the same, the Town Clerk shall, within three (3) days of the deadline for filing, notify the person that such person may be in violation of this Section.
- (f) Affirmative defense. It shall be an affirmative defense to any prosecution under this Section that, within seven (7) days after receipt of notice pursuant to Subsection (e)(4) above, the person filed a completed financial disclosure statement, and no prosecution under this Section shall be initiated until such seven-day period has passed.
- (g) Rules of construction. This Section shall be construed in such a way as to ensure that the electorate is fully and effectively informed of all matters required by this Section to be disclosed. If any portion of this Section is adjudged invalid or unenforceable for any reason, the remainder of the Section shall continue in force unless to give effect to the remaining provisions would defeat the policy embodied in this Section.

- (h) Appointment of special associate municipal judge. If any charge of violation of this Section is filed in the Municipal Court, the presiding municipal judge shall forthwith notify the court administrator of the State and request the court administrator to furnish to the presiding municipal judge the name or names of one (1) or more municipal judges of the State who may be available to try such case; and the presiding municipal judge shall determine the availability of such judge or judges to try such case and shall designate a municipal judge whose name is furnished by the court administrator to try such case. Such judge shall be an associate municipal judge of the Town during and for all the purposes of such case and the trial and decision thereof, upon taking an oath of office as an associate municipal judge of the Town. Such judge shall be paid reasonable compensation for services rendered.

**Sec. 2-23. Compensation.**

- (a) Pursuant to the Charter, the Mayor and each Councilmember shall receive such salary and benefits as prescribed by Ordinance for each regular meeting of the Town Council that he or she attends, but no compensation shall be given for attendance at special meetings or work sessions.
- (b) To be eligible for compensation, the Mayor and each Councilmember must be present for at least three-fourths ( $\frac{3}{4}$ ) of the votes taken at the meeting attended, the roll call counting as one (1) vote. Votes missed as a result of a conflict of interest by a Councilmember shall not be counted in the total against that member.
- (c) The Mayor Pro Tem, if acting as Mayor for three-fourths ( $\frac{3}{4}$ ) of the meeting, shall receive the compensation of the Mayor for the meeting.

**Secs. 2-24—2-40. Reserved.**

**ARTICLE II Officers and Employees**

**Sec. 2-41. Intent of Article.**

Nothing in this Article shall impair the responsibility of the Town Council for the overall operation of the Town government as required by the Charter and state law.

**Sec. 2-42. Appointment of Town Manager.**

- (a) There is hereby created the position of Town Manager. The Town Manager shall serve at the pleasure of the Town Council. The appointment or removal of the Town Manager shall require the affirmative vote of a majority of the entire Town Council.
- (b) The Town Manager shall be hired without regard to any consideration other than fitness, competency, training and experience in professional administration. The Town Council shall be authorized to establish the beginning and continuing salary of the Town Manager. The Town Council may, in its discretion, enter into a contract with the Town Manager. Upon termination, the Town Council may, in its discretion, provide termination pay.
- (c) At the time of his or her hiring, the Town Manager need not be a resident of the Town or State, but, during tenure of office, he or she shall reside within the Town.
- (d) Before entering upon the duties of the office, the Town Manager shall take an oath of office.
- (e) The Town Council may require the Town Manager to furnish a bond conditioned upon the faithful performance of his or her duties in such amounts and with such sureties as appropriate.



**Sec. 2-43. Duties of Town Manager.**

- (a) The Town Manager shall have the power to hire and remove employees of the Town, except for elected officials and Councilmembers or Commission appointees, including the Town Attorney and the Municipal Judge. He or she shall have the power to suspend and discipline affected employees in accordance with written personnel policies and procedures adopted by the Town Council or personnel rules and regulations established by the Town Manager pursuant to the Charter.
- (b) In addition to those powers enumerated in Subsection (a) above and those set forth in the Charter, the Town Manager shall have the following powers:
  - (1) To supervise the administration of the enforcement of all laws and ordinances of the Town, except to the extent that the administration of such enforcement is confided to other Town officials by law or ordinances.
  - (2) To be responsible to the Town Council for the administration of all departments of the Town, save and except those departments confided to the supervision of other Town officers by law or administrative functions of such departments to the extent requested or delegated by the Town officers having primary responsibility for the operation of such departments.
  - (3) To issue such administrative regulations and outline general administrative procedures applicable to areas and departments confided to his or her supervision in the form of rules which are not in conflict with the Charter or the Town ordinances.
  - (4) To assist in preparing the budget and to submit the same to the Town Council.
  - (5) In cooperation with the Town's Finance Director, to keep the Town Council fully informed as to the financial condition of the Town.
  - (6) To recommend to the Town for adoption such measures as he or she may deem necessary or proper for the efficient and proper operation of the Town.
  - (7) To prepare and submit to the Town Council for each regular meeting a report of the Town's affairs, including a summary of the reports of the operations of all Town departments.
  - (8) Subject to the requirements of state law, if applicable, the Charter and ordinances, and in accordance with rules and regulations now or hereafter promulgated by the Town Council, to purchase materials and authorize budgeted expenditures of funds on behalf of the Town.
  - (9) To develop proposals to achieve intergovernmental cooperation between the Town and other units of local government regarding growth concerns and to such areas as joint purchasing, law enforcement, street repairs and maintenance, animal control and the like as directed by the Town Council.
  - (10) To work with department heads and employees to solve internal organizational problems both within departments and across departmental lines.
  - (11) To meet with individuals, groups, community or regional organizations and business or industrial concerns to represent the Town and discuss Town policies.
  - (12) To attend conferences and seminars to keep abreast of current trends in the field of municipal management.
  - (13) To review and update personnel policies.
  - (14) To attend Town Council meetings.
  - (15) To perform such other duties as may be prescribed by ordinance or by direction of the Town Council.

**Sec. 2-44. Plan of administrative organization.**

The Town Manager may propose a plan of administrative organization to the Town Council, which, if approved by the Town Council, may be adopted by ordinance or resolution. The administrative plan shall provide for such departments and officers as may be deemed necessary for the efficient administration of the Town.

**Sec. 2-45. Relationship of the Town Council to Town Manager.**

Neither the Mayor nor any Councilmember shall in any way interfere with the Town Manager in his or her exercise of the powers and duties granted by the Charter and this Article. Except for the purpose of inquiry, the Mayor and Councilmembers shall deal with the Town Manager solely through the Town Council, and neither the Mayor nor any Councilmember shall give orders to any of the subordinates of the Town Manager.

**Sec. 2-46. Appointment of Town Attorney.**

The Town Council, by a majority vote, shall appoint a qualified attorney at law admitted to practice in Colorado as the Town Attorney and shall fix his or her compensation. The Town Attorney shall serve at the pleasure of the Town Council. The removal of the Town Attorney shall require the majority vote of the entire Council. Before entering upon the duties of the office, the Town Attorney shall take an oath of office.

**Sec. 2-47. Duties of Town Attorney.**

The Town Attorney shall, in addition to the duties contained in the Charter, perform the following duties:

- (1) Act as legal advisor to, and be attorney and counsel for, the Town Council and be responsible solely to the Town Council. He or she shall advise any officer or department head of the Town in matters relating to his or her official duties when so requested by the Town Council or the Town Manager or his or her designee.
- (2) Prosecute ordinance violations and conduct for the Town cases in Municipal Court, unless a Town Prosecutor is appointed as provided in the Charter. He or she shall file with the Town Clerk copies of such records and files relating thereto.
- (3) Prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him or her by the Town Council or the Town Manager or his or her designee, and promptly give his or her opinion as to the legal consequences thereof.
- (4) Call to the attention of the Town Council all matters of law, and changes or developments therein, affecting the Town.
- (5) Perform such other duties as may be prescribed for him or her by the Town Council.

**Sec. 2-48. Appointment of Town Clerk.**

The Town Manager shall appoint a Town Clerk to perform such duties required by the Charter, applicable laws, ordinances, rules, regulations and policies and such other duties as directed by the Town Manager. Before entering upon the duties of the office, the Town Clerk shall take an oath of office. The

Town Manager may require, upon conferral with Town Council, that the Town Clerk to furnish a bond conditioned upon the faithful performance of his or her duties as Town Clerk in such amounts and with such sureties as appropriate.

**Sec. 2-49. Duties of Town Clerk.**

The Town Clerk shall, in addition to the duties contained in the Charter, perform the following duties:

- (1) Be the Town Clerk of the Town Council, attend all meetings of the Town Council and keep a permanent journal of its proceedings.
- (2) Be the custodian of all of the Town's records, and such records shall be open at all reasonable times for inspection by electors of the Town.
- (3) Certify by his or her signature all ordinances and resolutions enacted or passed by the Town Council.
- (4) Provide and maintain in his or her office a supply of forms for all petitions required to be filed for any purpose provided by the Town Council.
- (5) Be custodian of all bonds of all officers or employees of the Town.
- (6) Perform such other duties as may be prescribed for him or her by law or by the Town Manager.

**Sec. 2-50. Appointment of Town Treasurer.**

The Town Manager shall appoint a Town Treasurer to perform such duties required by the Charter, applicable laws, ordinances, rules, regulations and policies and such other duties as directed by the Town Manager. Before entering upon the duties of the office, the Town Treasurer shall take an oath of office and shall furnish a bond conditioned upon the faithful performance of his or her duties as Town Treasurer in such amounts and with such sureties as appropriate.

**Sec. 2-51. Duties of Town Treasurer.**

In addition to other duties that may be prescribed pursuant to this Article, the Town Treasurer shall perform the following duties:

- (1) The Town Treasurer shall receive all monies belonging to the Town and give receipts therefor; shall keep his or her books and accounts in such manner as may be prescribed by the Town Council; shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto; and shall report to the Town Council, at each regular monthly meeting thereof, the state of the Treasury at the date of such account and the balance of money in the Treasury. He or she shall also accompany such statement of accounts with a statement of all monies received in the Treasury and on what account, during the preceding month, together with all warrants redeemed and paid by him or her, and such warrants and their supporting vouchers shall be delivered and filed in the Town Clerk's office upon every day of such statement. All books and accounts of the Town Treasurer shall always be subject to inspection of the Mayor or any Councilmember.
- (2) If there shall be no funds in his or her hands for the payment of any Town warrant presented to him or her for such payment, it shall be his or her duty to register such warrants in a book to be kept by him or her for that purpose, and the Town Treasurer shall endorse upon all such warrants so presented to him or her the time and date of such registry. Whenever the Town Treasurer shall

pay such warrant, he or she shall enter the payment and the amount of interest allowed or paid on such warrant in the registry.

- (3) The Town Treasurer shall perform all other duties, keep all records and make all reports that are required by other provisions of the Charter, the Code, other ordinances of the Town or state law.
- (4) When the Town Treasurer shall vacate such office, he or she shall turn over and deliver to his or her successor all monies, books, papers, property or things belonging to the Town and remaining in his or her charge as Treasurer.

**Secs. 2-52 – 2-70. Reserved.**

### **ARTICLE III Municipal Court**

#### **Sec. 2-71. Municipal Court created; jurisdiction.**

As further provided in the Charter, a municipal court in and for the Town is hereby created and established (“Municipal Court”). The Municipal Court shall have jurisdiction to hear, try, and determine all alleged violations of the Charter, ordinances and other enactments of the Town. In addition to persons over the age of eighteen (18) years, the Municipal Court shall have jurisdiction over juveniles between the ages of ten (10) and eighteen (18) years.

#### **Sec. 2-72. Appointment of Municipal Court judge.**

The Town Council shall appoint, by a majority vote of the entire Council, a presiding municipal judge and such deputy municipal judges as the Council deems necessary. Each municipal judge shall be appointed for a two year term.

#### **Sec. 2-73. Procedure governed by Colorado Municipal Court Rules and the court; maximum penalty for contempt.**

The procedure in the Municipal Court shall be governed by Colorado Municipal Court Rules. The Municipal Court may make rules for procedures which are not inconsistent with such Colorado Municipal Court Rules, including powers incident to compelling attendance of witnesses, punishment for contempt and enforcement of orders of court.

#### **Sec. 2-74. Fines imposed by the Municipal Court.**

- (a) Surcharges.
  - (1) For parking citations, a surcharge in the amount provided in the Town Fee Schedule shall be added to the fine.
  - (2) For traffic citations that do not require a mandatory court appearance, a surcharge in the amount provided in the Town Fee Schedule shall be added to the fine.
  - (3) For all other citations, after determining the appropriate fine for each person convicted of violating an ordinance of the Town, the Municipal Judge shall add thereto surcharge calculated as a percentage of the total fine, which percentage shall be provided in the Town Fee Schedule.
- (b) Maximum fine. The total fine, including the surcharge, shall not exceed the maximum fine permitted under state law.

- (c) Disposition of surcharge proceeds. All proceeds of the surcharges shall be paid into the General Fund of the Town to be used for the purpose of law enforcement training or for the purchase of equipment for traffic enforcement and traffic safety.

**Secs. 2-75—2-90. Reserved.**

#### **ARTICLE IV Police Department**

##### **Sec. 2-91. Created; composition.**

There is hereby created a Police Department for the Town which shall consist of one (1) Chief of Police and as many police deputies, officers and personnel as may from time to time be deemed necessary for the safety and good order of the Town.

##### **Sec. 2-92. Rules and regulations.**

The Police Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the Town Council, the Town Manager or the Chief of Police.

##### **Sec. 2-93. Employment, oath, powers and duties of Chief of Police.**

The Town Manager shall hire a Chief of Police who shall be the head of the Police Department and report directly to the Town Manager. Before entering upon the duties of such office, the Chief of Police shall take and subscribe to an oath that he or she will support the Constitution and laws of the State, Constitution of the United States and ordinances of the Town, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter.

It shall be the duty of the Chief of Police to, among others as may be prescribed by the Town Manager:

- (1) Enforce the ordinances of the Town, the laws of the State and the rules and regulations of the Police Department, and perform such duties as may be required by the Town Council acting through the Town Manager;
- (2) Direct the operations of the Police Department, subject to the rules and regulations thereof;
- (3) When appropriate, arrest any person violating any of the Town ordinances or State laws; and
- (4) Reconcile and keep records of the accounts of the Police Department.

##### **Sec. 2-94. Duties of police officers.**

All members of the Police Department shall:

- (1) Perform all duties required by the Chief of Police;
- (2) Suppress all riots, disturbances and breaches of the peace, apprehend all disorderly persons in the Town and pursue and arrest any person fleeing from justice;

- (3) Enforce the ordinances of the Town and the laws of the State and, when appropriate, arrest any person violating any of the Town ordinances or State laws;
- (4) Report offenses as may come to their knowledge to the proper Town official or the Municipal Judge and, if appropriate, endeavor to secure a warrant for the arrest of offenders; and
- (5) Execute and return all writs and processes directed by the Municipal Judge, and serve the same in any part of the County.

**Sec. 2-95. Oath for police officers.**

Before entering upon the duties of his or her office, each police officer shall take and subscribe an oath that he or she will support the Constitution and laws of the State, the Constitution of the United States and the ordinances of the Town, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter.

**Sec. 2-96. Extraterritorial duty on request.**

The Chief of Police may, in his or her discretion, upon request of the chief of police or person exercising the functions thereof in any other jurisdiction, assign police officers under his or her control together with such equipment as he or she shall deem to be proper to perform temporary duty in the requesting jurisdiction.

**Sec. 2-97. Removal, disposition of lost, abandoned or confiscated property.**

The Police Department is authorized to remove and dispose of all property, other than automobiles, which is found to be lost or abandoned, or which is confiscated, upon the streets or alleys of the Town or upon private property within the Town limits. Disposal of such removed or confiscated property shall be in accordance with policies and procedures prescribed by the Chief of Police and in accordance with State law. All proceeds from the sale of such property, if at all, shall be placed in the General Fund of the Town.

**Secs. 2-98—2-110. Reserved.**

**ARTICLE V Fire Department**

**Sec. 2-111. Fire prevention.**

The International Fire Code adopted by the Town pursuant to Chapter 18 of the Code shall be enforced by the Front Range Fire Rescue Fire Protection District or the Loveland Fire Rescue Authority, as appropriate.

**Sec. 2-112. Appeals.**

Whenever the Fire Chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the International Fire Code do not apply or that the true intent and meaning of the International Fire Code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the Fire Chief to the Board of Appeals within thirty (30) days from the date of the decision appealed.

**Secs. 2-113—2-130. Reserved.**

**ARTICLE VI Social Security**

**Sec. 2-131. Participation authorized.**

The Town is hereby authorized to extend social security coverage and the benefits related thereto to employees of the Town and do all other necessary things to effectuate such coverage.

**Sec. 2-132. Payroll deductions and contributions.**

The Town Manager, or his or her designee, is hereby authorized to establish a system of payroll deductions and make all required payments into the appropriate social security contribution fund.

**Sec. 2-133. Agreements authorized.**

The Town Manager, or his or her designee, is hereby authorized to execute a plan and agreement to extend coverage to the employees of the Town in accordance with federal and state law. Such plan and agreement shall provide that the participation of the Town shall be in effect as of April 1, 1951.

**Secs. 2-134—2-140. Reserved.**

**ARTICLE VII Municipal Campaign Finance**

**Sec. 2-141. Definitions.**

For the purposes of this Article, the following terms shall have the meaning set forth herein:

*Article XXVIII* shall mean Article XXVIII of the Colorado Constitution, entitled Campaign and Political Finance, as amended from time to time.

*Town Clerk* shall mean the Town Clerk of the Town of Johnstown or such person's designee.

*FCPA* shall mean the Fair Campaign Practices Act, C.R.S. § 1-45-101 et seq., as amended from time to time.

**Sec. 2-142. Complaints; duties of Town Clerk.**

- (a) Any person who believes a violation of Article XXVIII or the FCPA has occurred related to a Town election may file a written complaint with the Town Clerk.
- (b) Complaints must be filed in writing with the Town Clerk no later than thirty (30) calendar days after the complainant knew or should have known by the exercise of reasonable diligence of the alleged violation.
- (c) A written complaint filed with the Town Clerk shall include the following information:

- (1) The name, address, e-mail address, telephone number and signature of the complainant (if the complainant is represented by counsel, include the counsel's name, address, e-mail address, telephone number and signature);
  - (2) The name of the person alleged to have committed a violation (the "respondent"); and
  - (3) The particulars of the violation and any available documentation or evidence supporting the allegation.
- (d) If an incomplete complaint is received, the date on which the originally filed complaint was received is considered the filed date if a complete copy is received within three (3) business days of notification from the Town Clerk that the complaint was incomplete.
- (e) If the Town Clerk determines that the complaint was not timely filed, the Town Clerk shall dismiss the complaint and provide written notice to the complainant and respondent. The Town Clerk's dismissal is a final decision, and subject to review under Rule 106 of the Colorado Rules of Civil Procedure.
- (f) If the Town Clerk determines that the complaint is timely filed, the Town Clerk shall provide notice along with a copy of the complaint to the respondent by personal service, regular mail or electronic mail.
- (g) The respondent shall have thirty (30) days from the date of the notice to cure the violation set forth in the complaint or respond to the complaint. If a response is filed, the respondent shall provide a copy of the response to the complainant by personal service, regular mail or electronic mail.
- (h) If the respondent does not cure the violation in the complaint, as determined by the Town Clerk, the Town Clerk shall appoint an independent hearing officer who is not an officer or employee of the Town.
- (i) In addition to the procedures set forth herein, the Town clerk is authorized to adopt rules and regulations consistent with the provisions hereof as may be required to implement this Article.

**Sec. 2-143. Hearing Officer.**

- (a) Upon appointment by the Town Clerk, the hearing officer shall determine whether the complaint identifies a violation of Article XXVIII or the FCPA and whether the complainant asserted facts to support the alleged violation. If the complaint does not meet that threshold, the hearing officer shall dismiss the complaint and provide written notice to the complainant and respondent. The hearing officer's dismissal is a final decision, and subject to review under Rule 106 of the Colorado Rules of Civil Procedure.
- (b) If the complaint is not dismissed, an informal hearing shall be scheduled as soon as practicable but, unless an enlargement of time is granted for good cause, the hearing shall be held within forty five (45) days of the referral of the complaint to the hearing officer.
- (c) Notice of the hearing and any applicable rules governing the hearing process shall be sent to the complainant and to the respondent.



- (d) The hearing officer shall have authority to issue administrative subpoenas requiring the attendance of a witness or party. It shall be unlawful for a witness or party to fail to comply with such subpoena, and any person convicted of a violation hereof shall be punished in accordance with Article IV of Chapter 1 of the Code, as amended from time to time.
- (e) At the hearing, the complainant and the respondent shall be allowed to be heard and may, in addition to testimony, present written documents and evidence. The complainant shall have the burden of proof by proving the alleged violation(s) by a preponderance of the evidence.
- (f) Following the conclusion of the hearing, the hearing officer shall issue a written order within twenty (20) calendar days.
- (g) If the hearing officer determines that a violation has occurred, the hearing officer's written order may include appropriate relief including, without limitation, any of the following:
  - (1) Order disclosure of the source and amount of any undisclosed contributions or expenditures;
  - (2) Order the return to the donor of any contribution made that was the subject of the violation;
  - (3) Order the respondent to reimburse the fund of the Town from which moneys were inappropriately diverted; and/or
  - (4) Impose a civil penalty in accordance with the Colorado Department of State's published guidelines or as otherwise appropriate.
- (h) The hearing officer's written order is a final decision, and subject to review under Rule 106 of the Colorado Rules of Civil Procedure.

**Sec. 2-144. Enforcement by Town Clerk.**

If the Town Clerk has reason to believe that a violation of the FCPA or Article XXVIII has occurred, the Town Clerk may commence enforcement proceedings in accordance with the procedures set forth in this Article.

**Secs. 2-145—2-150. Reserved.**

**ARTICLE VIII Disaster Emergency Preparedness**

**Sec. 2-151. Procedures.**

- (a) *Declaration of disaster emergency.* In compliance to the extent practicable with the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq.*, as amended, the Mayor may declare that a disaster emergency exists when an emergency event has occurred, is occurring or is imminent. For the purposes of this Article, a disaster is the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to, fire, flood, earthquake, wind, storm, epidemic, pandemic, hazardous substance incident, oil spill or water contamination requiring action to avert danger or damage, epidemic, air pollution, blight, drought,

infestation, explosion, civil disturbance, hostile military or paramilitary action or a condition of riot, insurrection or invasion existing in the Town and to protect the public peace, health, safety or welfare.

- (b) *Declaration in writing.* Declaration of a disaster emergency by the Mayor shall be in writing and shall describe the nature of the emergency, the area threatened, the conditions that have brought it about and, if known, the conditions that would remedy it. The Town Manager shall be responsible for publication and dissemination of information to the public and shall file the declaration with the Town Clerk and forward a copy to the Colorado Division of Emergency Management. At the next meeting, to be held not more than seven days after the Mayor's declaration of emergency, Town Council shall ratify the declaration of emergency. If the declaration of emergency is not ratified, the declaration shall be rescinded, but there shall be no consequence for action taken in good faith prior to the rescission.
- (c) *Effect of declaration.* The issuance of a declaration of a disaster emergency shall empower the Town Manager to exercise any and all of the emergency powers permitted by state and local law. The Town Council shall convene to perform its legislative powers as the situation demands and shall receive reports through the Town Manager and evaluate and enact policy and other incident support as required. In case of a disaster emergency requiring immediate action of the Town Council to protect public peace, health, safety or welfare, the Town Council may convene an emergency meeting without any advance public notice or with such limited advance public notice as the Mayor or the Town Manager finds feasible in the circumstances, with public notice to be achieved as soon as possible and all action taken during an emergency meeting to be ratified at the next regular or special meeting wherein public notice is provided. If the action is not ratified, it shall be deemed rescinded, but there shall be no consequence for action taken in good faith prior to the rescission. Nothing in this Article shall abridge or curtail the powers of the Town Council.
- (d) *Duration.* A state of disaster emergency shall remain in effect until the Town Council or Town Manager declares in writing that the threat of danger has passed or that the disaster emergency conditions no longer exist. The Town Council may, by motion, terminate a state of disaster emergency at any time. Upon continuing or terminating a disaster emergency, the Town Manager shall immediately issue and publish a notice effecting the same. Any declaration continuing or terminating a state of emergency shall be filed with the Town Clerk and a copy shall be forwarded to the Colorado Division of Emergency Management.
- (e) *Resolution.* Notwithstanding the foregoing, in lieu of a declaration of emergency by the Mayor, the Town Council may pass a resolution declaring an emergency and implementing the procedures set forth in this Article.

**Sec. 2-152. Disaster emergency response powers.**

- (a) Upon the issuance of the disaster emergency declaration and for as long as said declaration is in effect, the Town Manager shall have and may exercise any and all emergency powers granted by applicable state or local law subsequent to issuance of the disaster emergency declaration.
- (b) During the course of a declared disaster emergency, a Town employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable

grounds to believe that an emergency situation exists and that an entry on private property is required in order to protect life or minimize an imminent threat to property.

- (c) During the course of a declared disaster emergency, the Town Manager may, on behalf of the Town, enter into reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other contracts or plans with other governmental entities necessary for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and/or services.
- (d) During the course of a declared disaster emergency, the Town Manager may promulgate such regulations as the Manager deems necessary, to protect life and property and preserve critical resources. These regulations shall be confirmed at the earliest practical time by the Town Council, shall be circulated to the public and shall be disseminated to the news media. These regulations may include, but shall not be limited to, powers granted by applicable state law. Specifically, during the course of any declared disaster emergency, the Town Manager may:
  - (1) Suspend the provisions of the Code that prescribe procedures for conduct of Town business, if strict compliance would in any way prevent, hinder or delay necessary action in coping with the emergency;
  - (2) Transfer, reassign or otherwise change the direction, personnel or functions of Town departments for the purpose of performing or facilitating emergency services;
  - (3) Direct and compel evacuation of persons from any stricken or threatened area within the Town if the Town Manager deems this action necessary for the preservation of life or other emergency mitigation, response, or recovery measures;
  - (4) Prescribe routes, modes of transportation and destinations in connection with evacuation;
  - (5) Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises therein;
  - (6) Make provisions for the availability and use of temporary emergency housing;
  - (7) Waive all provisions for competitive bidding and may direct the purchasing agent to purchase necessary supplies in the open market at not more than commercial prices;
  - (8) Prohibit or restrict the movement of vehicles in order to facilitate the work of disaster forces or to facilitate the mass movement of persons from critical areas within or without the Town;
  - (9) Declare a public curfew; or
  - (10) Cause to be carried out such other measures or regulations as are necessary to preserve public peace, health, and safety.
- (e) During the course of a declared disaster emergency, the Town Manager is authorized to exercise all powers permitted by the Johnstown Home Rule Charter, Johnstown Municipal Code and state law to require emergency services of any Town officer or employee and command the aid of as many citizens of the Town as the Town Manager deems necessary in the execution of the Town Manager's duties. Such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for civil defense workers.

**Sec. 2-153. Compensation.**

Compensation for services or private property used by the Town in responding to an emergency shall be compensated as specified by contract or as required by state law, subject to the principles and procedures set forth in C.R.S. § 24-33.5-711 and Articles 1 to 7 of Title 38 of the Colorado Revised Statutes.

**Sec. 2-154. Line of succession.**

- (a) If the Mayor is unable to perform the duties set forth in this Article, then the duties conferred upon the Mayor shall be performed by the Mayor pro-tem. If the Mayor pro-tem is unable to perform the duties set forth in this Article, then the most senior available member of the Town Council shall perform the duties.
- (b) If the Town Manager is not able to perform the duties set forth in this Article, then the duties conferred upon the Town Manager shall be performed by the Chief of Police. If the Chief of Police is unable to perform the duties set forth in this Article, then the duties conferred upon the Town Manager shall be performed by the Public Works Director. If the Public Works Director is not able to perform the duties set forth in this Article, then the Mayor shall designate a Town staff member to perform the duties.
- (c) The Town Council may, by motion, modify the succession of authority provided herein.

**Sec. 2-155. Conflicting ordinances, orders, rules and regulations suspended.**

Any ordinances, orders, rules or regulations promulgated during a declared disaster emergency shall take precedence over existing ordinances, order, rules and regulations if a conflict arises.

**Sec. 2-156. Violation of regulations.**

It shall be unlawful for any person to violate any of the provisions of this Article or of the ordinances, orders, rules or regulations issued pursuant to the authority contained in this Article, or to willfully obstruct, hinder or delay any person in the exercise of any duty or authority pursuant to the provisions of this Article. Police, code enforcement and such other law enforcement and peace officers as may be authorized by the Town Manager in writing shall be authorized to enforce the ordinances, orders, rules and regulations made or issued pursuant to this Article.

**Sec. 2-157. Penalty.**

Any person convicted of a violation of any provision of this Article or of any ordinance, order, rule or regulation issued pursuant to the authority contained herein shall be punished by a fine or by imprisonment or by both such fine and imprisonment pursuant to the provisions in Article IV of Article 1 of the Code.

**Sec. 2-158. Applicability of state law.**

The Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq.*, as amended, shall govern the implementation of the duties, powers, immunities and other provisions set forth in this Article to the extent applicable.

**Secs. 2-159—2-180. Reserved.**

## **ARTICLE IX Planning and Zoning Commission**

**Sec. 2-181. Created.**

Pursuant to Section 31-23-201, *et seq.*, C.R.S., as amended, there is hereby created a Planning and Zoning Commission for the Town.

**Sec. 2-182. Composition; appointments; term.**

The Planning and Zoning Commission shall consist of seven (7) members who shall be appointed at the discretion of the Town Council. The term of each appointed member shall be four (4) years or until his or her successor takes office. Members are not term limited.

**Sec. 2-183. Qualifications of members; compensation.**

All members of the Planning and Zoning Commission shall be residents in the Town. If any member ceases to reside in the Town, his or her membership shall immediately terminate. All members of said Commission shall serve as such without compensation.

**Sec. 2-184. Officers; meetings; rules and records.**

The Planning and Zoning Commission shall elect its chairman from among the appointed members and create and fill such other of its offices as it may determine. The term of the chairman shall be two (2) years, with eligibility for re-election. The Commission shall hold at least one (1) regular meeting in each month, unless there is no Town business to come before the Planning and Zoning Commission during any such month. The Commission may adopt rules for the transaction of business and shall keep a record of the resolutions, transactions, findings and determinations.

**Sec. 2-185. Duties and powers.**

The Planning and Zoning Commission shall have all of the powers and perform each and all of the duties specified by Section 31-23-201, *et seq.*, C.R.S., as amended, together with any other duties or authority which may hereafter be conferred upon it by state law. The performance of such duties and the exercise of such authority is to be subject to each and all of the limitations expressed in such legislative enactment or enactments.

**Sec. 2-186. Preparation and purpose of master plan.**

Consistent with Section 31-23-206, C.R.S., as amended, the Planning and Zoning Commission shall prepare a master plan and, after public hearing, refer such approved master plan to Town Council. In the preparation of a master plan, the Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the Town with due regard to its relations to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and

harmonious development of the Town and its environs, which will, in accordance with present and future needs, best promote health, safety, order, prosperity and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public facilities and infrastructure.

**Sec. 2-187. Referral and adoption of master plan.**

Upon referral from the Planning and Zoning Commission, the Town Council shall conduct a public hearing to consider the master plan and thereafter adopt the master plan, adopt the master plan with modifications, deny adoption of the master plan or remand the proposed master plan to the Planning and Zoning Commission for further modifications and subsequent referral to Town Council for adoption.

**Secs. 2-188—2-200. Reserved.**

**ARTICLE X Tree Board**

**Sec. 2-201. Creation.**

There shall be a Tree Board. Unless otherwise designated by ordinance or resolution, Town Council shall act as the Tree Board.

**Sec. 2-202. Functions.**

- (a) The Tree Board shall make recommendations concerning the purchase or disposition of trees, shrubs, vines, hedges or plants located upon the public right-of-way of any street, alley, sidewalk or other public place in the Town.
- (b) The Tree Board shall make recommendations concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants upon the public right-of-way of any street, alley, sidewalk or other public place in the Town.
- (c) The Tree Board may make any other recommendations regarding the subject matter of trees and related vegetation in the Town.
- (d) Upon direction of Town Council, Town staff shall implement the Tree Board's recommendations.

**Sec. 2-204. Operation.**

The Tree Board shall meet at least one time annually. A majority of the members of the Tree Board shall be a quorum for the transaction of business.

**Secs. 2-206—2-220. Reserved.**

**ARTICLE XI Ethics Code**

**Sec. 2-220. Declaration of policy.**

The proper operation of government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all Town officials and employees is adopted. The purpose of this ethics code is to establish guidelines for standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the Town, by directing disclosure by such officials and employees of private financial or other interests in matters affecting the Town and by imposing sanctions upon public officers or employees who violate the provisions of this Article.

**Sec. 2-221. Definitions.**

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

*Business entity* means any corporation, limited liability company, sole proprietorship, firm, partnership representation, association, venture, trust or corporation for profit.

*Contract* means any express or implied agreement which creates, modifies, or terminates a particular relationship with the Town, and shall include the designation of a depository for public funds.

*Interest* means a pecuniary or valuable benefit accruing to a public officer or employee, individually, as a result of a contract or transaction which is, or may be, the subject of an official act or action by or with the Town, except for such contracts or transactions which by their terms and by the substance of their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated.

- a. For the purposes of this Article, a public officer or employee shall be deemed to have an interest in the affairs of:
  1. Any relative;
  2. Any person or business entity with whom a contractual relationship exists with the public officer or employee;
  3. Any business entity in which the public officer or employee is an officer, director, owner, employee or investor;
  4. Any business entity in which the stock of, or legal or beneficial ownership of, in excess of five percent (5%) of the total legal and beneficial ownership, is controlled by or owned by the public officer or employee.

*Official action* means any legislative, administrative or appointive act of any officer or employee of the Town, or any agency, board, committee or commission thereof.

*Public officer or employee* means any person holding a position by election, appointment or employment in the service of the Town, whether paid or unpaid.

*Relative* means any person related to any public officer/employee by blood or marriage, to include, but not be limited to, parents, spouses, children, brothers and sisters, parents-in-law,

nephews, nieces, aunts, uncles, first cousins, grandparents, grandchildren, and children-in-law, and a divorce or separation between spouses shall not be deemed to terminate any such relationship.

**Sec. 2-222. Code of ethics.**

The following requirements shall constitute a code of ethics establishing reasonable standards and guidelines for the ethical conduct of public officers and employees of the Town.

- (1) No public officer or employee having the power or duty to perform an official act, related to a contract or transaction which is the subject of an official act or action of the Town, shall:
  - a. Have or thereafter acquire an interest in such contract or transaction, unless said contract or transaction resulted from the proper bid process for the Town;
  - b. Have an interest in any business entity representing, advising or appearing on behalf of any person involved in such contract or transaction with the Town;
  - c. Have solicited or accepted present or future employment with a person or business entity involved in such contract or transaction with the Town, or;
  - d. Have solicited, accepted or granted a present or future gift, favor, service, or thing of value from or to a person involved in a contract or transaction with the Town, except that provisions of this Subsection shall not apply to an occasional nonpecuniary gift of fifty dollars in value or less, or to an award publicly presented in recognition of public service.
- (2) No public official or employee shall attempt to influence the hiring, rate of pay, or appointment of any relative by the Town.
- (3) No relative shall be hired into any position unless proper notification and advertisement has been made to insure all potential applicants receive an equal opportunity for employment.
- (4) No public officer or employee with respect to any contract or transaction which is, or may be, the subject of an official act or action of the Town shall personally acquire an interest in any property which may be affected by such action; nor disclose any confidential information concerning a contract or transaction which may involve the Town for the purpose of advancing any private interest.
- (5) No public employee shall engage in or accept private employment or render service for private interest when such employment or service would tend to impair his or her independence of judgment or action in the performance of his or her official duties.
- (6) No public official shall engage in or accept private employment or render service for private interest when such employment or service would tend to impair his or her independence of judgment or action in the performance of his or her official duties, unless such official discloses the conflict for the public record and abstains from voting on such issue. Furthermore, the official shall remove himself or herself from the room where such discussion and voting takes place.
- (7) No public officer or employee shall appear on behalf of any person, other than himself or herself, his or her spouse, minor children, parents or grandparents before any Town agency. However, a member of the Town Council may appear before any municipal agency on behalf of his or her constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civic obligations.
- (8) No public officer or employee who in his or her capacity as such officer or employee participates in the making of a contract in which he or she has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on his or



her part shall enter into any contract with the Town unless the contract is awarded through proper bid process.

- (9) No public officer shall request or permit the unauthorized use of any Town-owned vehicles, equipment, personnel, materials or property for personal convenience or profit.
- (10) No public officer or employee shall request or grant a special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen in similar circumstances or need.
- (11) A public official or employee shall not, at any time within two (2) years after his or her termination from his or her position with the Town, appear before any board, commission, committee, or agency of the Town in relation to or with respect to any matter in which he or she was directly involved in the review, acceptance, policy formulation, or administration of such matter while a Town official or employee.
- (12) At any meeting or gathering of three (3) or more members of the Town Council or any appointed board of the Town, the members shall not discuss any public business, nor shall matters pertaining to public business be presented unless such meeting is open to the general public and prior notice for such meeting has been given.

**Sec. 2-223. Disclosure and resolution of conflict.**

A public officer or employee shall remove himself or herself from any conflict or as follows:

- (1) Any elected or appointed public official or employee who has an interest in any proposed action before the Town Council or a board or commission of which the public official or employee is a member shall immediately disclose the nature and extent of such interest, which such disclosure being a matter of public record.
- (2) The public official or employee shall not vote on the proposed action before the Town Council, other board or commission.
- (3) Said public official or employee shall not participate in any discussion on the proposed action.

**Sec. 2-224. Violations; penalty.**

A public officer or employee who violates any of the provisions of this ethics code shall be subject to the following penalties:

- (1) In all cases, the determination of the Town Council as to whether there has been a violation shall be final.
- (2) In the case of a Town Council member, if a violation is established to the satisfaction of a majority of the Town Council, such violation shall be grounds for an official reprimand by the Town Council.
- (3) In the case of a board member, if a violation is established to the satisfaction of a majority of the Town Council, such violation shall be grounds for an official reprimand by the Town Council and grounds for termination of such person's appointment to any board of which he or she is a member. If the Town Council votes to terminate the appointment of a board member upon such grounds, the Town Council may appoint another person to fulfill the term of the individual removed from office.

**Sec. 2-225. Guideline violations.**

Any apparent violations of any of this Article may be referred to the Town Council for investigation. If, upon investigation, the Town Council finds that a violation of the guidelines contained in Section 2-222 has occurred, the Town Council may caution or reprimand the public officer or employee responsible thereof or take such other action as it deems to be in the best interests of the Town.

**Secs. 2-226—2-240. Reserved.**

# Chapter 11 Cemetery

## ARTICLE VI - Cemetery

### Sec. 11-101. - Definitions

For purposes of this Article, the following definitions apply:

*Burial space* shall mean a grave space or a niche, as appropriate.

*Burial memorial* shall mean any type of gravestone, tombstone, headstone, memorial, monument, or marker that commemorates the permanent disposition of the remains of a human body either below or above the surface of the ground.

*Cemetery* shall mean the Johnstown Cemetery.

*Columbarium* shall mean a vault with niches for urns containing the ashes of cremated bodies.

*Grave space* shall mean a single space within a platted lot designed for the interment of one body.

*Lot* shall mean a platted lot within the cemetery and may consist of more than one burial space.

*Niche* shall mean a location within the columbarium vault designed to hold an urn containing the ashes of one cremated body.

*Owner* shall mean the person with the right to interment in a burial space.

*Purchaser* shall mean the purchaser of a burial space.

### Sec. 11-102. – Administration by Town Manager.

The Town Manager is hereby delegated the authority to administer the provisions of this Article. Among other duties and obligations, the Town Manager shall supervise the care and maintenance of the cemetery, keep a map of the cemetery and maintain the records of the cemetery. Subject to the limitations of this Code, the Town Manager may delegate the administration of this Article, or any part thereof, to duly qualified employees and agents of the Town.

### Sec. 11-103. - Rules and regulations.

The Town Manager shall implement rules and regulations not inconsistent with the provisions of this Article governing the cemetery. Such rules and regulations shall be on file and available for public examination in the office of the Town Clerk. The failure to comply with any rule or regulation promulgated under this Article, as such rules and regulations may be amended from time to time, shall be deemed a violation of the Code.

### Sec. 11-104. – Application for burial space.

The Town shall require an application for all burial spaces. The application shall contain a description of the burial space or niche, the purchase price and the method of payment. At the time of application, the Town Clerk shall provide the applicant with, or direct the applicant to the location of, the rules and regulations then in effect. When executed by the applicant and the Town, the application shall become a binding contract of purchase and sale.

Sec. 11-105. – Interment agreement; no title to real property.

- (a) Upon payment of the full purchase price to the Town, the Town shall issue an interment agreement, signed by the Town Manager or the Town Clerk, conveying the right of interment for the designated burial space, subject to this Article and the rules and regulations adopted by the Town Manager.
- (b) The interment agreement shall contain the contact information for the purchaser of the burial space and the contact information for the owner of the burial space with the right to interment.
- (c) For burial spaces, the interment agreement shall contain the block and lot number. For niches, the interment agreement shall contain the niche description and location.
- (d) Interment agreements issued prior to January 1, 2021, or other similar instruments issued by the Town for a burial space in the cemetery, shall remain valid and binding obligations of the Town.
- (e) The interment agreement, or any instrument issued by the Town for a burial space in the cemetery, of whatever form, grants interment rights only and does not convey title to real property.

Sec. 11-106. – Price of burial spaces.

The Town Manager shall establish the sale price of burial spaces. The sale price may differ for resident and non-resident use of burial spaces.

Sec. 11-107. – Cemetery funds.

- (a) Fifteen percent (15%) of the monies and proceeds derived from the sale of burial spaces shall be deposited and carried in the Cemetery Perpetual Care Fund. All other monies and proceeds derived from the sale of burial spaces, all other revenue derived from the operation of the cemetery from any source and the earnings received from investment of the Cemetery Perpetual Care Funds shall be deposited and carried in the Parks and Open Space Fund.
- (b) The Cemetery Perpetual Care Fund and the entire principal thereof shall be safely and perpetually kept and invested. It shall be invested in such securities as under state law are approved for investment of municipal funds. The interest and income therefrom may be used for cemetery maintenance. The principal shall only be used for major improvements or maintenance projects of the cemetery.
- (c) All disbursements made for or on account of the cemetery shall be paid out of the Parks and Open Space Fund.

Sec. 11-108. – Transfer of burial space; prohibited sale of burial space.

- (a) A burial space, or interest in the cemetery, may not be transferred, assigned or conveyed without the prior written consent of the Town. The Town shall not consent to the transfer, assignment or conveyance of any burial space or interest in the cemetery upon which there is any indebtedness due the Town.
- (b) Burial spaces may not be sold to a funeral director or to any other persons for purposes of resale or speculation.

Sec. 11-109. – Use of burial space.

- (a) For burial spaces purchased after January 1, 2021, the owner shall be entitled to use of the burial space, unless:
- (1) The purchaser, prior to use by the owner, provides a written, notarized request to the Town requesting that the burial space be transferred or assigned to a different person. If such request is granted by the Town, the Town shall void the existing interment agreement and issue a new interment agreement; or
  - (2) The purchaser is deceased and the owner provides a written, notarized request to the Town requesting that the burial space be transferred or assigned to a different person.
- (b) For burial spaces purchased prior to January 1, 2021, the Town shall conclusively presume that the purchaser, the purchaser's spouse or the purchaser's children are entitled to use the burial space, unless, upon purchase, the purchaser designated the right of interment to a specific person or the purchaser, if not deceased, otherwise directs the Town by written, notarized notification.

Sec. 11-110. – Abandonment of burial space; right to reclaim.

A burial space shall be deemed abandoned, and the Town shall have a right to reclaim the burial space, as provided in § 6-24-112, C.R.S., as amended.

Sec. 11-111. – Indigent and welfare cases.

When a request is made to inter a person with insufficient funds to cover the expenses, the Town shall work within the expense allowance granted by the Colorado Department of Social Services. Burial spaces for such persons shall be restricted to the southeast corner of the cemetery in Block No. 4.

Sec. 11-112. – Burial memorials.

All burial memorials shall be governed by the rules and regulations of the cemetery.

Sec. 11-113. – Decorations.

All decorations, permissible and impermissible, shall be governed by the rules and regulations of the cemetery.

Sec. 11-114. – Perpetual care.

All burial spaces in the Town cemetery shall be perpetually cared for by the Town.

Sec. 11-115. – Cemetery fees.

Cemetery fees, of whatever nature, shall be set forth in the Town Fee Schedule.

Sec. 11-116. – Cemetery committee.

The Town Manager may designate a cemetery committee to act in an advisory capacity regarding the operations and maintenance of the cemetery. If a cemetery committee is established or convened, the cemetery committee shall provide recommendations and proposals to the Town Manager, as requested.

Sec. 11-117. – Acts prohibited within cemetery.

No person in the cemetery shall:

- (a) Loiter upon the grounds;
- (b) Be under the age of fifteen (15) unless accompanied by an adult or other proper caretaker;
- (c) Drive an automobile or other vehicle in excess of 10 miles per hour or in excess of such lesser speed as is prudent under the existing conditions and circumstances;
- (d) Except for authorized personnel, drive or ride any automobile, machine or animal on lots, grass or walks;
- (e) Discard trash, debris or other unsightly items in the cemetery, except in receptacles designated for such items;
- (f) Direct or cause Town employees to perform work without an order from the Town Manager or the Town Manager's designee;
- (g) Perform work on the grounds, except by permission of the Town Manager or the Town Manger Manager's designee;
- (h) Take any animal or permit any animal to be taken into the cemetery except service animals;
- (i) Deface, damage, destroy or injure any burial memorials other property or thing in the cemetery;
- (j) Peddle flowers or plants or any other commodity;
- (k) Except for authorized persons, make a change to the inscription on the burial memorial.

Sec. 11-118. – Violation; penalty.

Any person violating any provision of this Article shall be deemed guilty of an offense and upon conviction thereof shall be penalized as provided in Article IV of Chapter 1 of the Code. All persons doing damage to property or burial spaces in and about the cemetery shall be liable to the Town and to the owner of the property damaged for such damage.

# **Chapter 13 Municipal Utilities**



## **CHAPTER 13 Municipal Utilities**

ARTICLE I - General

ARTICLE II – Sanitary Sewers

ARTICLE III - Water

ARTICLE IV - Water Rights Dedication

ARTICLE V - Infrastructure Reimbursement

ARTICLE VI - Water Conservation

ARTICLE VII - Storm Water Utility

### **ARTICLE I General**

Sec. 13-1. Definitions.

Sec. 13-2. Administration by Town Manager.

Sec. 13-3. Property owner’s consent; maintenance obligation; liability for utility service.

Sec. 13-4. Required information for utility service.

Sec. 13-5. Use of false information in connection with utility services.

Sec. 13-6. Confidentiality of utility account information.

Sec. 13-7. Billing procedure.

Sec. 13-8. Remedies for nonpayment.

Sec. 13-9. Common meter for multiple dwelling units.

Sec. 13-10. Right to entry

Sec. 13-11. Annexation required for water and sewer service.

Sec. 13-12. Exceptions; waiver.

Secs. 13-13. - 13-39. Reserved.

#### **Sec. 13-1. Definitions.**

As used in this Chapter, unless the context otherwise requires,

*Customer* means a person who purchases or obtains utility services from the Town, and may include the owner of real property, a person with a leasehold interest in the real property or any other person entitled to possession of such real property.

*Dwelling, multifamily* means a structure or portion thereof designed to house two (2) or more families, with each dwelling unit having a separate entrance.

*Dwelling, single-family attached* means a residential structure designed to house a single-family unit from lowest level to roof, with private outside entrance but not necessarily occupying a private lot, and sharing a common wall between adjoining dwelling units.

*Dwelling, single-family detached* means a residential structure designed to house a single-family unit with private outside entrance but without common walls between the dwelling units.

*Dwelling unit* means a housekeeping unit designed and used for occupancy by a single individual or a family containing cooking, living, sleeping and sanitary facilities and having a separate entrance as required by the Building Code adopted by the Town.

*Multifamily* means a development of buildings or portions thereof which contain three (3) or more dwelling units.

*Owner* means any person having title to or right of ownership in property, excluding mineral owners, and shall include any part owner, joint owner, tenant in common or joint tenant.

*Person* means an individual, a partnership, an association, a corporation, a municipality or any other legal entity, public or private.

*Property* means the property, including but not necessarily limited to the building, lot, parcel, house or dwelling, to which the Town provides or is requested to provide utility services.

*Subdivision or subdividing* means any division of any parcel of land where additional water taps are requested or additional water is necessary to provide adequate water service to property.

*Town* means the Town of Johnstown.

*Town Manager* means the Town Manager of the Town of Johnstown, Colorado.

*Town water service or water service* means treated water service or raw water service furnished by the Town for any purpose, including but not limited to domestic, commercial and industrial uses.

*Utility Service* means water and sewer services.

*Water system* means the water system owned and operated by the Town. The system includes, without limitation, the Town's water, water rights, water treatment facilities, water storage facilities, pipe network, pumps and other facilities and equipment used to produce and supply water.

### **Sec. 13-2. Administration by Town Manager.**

The Town Manager is hereby delegated the authority to administer the provisions of this Article. Among other duties and obligations, the Town Manager may prescribe forms and rules and regulations in conformity with this Chapter and implement procedures for the ascertainment, computation and collection of the fees imposed hereunder. Subject to the limitations of the Code, the Town Manager may delegate the administration of this Article, or any part thereof, to duly qualified employees and agents of the Town.

### **Sec. 13-3. Property owner's consent; maintenance obligation; liability for utility service.**

- (1) Utility service provided to property pursuant to the terms of this Chapter shall be deemed to be provided at the request and with the consent of the owner of said property, unless and until the Town receives written notice of said owner's withdrawal of such consent.

- (2) The owner, regardless of whether the owner is the customer, shall be liable for all utility services charges provided to the owner's property. No change of ownership shall affect the application of this Chapter. The failure of any owner to learn that such owner purchased property against which a lien for utility services exists does not affect the owner's liability for such payment in full and is not a basis for any claim of any kind whatsoever against the Town.
- (3) The customer shall be responsible for maintenance of facilities required to provide utility services located on the customer's side of the point of delivery.
- (4) The customer shall hold the Town harmless and indemnify the Town against any and all claims and liability for injury to persons or damage to property when such injury or damage results from or is occasioned by the facilities located on the customer's side of the point of delivery unless caused by the negligence of the Town's employees or agents. The customer shall pay all costs that may be incurred by the Town in enforcing this indemnity.

**Sec. 13-4. Required information for utility service.**

- (1) Each customer or applicant for utility service shall provide the Town with all requested information to initiate, modify or terminate utility services, including but not limited to information regarding the customer, the owner and the property. The Town may require any person requesting the initiation, modification or termination of utility service to produce a government issued photo identification.
- (2) If, after utility service is activated, there is any change in the information provided to the Town, the customer shall notify the Town within thirty (30) days of such change.

**Sec. 13-5. Use of false information in connection with utility services.**

It shall be unlawful for any person to knowingly provide any untrue, deceptive or misleading information to the Town in connection with the provision of utility services. A violation of this Section shall be punishable as provided in Article IV of Chapter 1 of the Code and may constitute grounds for disconnection of utility services.

**Sec. 13-6. Confidentiality of utility account information.**

Unless otherwise required by law, the Town shall not disclose utility account information, except to:

- (1) A peace officer, employee or officer responsible for enforcement of the Code, upon the provision of satisfactory evidence that the inspection is reasonably related to the authority and duties of such peace officer, employee or responsible officer;
- (2) The owner of real property to which a utility account applies;
- (3) The public in an aggregated or statistical form so classified as to prevent identification, location or habits of individual customers; or
- (4) Persons within the Town's organization or to Town contractors, so long as the release of the information is conditioned upon reasonable precautions and requirements to prevent disclosure of said information to the public.

**Sec. 13-7. Billing procedure.**

Unless the Town Manager determines that a different process is warranted for a particular property, the following billing procedures shall apply:

- (1) Utility bills shall be sent to the customer once per month. The Town's failure to forward a utility bill shall not constitute a waiver of any fee or charge imposed by this Chapter.

- (2) All charges for Town utilities shall be due and payable within fifteen (15) days after the date of the utility bill.
- (3) Payment of any utility charge shall be considered delinquent if not received in the Town offices before the close of business on the last day specified for payment.
- (4) Late fees shall be assessed twenty (20) days after the date of the utility bill on all accounts with an outstanding balance.
- (5) Monthly service charges shall be billed to each meter in use regardless of whether any quantity charge is made. A meter is considered to be in use as long as it is in place.
- (6) Payments toward amounts owed for utility services shall be applied first to delinquent amounts, then to late fees, then to restoration fees and then to current service fees.
- (7) If payment of any utility charge imposed pursuant to this Chapter is made by a dishonored check, a non-sufficient funds fee shall be assessed.
- (8) If utility service is terminated due to a transfer of ownership on dates other than established billing dates, the Town shall only prorate the charge for water services, but not for sewer services.
- (9) All utility service charges, late charges, service fees, non-sufficient funds fees, reconnect fees and other associated fees shall be assessed in the amount set forth on the Town Fee Schedule.

**Sec. 13-8. Remedies for nonpayment.**

- (1) If utility services are not paid as provided in this Article, in addition to the imposition of late fees and other charges provided in this Article, the Town may avail itself of any or any combination of the following remedies:
  - (a) The Town may consider any utility service fee a lien upon the owner's property from the time when due and a perpetual charge against such property until paid. The lien shall be considered prior and superior to all other liens, claims, titles and encumbrances, whether prior in time or not, except liens for general taxes. The Town may foreclose any lien imposed by this Chapter in accordance with the law.
  - (b) The Town may maintain an action in any court of competent jurisdiction for the amount of the charge due and collect interest, costs and attorney's fees.
  - (c) The Town may certify the amount of the charge due to the county clerk and treasurer, together with an assessment fee, which shall thereafter become an assessment upon the property served and be collected and paid over to the Town in the same manner as taxes.
  - (d) The Town may discontinue utility services pursuant to the following procedure:
    - (i) The Town shall send written notice to the customer and, if the customer is not also the owner, to the owner, at the last known address available to the Town, providing that, absent timely full payment of all amounts due, services will be discontinued as of the date specified in the notice;
    - (ii) Within the time allotted in the notice, the customer or owner, as appropriate, may pay the outstanding amounts due or may file a written protest with the Town Manager;
    - (iii) If a written protest is filed, the Town Manager shall determine whether to discontinue the utility service and provide written notice to the customer and owner, if appropriate, of his or her decision, along with an additional opportunity to pay the outstanding amounts; and
    - (iv) If utility services are discontinued as provided herein, such services shall not be reinstated until all amounts due are paid to the Town, unless the Town Manager agrees to a payment plan. If the Town Manager agrees to a payment plan, utility

services may be discontinued if the customer does not comply with the payment plan without providing the notices set forth above.

**Sec. 13-9. Common meter for multiple dwelling units.**

- (1) If more than one dwelling unit, including but not limited to multi-family dwelling units, commercial buildings or other such properties, is served by a common meter, thus by means other than by metering the consumption of each individual unit, any act or omission by any person served by a common meter constitutes a joint act of all persons served through such common meter.
- (2) The Town shall issue only one utility bill for utility services to dwelling units with a common meter. While the customers may proportion the payment of the utility bill among themselves, as to the Town, each customer shall be liable for payment of the utility bill in full. If the utility bill is not paid in full when due, the Town may impose fees or undertake any remedies provided in this Article.
- (3) If the Town desires to discontinue utility services to dwelling units with a common meter, the Town shall send written notice to each customer and, if the customers are not also the owners, to the owners, at the last known address available to the Town, providing that, absent full payment of all amounts due, services will be discontinued as of the date specified in the notice. The Town shall comply with the disconnection procedures set forth in this Article.
- (4) For dwelling units with a common meter, the lien for the unpaid utility fees attaches upon each separate unit in an amount computed by dividing the total amount of the lien by the number of units served by the common meter.
- (5) No person who has complied with the rules and regulations relating to utility services who has paid a proportionate or other share of the charges outstanding or remaining unpaid may file a claim for damages against the Town because utility services have been discontinued as provided in this Article.

**Sec. 13-10. Right to entry**

- (1) In connection with the necessary discharge of their duties and the enforcement of the provisions of this Chapter, authorized Town personnel shall, at all reasonable times, have safe access to property within or without the Town served by water or sewer utilities for any purpose incidental to supplying or disconnecting such utility service.
- (2) Customers shall provide access to meters and utility service equipment located on the customer's property for proper administration and billing of utility services. Such access includes non-intrusive, automatic drop out access to the customer's service for remote reading of meters by the utilities when such service is available. If any meter cannot be read or access to utility service equipment is not provided for three (3) consecutive months, the Town shall provide written notice to the customer and, if the owner is not the customer, to the owner providing that the condition must be corrected by a date certain or the Town may discontinue service until access is accomplished.
- (3) Whenever the Town has reasonable cause to believe that there exists in or upon any property, a condition or violation which makes such property unsafe, dangerous or hazardous or presents a significant, immediate danger to human health or the environment, authorized Town personnel may enter such property to inspect it and, if required, perform any authorized act to bring the property to a safe condition.

- (4) If property is occupied at the time entry is required, authorized Town personnel shall first present proper credentials and request entry. If such property is unoccupied, except in the case of an emergency as described above, authorized Town personnel shall first make a reasonable effort to locate the owner, customer or other person having charge or control of the property. If such entry is refused, the Town shall have recourse to pursue remedies provided by law to secure entry.
- (5) When the Town has obtained an inspection warrant or other remedy provided by law to secure entry, no owner, customer, occupant or other person having charge or control of the property shall fail or neglect, after proper request, to promptly permit entry therein by authorized Town personnel for the purpose of inspection and examination pursuant to this Chapter.
- (6) Owners or such other persons having charge or control of property shall permit the Town or other utility providers, as appropriate, to trim the limbs and branches of trees, bushes and shrubs to the extent that such trimming is reasonably necessary to avoid interference with utility lines, streetlights, or other equipment or to allow access to meters or other equipment on said property or in the public right-of-way.

**Sec. 13-11. Annexation required for water and sewer service.**

Any person requesting either water or sewer service for a property that is outside the Town boundaries must first annex such property to the Town to be included within the Town boundaries prior to the Town extending either water or sewer service.

**Sec. 13-12. Exceptions; waiver.**

For good cause, consistent with the purposes of the provisions contained herein, Town Council may substitute, modify or waive any condition or requirement contained in this Chapter.

**Sec. 13-13. – 13.39. Reserved.**

**ARTICLE II Sanitary Sewers**

Sec. 13-40. Sanitary Sewer Utility Enterprise.

Sec. 13-41. Definitions.

Sec. 13-42. Adoption of rules and regulations governing sanitary sewers.

Sec. 13-43. Use of public sewers required.

Sec. 13-44. Private waste water disposal.

Sec. 13-45. Sanitary sewers, building sewers and connections.

Sec. 13-46. Use of the public sewers.

Sec. 13-47. Powers and authority of inspectors.

Sec. 13-48. Abandonment of connection.

Sec. 13-49. Interference with Town employees prohibited; digging up streets for purposes of sewer connections; destroying facilities.

Sec. 13-50. Administrative enforcement.

Sec. 13-51. Administrative review; appeals process.

Sec. 13-52. Judicial enforcement.

Sec. 13-53. - Sewer service charges.

Sec. 13-54. - Sewer tap fees.

Secs. 13-55.—13-69. Reserved.

### **Sec. 13-40. Sanitary Sewer Utility Enterprise.**

- (1) The Town Council hereby recognizes the establishment of the Town's Sanitary Sewer Utility Enterprise and confirms the operation of the Sanitary Sewer Utility Enterprise, inclusive of the Town's municipal sanitary sewer system, as an "Enterprise" within the meaning of Section 20 of Article X of the State Constitution.
- (2) The Town Council recognizes that the creation and establishment of the Town's Sanitary Sewer Utility Enterprise serves the purpose of managing, maintaining and operating the Town's wastewater system and the sewer facilities for the conveyance, treatment and disposal of waste water from within the Town.
- (3) The Town Council designates itself as the governing body of the Sanitary Sewer Utility Enterprise and shall exercise the Town's legal authority relating to the Sanitary Sewer Utility Enterprise, but shall not levy a tax.
- (4) The Town Council directs that funds of the Sanitary Sewer Utility Enterprise and funds of the Town may be commingled for purposes of investment so long as accurate records are kept of the amount of such funds allocable to the Enterprise and to the Town.
- (5) The Town Council ratifies, approves and confirms all action not inconsistent with the provisions of this Section heretofore taken by Town Council or by the officers and employees of the Town directed toward the operation of the Wastewater Utility Enterprise as an "Enterprise" under Section 20 of Article X of the State Constitution.

### **Sec. 13-41. Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

*Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

*Article* means this Article II of Chapter 13 of the Town of Johnstown Municipal Code.

*Biochemical oxygen demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) Celsius, expressed in milligrams per liter.

*Building drain* means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

*Building sewer* means the extension from the building drain to the public sewer or other place of disposal, also called house connection.

*Combined sewer* means a sewer intended to receive both wastewater and storm water or surface water.

*Easement* means an acquired legal right for the specific use of land owned by others.

*Floatable oil* is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the POTW.

*Garbage* means the solid wastes from domestic and commercial preparation, cooking, and dispensing of food, and from handling, storage and sale of produce.

*Indirect Discharge or Discharge* means the introduction of any pollutant into the Publicly Owned Treatment Works (POTW) from any non-domestic source under Section 307(b), (c) or (d) of the Act.

*Industrial Wastes* mean the liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewerage.

*Industrial Users or IU* means a source of indirect discharge.

*Interference* means a discharge which, 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(s) (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory and regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the 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.

*Industrial waste* means the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.

*Medical Waste* means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

*National Pollutant Discharge Elimination System Permit or "NPDES Permit"* means the permit(s) issued by the State of Colorado authorizing the Town to discharge to waters of the United States under the Act, and includes, as may be amended from time to time, CO-0021156 and CO-0047058.

*Natural outlet* means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or ground water.

*May* is permissive (see shall).



*Pass through* means 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.

*pH* means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.

*Pollutant* means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, 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, flow, TSS, turbidity, color, BOD, COD, toxicity, or odor).

*Pretreatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants in wastewater prior to, or in lieu of, a discharge of such pollutants into the POTW. This reduction or alteration may be obtained by physical, chemical, or biological processes, by process changes or by other means, except by diluting the concentration of the pollutants, unless otherwise allowed by law or by the Town.

*Publicly Owned Treatment Works or POTW* means the treatment works, as defined by Section 212 of the Act (33 U.S.C. section 1292), that are owned by the Town. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances that convey wastewater to the POTW Treatment Plant.

*POTW Treatment Plant* means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste and includes, as may be amended from time to time, the Johnstown Central Wastewater Treatment Facility and the Low Point Wastewater Treatment Plant.

*Public sewer* means a common sewer controlled by a governmental agency or public utility.

*Sanitary sewer* means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

*Sewage* is the spent water of a community, and typically refers to water containing human excrement and gray water (as from showers, baths, dishwashing operations, sinks, washing machines). The preferred term is wastewater.

*Sewage Works* means all facilities for collecting, pumping, treating and disposing of sewerage.

*Sewer* means a pipe or conduit that carries wastewater.

*Shall* is mandatory (see may).

*Slug discharge* means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration or flows during normal operation that adversely affect the collection system and/or performance of the wastewater treatment works. Slug discharge includes any discharge of a non-routine, episodic nature, such as an accidental spill or a non-

customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the Town's NPDES Permit, the POTW's regulations, local limits or pretreatment requirements.

*Storm drain* (sometimes termed storm sewer) means a drain or sewer for conveying water, ground water, subsurface water or unpolluted water in any source.

*Total Suspended Solids (TSS) or Suspended Solids (SS)* means suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids, and is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater.

*Unpolluted water* is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards

*Wastewater* means the liquid and water-carried pollutants from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW. It may be a combination of the liquid and water-carried waste together with any ground water, surface water and storm water that may be present.

*Wastewater treatment works* means an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with waste treatment plant or wastewater treatment plant or water pollution control plant or POTW.

*Watercourse* means a natural or artificial channel for the passage of water either continuously or intermittently.

#### **Sec. 13-42. Adoption of rules and regulations governing sanitary sewers.**

The Town Manager may adopt forms and make and enforce rules and regulations in conformity with this Article that are necessary for the safe, efficient and economical management of the Town's sanitary sewer system. Subject to the limitations of this Code, the Town Manager may delegate the administration of this Article, or any part thereof, to duly qualified employees and agents of the Town.

#### **Sec. 13-43. Use of public sewers required.**

- (1) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Town, or in any area under the jurisdiction of the Town, any human or animal excrement, garbage or other objectionable waste.
- (2) It shall be unlawful to discharge to any natural outlet within the Town, or in any area under the jurisdiction of the Town, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Article.
- (3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.
- (4) The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated (incorporated) within the Town and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary, are hereby required, at the owners' expense, to install suitable toilet facilities therein, and to promptly connect such facilities directly with the proper public sewer in accordance with the provisions of this Article, within one hundred-twenty (120) days provided that the public sewer is within four hundred (400) feet of the property line.

#### **Sec. 13-44. Private wastewater disposal.**

- (1) Where a public sanitary or combined sewer is not available as provided in this Article, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Section.
- (2) Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the Town. The application for such permit shall be made on a form furnished by the Town, which shall be supplemented by any plans, specifications and other information deemed necessary by the Town. The applicant shall also pay a permit and inspection fee to the Town at the time the application is filed in the amount set forth in the Town Fee Schedule.
- (3) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Town. The Town shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the Town when the work is ready for final inspection and before any underground portions are covered. The Town shall promptly inspect the work upon receipt of notice.
- (4) The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations and requirements of the Colorado Department of Public Health and Environment and of the Larimer or Weld County Department of Public Health and Environment, as appropriate. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than the lot size required by the Larimer or Weld County Department of Public Health and Environment, as appropriate. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- (5) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in this Article, a direct connection shall be made to the public sewer within one hundred twenty (120) days in compliance with this Article, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.
- (6) The owners shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Town.
- (7) No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by the Town, the Colorado Department of Public Health and Environment, and Larimer or Weld County Department of Public Health and Environment, as appropriate.

**Sec. 13-45. Sanitary sewers, building sewers and connections.**

- (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Town.
- (2) There shall be two (2) classes of building sewer permits: (i) building sewer permits for residential and commercial uses and (ii) building permits for service to establishments producing industrial wastes. In either case, the owner or his or her agent shall make application on a form furnished by the Town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Town and, for industrial users, shall include the information and shall meet the obligations required by this Article and any additional information required by the Town. The applicant shall also pay a permit, inspection tapping, and/or impact fee to the Town at the time the application is filed in the amount set forth in the Town Fee Schedule.

- (3) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (4) A separate and independent building sewer shall be provided for every building; except, where a building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as a single building sewer. The Town does not and will not assume any obligation or responsibility for damage caused by or resulting from any single connection.
- (5) Old building sewers may be used in connection with new buildings only when they are found, on examination, video, and/or test submitted by the property owner or contractor to the Town, to meet all requirements of this Article.
- (6) The size, slope, alignment and materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the Town. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (“ASTM”) International Standards and Water Pollution Control Facility (“WPCF”) Manual of Practice No. 9 shall apply.
- (7) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (8) No person shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or ground water to a building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- (9) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes, other applicable rules and regulations adopted by the Town or the procedures set forth in appropriate specifications of the ASTM International Standards and the WPCF Manual of Practice No. 9, as determined by the Town. All such connections shall be made gas-tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Town before installation.
- (10) The applicant for the building sewer permit shall notify the Town when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Town or a representative of the Town.
- (11) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be promptly restored in a manner satisfactory to the Town and to the Town’s specifications.
- (12) The Town maintains the sewer main only and the property owner is responsible for the service line in total to the main including the tap.

**Sec. 13-46. Use of the public sewers.**

- (1) No person shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

- (2) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Town and other regulatory agencies. Unpolluted industrial cooling water or unpolluted process waters may be discharged, on approval of the Town, to a storm sewer, combined sewer or natural outlet.
- (3) No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:
- (a) Petroleum oil, benzene, naphtha, fuel oil, nonbiodegradable cutting oil, products of mineral oil origin, or other flammable or explosive liquid, solid or gas;
  - (b) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;
  - (c) Wastewater having a pH less than five and one-half (5.5) or having any other corrosive property capable of causing damage or hazard to structures, to the POTW, its collection system, equipment or personnel of the sewerage works;
  - (d) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
  - (e) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40 °C (104 °F) unless the Town approves alternate temperature limits;
  - (f) 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;
  - (g) Trucked or hauled pollutants except in manner consistent with Subsection (14) below;
  - (h) Any waters or wastes containing toxic or poisonous soils, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create public nuisance or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer; and
  - (i) Solids or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the POTW such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair, fleshings, entrails, paper dishes, cups, disposable wipes, milk containers, etc., either whole or ground by garbage grinders.
- (4) The following described substances, materials, water or waste shall be limited in discharges to concentrations or quantities which will not harm the POTW, the sewers, the wastewater treatment process or equipment, will not have an adverse effect on the receiving stream and will not otherwise endanger lives, limb, public property or constitute a nuisance. The Town may set limitations lower than the limitations established in the regulations below if, in his or her opinion, such more severe limitations are necessary to meet the above objectives. In forming his or her opinion as to the acceptability, the Town may consider such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other permanent factors. The

limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the POTW which shall not be violated without approval of the Town are as follows:

- (a) Fats, wax, oils or greases of animal or vegetable origin, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32° F) and one hundred fifty (150° F);
- (b) Any garbage that has not been properly shredded. For purposes of this Subsection, properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension. Garbage grinders equipped with a motor of three-fourths (3/4) shall be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places and subject to inspection, reviews and approval of the Town 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;
- (c) Any waters or wastes containing strong acid iron pickling wastes, concentrated plating solutions whether neutralized or not, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the POTW Treatment Plant exceeds the limits established by the Town for such materials;
- (d) Any waters or wastes containing phenols odor-producing substances exceeding limits which may be established by the Town as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving streams;
- (e) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Town in compliance with applicable state or federal regulations;
- (f) Quantities of flow, concentrations of which constitute a slug discharge;
- (g) Waters or wastes containing substances which are not amenable to transport, treatment or reduction by the wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters;
- (h) Any water or wastes which, by interaction with other water or wastes in the public sewer system or POTW, release obnoxious gases, form suspended solids which cause interference with the collection system or create a condition deleterious to structures and treatment processes;
- (i) Wastewater which imparts color that cannot be removed by the POTW Treatment Plant, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently impart color to the POTW Treatment Plant's effluent, thereby causing a violation of the Town's NPDES Permit;
- (j) Sludges, screenings or other residue from the pretreatment of industrial wastes, unless specifically approved by the Town and otherwise in compliance with the Town's NPDES Permit;

- (k) Wastewater causing, alone or in conjunction with other sources, the POTW Treatment Plant's effluent to fail toxicity tests;
  - (l) Detergents, surface-active agents (surfactants) or other pollutants that might cause excessive foaming in the POTW or receiving waters; and
  - (m) Wastewater causing a reading on an explosion hazard meter at the point of discharge into the POTW or at any point in the POTW.
  - (n) Any waters or wastes having a pH in excess of 9.5
  - (o) Materials which exert or cause:
    - (i) Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
    - (ii) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
    - (iii) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
    - (iv) Unusual volume of flow or concentration of wastes constituting slugs as defined herein.
- (5) The pollutants, substances or wastewater prohibited by this Subsection 13-46(4) shall not be processed or stored in such a manner that they could or will be discharged to the POTW.
- (6) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Subsection (4) of this Section, and which, in the judgment of the Town, may have a delirious effect upon the POTW, processes, equipment or receiving waters or which otherwise create hazard to life or constitute a public nuisance, the Town may:
- (a) Reject the wastes;
  - (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
  - (c) Require control over the quantities and rates of discharge; and/or
  - (d) Require payment of the added cost of handling and treating the wastes not otherwise covered by existing taxes or sewer charges under the provisions of this Article.
- (7) When considering the above alternatives, the Town shall give consideration to the economic impact of each alternative on the discharger, but, in any event, shall not allow a discharge that has the potential to cause a violation of the Town's NPDES Permit or the law. If the Town permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Town.
- (8) No user shall increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment, including pretreatment, to achieve compliance with a discharge limitation unless expressly authorized by law or by the Town. The Town may impose mass limitations on users who are using dilution to meet applicable requirements.
- (9) Grease, oil and sand interceptors shall be provided when, in the opinion of the Town, they are necessary for the proper handling of liquid wastes containing floatable fats, oils or greases in excessive amounts as specified in Subsection (4)(a), or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Town, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means at least annually or determined appropriate and necessary by the Town of the

captivated material and shall maintain records of the dates and means of disposal which are subject to review by the Town. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms.

- (10) Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner or the operator at his or her expense.
- (11) When required by the Town, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structures, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Town. The structure 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.
- (12) The Town may require the user of sewer services to provide information needed to determine compliance with this Article. The requirements may include, but are not limited to:
- (a) Wastewater discharge peak rate and volume over a specified time period;
  - (b) Chemical analyses of wastewaters;
  - (c) Information on raw materials, processes and products affecting wastewater volume and quality;
  - (d) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control;
  - (e) A plot plan of sewers of the user's property showing sewer and pretreatment facility location;
  - (f) Details of systems to prevent and control the losses of materials through spills to the municipal sewer; and/or
  - (g) A wastewater discharge permit application, questionnaire or other reports and notifications in a format and timeframe specified by the Town.
- (13) Industrial users.
- (a) Mandatory pretreatment requirements. In addition to all other requirements contained in this Article, industrial users shall provide wastewater treatment, as necessary, to comply with the pretreatment standards required by the Town's NPDES Permit and otherwise required by law. The industrial user shall achieve compliance prior to discharge. Any facilities necessary for compliance shall be provided, operated and maintained at the industrial user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Town for review, and shall be acceptable to the Town before such facilities are constructed. Acceptance by the Town of any such facilities shall not be construed as a guarantee or agreement by the Town that such facilities will achieve compliance with this Article. The review of such plans and operating procedures shall in no way relieve the industrial user from the responsibility of modifying such facilities, as necessary, to produce a discharge acceptable to the Town under the provisions of this Article.
  - (b) Additional pretreatment and monitoring requirements. The Town may, in his or her discretion:
    - (i) Require an industrial user to restrict its discharge, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate domestic waste streams from non-domestic waste streams or impose such other conditions as may be necessary to protect the



- POTW and ensure the industrial user's compliance with the requirements of this Article;
- (ii) Require an industrial user discharging into the POTW to install and maintain, on the user's property and at the owner's or operator's expense, a suitable storage and flow-control facility to ensure equalization of flow;
  - (iii) Require an industrial user discharging into the POTW to install, at the owner's or operator's expense, suitable monitoring facilities or equipment that isolates appropriate wastewater discharges into the wastewater system and facilitates accurate observation, sampling and measurement of discharges. The equipment shall be maintained in proper working order and kept safe and accessible without restriction to POTW personnel at all times. Where practical, the monitoring equipment shall be located and maintained on the industrial user's premises outside of the building; and/or
  - (iv) Require an industrial user with the potential to discharge flammable substances to install and maintain an approved combustible gas detection meter.
- (c) Slug discharge control. Facilities to prevent slug discharges shall be provided and maintained at the industrial user's expense. The Town may require industrial users to implement prevention plans to control slug discharges.
- (d) Notification. After initial approval, industrial users shall provide the following notifications:
- (i) In the case of any discharge, including, but not limited to, spills, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge or a discharge that may cause potential problems for the POTW, the industrial user shall immediately telephone and notify the POTW of the incident. The notification shall include:
    - (1) Name of the facility;
    - (2) Location of the facility;
    - (3) Name of the caller;
    - (4) Date and time of the discharge;
    - (5) Date and time discharge was halted;
    - (6) Location of the discharge;
    - (7) Type of waste;
    - (8) Estimated volume of the discharge;
    - (9) Estimated concentration of pollutants in the discharge;
    - (10) Corrective actions taken to halt the discharge; and
    - (11) Method of disposal, if applicable.
  - (ii) Within five (5) working days following such discharge under Part (d)(i) of this Subsection, the industrial user shall, unless waived by the Town in writing, submit a detailed written summary describing the cause(s) of the discharge and measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to persons or property; nor shall such notification relieve the industrial user of any fines, penalties or other liability which may be imposed pursuant to this Article and applicable regulations.

- (iii) The industrial user shall notify the Town in advance of any substantial change in the volume or character of pollutants in their discharge and/or of any changes to their facilities affecting the potential for slug discharges and/or accidental release of prohibited discharges.
  - (iv) The industrial user shall notify the Town, the Colorado Department of Public Health and Environment and Region 8 of the Environmental Protection Agency in writing of any discharge into the POTW of any substance which, if otherwise disposed of, would be considered a hazardous waste under 40 CFR Section 261. Each industrial user shall notify the POTW in advance of any substantial change to such discharge. The specific information required to be reported and the time frames in which it is to be reported are found at 40 CFR Section 403.12(p).
  - (e) Recordkeeping. Industrial users shall retain all records related to discharges for a minimum period of three (3) years. The records shall be made immediately available upon request of the Town at any time during the three (3) year period or so long as actually retained.
  - (f) Time for Compliance. All existing industrial users shall come into compliance with the terms of this Article upon the effective date.
- (14) Trucked or hauled waste. The Town may regulate trucked and hauled waste to ensure that persons are complying with the terms of this Article and that the Town is acting in compliance with its NPDES Permit.
- (15) RV disposal stations. The Town may allow recreational vehicle (“RV”) disposal sites in the service area if the quality or quantity of the RV waste does not adversely impact the POTW. The Town may require RV disposal sites in the service area to ensure adequate controlled access to its disposal site including locked access, sign-in records for persons discharging from the RV, record keeping by the RV disposal site and other information deemed appropriate.
- (16) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Article shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and/or per EPA approved methods, as referenced in 40 CFR Part 136. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the Town.
- (17) No statement contained in this Section shall be construed as preventing any special agreement or arrangement between the Town and any person relating to an industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, except that no such agreement shall be permitted which violates Subsection (3) of this Section or causes or may cause the Town to violate its NPDES Permit or the law.

**Sec. 13-47. Powers and authority of inspectors.**

- (1) The Town, by and through duly authorized personnel bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the POTW system in accordance with the provisions of this Article.
- (2) Duly authorized Town personnel shall be permitted to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the POTW. All records, reports, data or other information supplied by any person as a result of any disclosure required by this Article or information and data from inspections shall be available for public inspection except as otherwise provided in this Section, 40 CFR Section 403.14 or Colorado law.

These provisions shall not be applicable to any information designated as a trade secret by the person supplying such information. Materials designated as a trade secret may include, but shall not be limited to: processes, operations, style of work or apparatus or confidential commercial or statistical data. Any information and data submitted which is desired to be considered a trade secret shall have the words, "Confidential Business Information," stamped on each page containing such information. The person must demonstrate to the satisfaction of the Town and the Town Manager that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets.

- (3) Information designated as a trade secret shall remain confidential and shall not be subject to public inspection, except as otherwise required by law. Such information shall be available only to officers, employees or authorized representatives of the Town charged with implementing and enforcing the provisions of this Article and properly identified representatives of the Environmental Protection Agency and or the Colorado Department of Public Health and Environment. Effluent data obtained by self-monitoring, monitoring by the POTW or monitoring by any state or federal agency shall not be considered a trade secret or otherwise confidential. All such effluent data shall be available for public inspection.
- (4) While performing the necessary work on private properties referred to in Subsection (1) above, duly authorized Town personnel shall observe all safety rules applicable to the premises established by the company and otherwise required by law.
- (5) The Town, by and through duly authorized personnel bearing proper credentials and identification, shall be permitted to enter all private properties through which the Town holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**Sec. 13-48. Abandonment of connection.**

No person shall abandon any building connection without first obtaining a written permit therefor. Such building connection shall be abandoned and effectively sealed as appropriate to the material of the building lead, subject to approval and the rules and regulations required by the Town.

**Sec. 13-49. Interference with Town employees prohibited; digging up streets for purposes of sewer connections; destroying facilities.**

- (1) No person shall in any way interfere with Town employees in any discharge of their duties with respect to the POTW.
- (2) No person shall dig up or cause to be dug up any street or alley in the Town for the purpose of connecting with the sewer system, without first obtaining a permit, and no person having a permit shall dig up any portion of any street or alley for the purpose of connecting with the sewer system of the Town and fail or neglect to replace the street or alley to its original condition.
- (3) No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the POTW.
- (4) Any person violating these provisions may be subject to immediate arrest and to any other recourse permitted under this Article, the Johnstown Municipal Code or the law.

**Sec. 13-50. Administrative enforcement.**

- (1) Notice of violation. When the Town finds that a person has violated, or continues to violate, any provision of this Article, the Town's NPDES Permit or any other order under this Article, the

Town may serve upon such person a written notice of violation. Within five (5) business days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to Town.

Submission of such a plan in no way relieves the person of liability for any violations occurring before or after receipt of the notice of violation. If the plan for correction submitted by the person is not satisfactory to the Town, the Town may take further action. Nothing herein shall limit the authority of the Town to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(2) Suspension of service.

(a) Suspension of service with notice. The Town may suspend wastewater treatment service by disconnecting water service, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, which causes or may imminently cause pass through, interference or the violation of the Town's NPDES Permit or which results or may imminently result in a violation of any other provision of this Article. Any person notified of a suspension of wastewater treatment service shall immediately stop or eliminate the discharge. In the event of a failure of the person to comply voluntarily with the suspension order, the Town may take such steps as deemed necessary including immediate physical severance of the sewer connection, to prevent or minimize damage to the POTW or endangerment to individuals or the environment

(b) Emergency suspension. The Town may, without prior notice of hearing, order wastewater treatment services suspended or physically sever a sewer connection if an actual or proposed discharge immediately and substantially endangers public health, safety or welfare, or the environment, or may likely cause the Town to violate any condition of its NPDES Permit or the law. Any such emergency suspension order shall become effective immediately, and any person notified of such suspension shall immediately stop or eliminate all discharge of industrial waste. In such emergency situations, the Town is authorized to prevent or minimize danger or property damage.

(3) Administrative orders and penalties.

(a) Administrative orders. When the Town finds that a person has violated, or continues to violate, any provision of this Article, the Town's NPDES Permit or any other order under this Article, the Town may issue an order to the person responsible for the discharge directing that such person immediately, or within a time specified by the Town, come into compliance. If the person does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance otherwise required by the provisions of this Article or required to ensure that the Town remains in compliance with the NPDES Permit, nor does a compliance order relieve the person of liability for any violation, including any continuing violation during the time it takes the person to come into compliance. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the person.

(b) Administrative penalties. When the Town finds that a person has violated, or continues to violate, any provision of this Article, the Town's NPDES Permit or any other order under this Article, the Town may fine such person in an amount not to exceed the amount set

forth in Article IV of Chapter 1 of the Code. Such fines shall be assessed on a per-violation, per day basis. The Town may, in addition to fines, collect charges to pay for damage to the POTW, fines issued to the POTW as a result of such person's noncompliance and any other costs incurred by the Town or the POTW as a result of such person's noncompliance. A lien against the person's property may be sought for unpaid charges, fines, and penalties. The issuance of an administrative fine shall not be a bar against, or prerequisite for, taking any other action against the person.

- (4) Appeal of administrative orders or penalties.
- (a) A person who disputes an administrative order, or administrative penalty made by or on behalf of the Town pursuant to and by the authority of this Article may petition for a hearing in accordance with this Article.
  - (b) Limitation. Notwithstanding the right to appeal, the Town may take any action deemed necessary during the pendency of the appeal to allow the Town to remain in compliance with the Town's NPDES Permit, to prevent or mitigate damage to the POTW and to protect the health, safety, or welfare of the public, including, but not limited to, discontinuing wastewater treatment services or physically severing of the sewer connection.

**Sec. 13-51. Administrative review; appeals process.**

- (1) Petition. A person who disputes an administrative order or an administrative penalty may petition for a hearing. The petition shall be in writing, filed with the Town Clerk and contain facts in support of the position alleged therein. The petition shall be submitted under oath in writing or orally at the duly scheduled hearing. A person may only file one petition in connection with a particular dispute, except upon a showing of changed circumstances sufficient to justify the filing of an additional petition.
- (2) Hearing. The Town Manager shall hold a hearing on the petition or designate another person as a hearing officer with authority to hold such hearing. The hearing shall be held within a reasonable time after the filing of a petition at the Town Hall or other place as designated by the hearing officer, and notice thereof and the proceedings shall otherwise be in accordance with the rules and regulations issued by the Town. The petitioner shall have the burden of proof.
- (3) Final order. Within fourteen (14) days of a hearing, the hearing officer shall make written findings of fact and conclusions based upon all relevant information contained in the petition and presented at the hearing. The hearing officer's determination shall be considered a final order, which may, within ten (10) days of its issuance, be appealed to the Town Council.
- (4) Appeal of the final order. An appeal to the Town Council shall be in writing and filed with the Town Clerk, setting forth the specific errors and omissions of the hearing officer in such hearing officer's final order. At the time of filing, appellant must pay the docket fee in the amount set forth in the Town Fee Schedule. Written notice of the hearing shall be given to all parties concerned at least (5) days prior to the hearing. The appellant shall have burden of proof on an appeal. The Town Council shall make its final determination and affirm, modify or reverse the final order.
- (5) Service. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this Article. Service may also be accomplished by electronic mail on the condition that the recipient acknowledges receipt of the electronic mail.
- (6) Limitation. Notwithstanding the right to appeal, the Town may take any action deemed necessary during the pendency of the appeal to allow the Town to remain in compliance with the Town's NPDES Permit, to prevent or mitigate damage to the POTW and to protect the health, safety, or

welfare of the public, including, but not limited to, discontinuing wastewater treatment services or physically severing of the sewer connection.

**Sec. 13-52. Judicial enforcement.**

- (1) Injunctive relief. When the Town finds that a person has violated, or continues to violate, any provision of this Article, the Town's NPDES Permit or any other order under this Article, the Town Manager may petition the court for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of an administrative order issued hereunder or any other requirement imposed by this Article, by the Town's NPDES Permit or by law. The Town Manager may also seek such other action as is appropriate, including pursuing legal recourse to require the person in violation to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against such person.
- (2) Action at law. When the Town finds that a person has violated, or continues to violate, any provision of this Article, the Town's NPDES Permit or any other order under this Article, the Town Manager may commence an action at law in a court of competent jurisdiction. An action at law shall not be a bar against, or a prerequisite for, taking any other action against such person.
- (3) Municipal court. Without limitation to other potential remedies, when the Town finds that a person has violated, or continues to violate, any provision of this Article, the Town's NPDES Permit or any other order under this Article, the Town Manager may direct that the person be served a summons and issued a citation into the Johnstown Municipal Court and be subject to the penalties set forth in Article IV of Chapter 1 of the Code.

**Sec. 13-53. Sewer service charges.**

- (1) Monthly sewer service charges for residential and nonresidential customers are hereby levied and assessed at the rates set forth in the Town Fee Schedule.
- (2) In addition to monthly sewer service charges, customers that discharge wastes with BOD and suspended solids concentrations above normal domestic wastes shall be assessed a surcharge in the amount set forth in the Town Fee Schedule.
- (3) Sewer service charges for industrial users who desire treatment of domestic wastewater only are hereby levied and shall be assessed by the Town in an amount that is based upon the number of persons employed by the industrial user. The Town Manager shall implement a uniform methodology to calculate such charges, which methodology shall be available to the user.

**Sec. 13-54. Sewer tap fees.**

- (1) Applicants for sewer service shall pay a sewer tap fee at the time that a building permit is issued.
- (2) Except as provided below, sewer tap fees shall be determined in accordance with the meter capacity recommended for the related water meter and shall be set forth in the Town Fee Schedule.
- (3) Because water use and wastewater flows for larger meters varies widely depending on the type of customer, sewer tap fees for meters ranging from four (4) inches to eight (8) inches shall be determined by the Town on a case-by-case basis.

**Secs. 13-55—13-69. - Reserved.**

### **ARTICLE III - Water**

- Sec. 13-70. Water Utility Enterprise.
- Sec. 13-71. Requirements for receiving water tap.
- Sec. 13-72. Water meters.
- Sec. 13-73. Water tap and raw water development fee.
- Sec. 13-74. Maintenance.
- Sec. 13-75. Meter obstruction.
- Sec. 13-76. Disconnection of service unrelated to delinquency.
- Sec. 13-77. Water service charges.
- Sec. 13-78. Bulk potable water for construction.
- Sec. 13-79. Damage to property and equipment of water system.
- Sec. 13-80. Trespass, interference with water system prohibited.
- Sec. 13-81. Authority to turn on water.
- Sec. 13-82. Pollution of the water system prohibited.
- Sec. 13-83. Control, repair, and tests of fire hydrants.
- Sec. 13-84. Operation of fire hydrants.
- Sec. 13-85. Interruption of service by utility.
- Sec. 13-86. - 13-110. Reserved.

#### **Sec. 13-70. Water Utility Enterprise.**

- (1) The Town Council recognizes the establishment of the Town's Water Utility Enterprise and confirms the operation of the Water Utility Enterprise as an "Enterprise" within the meaning of Section 20 of Article X of the State Constitution.
- (2) The Town Council recognizes that the creation and establishment of the Town's Water Utility serves the purpose of managing, maintaining and operating the Town's water system.
- (3) The Town Council designates itself as the governing body of the Water Utility and shall exercise the Town's legal authority relating to the Water Utility Enterprise, but shall not levy a tax.
- (4) The Town Council directs that funds of the Water Utility Enterprise and funds of the Town may be commingled for purposes of investment so long as accurate records are kept of the amount of such funds allocable to the Enterprise and to the Town.
- (5) The Town Council ratifies, approves and confirms all action not inconsistent with the provisions of this Section heretofore taken by Town Council or by the officers and employees of the Town directed toward the operation of the Water Utility Enterprise as an "Enterprise" under Section 20 of Article X of the State Constitution.

**Sec. 13-71. Requirements for receiving water tap.**

- (1) Any person who seeks an extension of water service, annexation of land to the Town or a change in land use, if such change in use will increase the demand for water service, shall dedicate a sufficient amount of acceptable water to the Town as provided in Article IV of this Chapter.
- (2) Any person desiring to make a connection to the water system or use water therefrom shall make written application to the Town. No person shall connect to the water system or use water therefrom until such application has been approved and such person has otherwise complied with all relevant provisions of the Code.
- (3) Any person desiring to make a connection to the water system or use water therefrom shall pay all applicable fees.

**Sec. 13-72. Water meters.**

- (1) All water services supplied by the Town shall be metered. Use of any water without proper metering shall be prohibited.
- (2) Property owners shall install a curb stop with a cast iron box and lid within the Town right-of-way at a location near the property line. Materials shall be of a standard type approved by the Town and in accordance with Town requirements. Property owners shall maintain curb boxes and lids therefor in good and unbroken condition and in readiness for emergency connect and/or disconnect, and shall keep curb box lids unobstructed and visible at all times.
- (3) Water meters shall be of a size, type and design approved by the Town, shall be installed in the Town right-of-way, and shall be in a readily accessible location for the meter reader. Indoor water meters must be approved by the Town. Water meters shall be installed either in a frost-proof meter pit or inside the structure with a remote reading device connected to allow reading from the outside of the structure. Water meters shall be installed with a stopcock on each side of the meter.
- (4) At the time of construction of new commercial or industrial buildings, the Town may, in its discretion, permit the installation of dual water meters where usage of water partially for irrigation purposes would otherwise create inequitable billing. In such instances, one of the meters shall record water used exclusively for irrigation purposes, and the use of such water shall be reflected in water billings, but not the sewer billing.
- (5) Each water meter shall be inspected by the Town and shall be properly adjusted before installation.
- (6) A record shall be made and preserved of each meter installed, containing the location, serial number and size of the meter.
- (7) All water meters shall be provided by the Town at the expense of the property owner. Payment for the water meter shall be in the amount set forth on the Town Fee Schedule and made at the time a building permit is issued. All other expenses for providing water facilities to a property shall be the responsibility of the property owner.
- (8) Water meters sized  $\frac{3}{4}$ " or 1" shall be installed by the Town or an authorized representative of the Town at the expense of the property owner.
- (9) Water meters shall be maintained by the Town and shall be tested and repaired as necessary.
- (10) Property owners shall be responsible for the cost of the cut and backfill from the water tap to the shut-off valve, the cost and installation of the meter pit and all materials from shut-off to the improvement on the property and all necessary repairs and maintenance from the shut-off valve to the improvement on the property.



- (11) The Town may remove any meter for routine tests, repairs and replacement. Meter tests shall be subject to the following:
- (a) Each water meter shall be tested either by the Town or the manufacturer and shall be found to be in good working condition and properly adjusted before installation. If the test is made by the manufacturer, a report of such test result shall be furnished to the Town prior to the installation.
  - (b) Whenever, upon test by the Town, a water meter is found to have an accuracy within the acceptable American Water Works Association (“AWWA”) standards, such meter shall be considered to be accurate and correct and no adjustment shall be made in any charge or bill for service prior to the date of such test. If, upon test by the Town, a water meter is found to have an average error in excess of the AWWA standards, such meter shall be corrected or replaced, at the option of the Town, and an appropriate correction or charge in keeping with the percentage error found upon testing shall be made to the charges for water service measured through said meter during a period of not more than one hundred eighty (180) days prior to the date of such test.
  - (c) The customer shall have the right to request a special water meter test at any time. If the special test discloses that the water meter is registering correctly within the AWWA standards, the customer shall pay the water meter testing fee set forth in the Town Fee Schedule.
- (12) It shall be unlawful for any person to tamper or interfere with any water meter or meter seal or to arrange a water service or piping wherein the use of water will not actuate the meter. The Town may discontinue water service immediately to any user who violates the provisions of this Section until satisfactory payment has been made for all water used and all repairs to the water meter and piping have been made.

#### **Sec. 13-73. Water tap and raw water development fee**

- (1) Water tap fee. Any person desiring to use water from the Town’s water system shall obtain and pay for a water tap fee in the amount set forth on the Town Fee Schedule. The water tap fee shall be based on the water meter size. Because water use for larger meters varies widely depending on the type of customer, water tap fees for meters ranging from four (4) inches to eight (8) inches shall be determined by the Town on a case-by-case basis.
- (2) Raw water development fee. A raw water development fee shall be assessed for all new water taps. The raw water development fee shall be used for the purpose of funding raw water development projects in the Town. The raw water development fee shall be in the amount set forth on the Town Fee Schedule. The raw water development fee shall be based on the water meter size.
- (3) Payment due. Water tap fees and raw water development fees shall be paid at the time of building permit issuance. Said fees shall be in addition to all other charges and to the required dedication of raw water as set forth in this Code.

#### **Sec. 13-74. Maintenance.**

- (1) Every person taking water through the water system of the Town shall permit the Town, at all reasonable hours of the day, to enter his or her property for the purpose of inspection, observation, measurement, sampling, testing, maintenance and upgrading of the Town’s water system. Unreasonable delays in allowing the Town access to the property shall be considered a violation of this Article. The Town may terminate water service to any property for the failure to allow access.

- (2) Unless maintenance and repair are necessary due to the acts of the customer, maintenance of the meter shall be the responsibility of the Town. If the maintenance or repair is due to the acts of the customer, the Town shall bill the cost of the maintenance or repair to the customer.
- (3) The Town shall be responsible for maintenance of the water line services as follows:
  - a. If a curb stop exists, the Town shall be responsible from the curb stop back to the water main and for the water meter only.
  - b. If no curb stop exists and the meter is in the right-of-way, the Town shall be responsible from the property side of the water meter to the water main.
  - c. If no curb stop exists and the meter is inside the house, the Town shall be responsible for the water service in the right-of-way back to the water main.

**Sec. 13-75. Meter obstruction.**

Persons owning or possessing property on which a water meter is located shall provide at least three feet of unobstructed access to the meter pit and at least five feet of vertical clearance above the meter pit. Failure to provide adequate access to the water meter shall result in an obstructed meter charge in the amount set forth in the Town Fee Schedule until the obstruction is cleared. Water meters shall be deemed to be obstructed for, among other reasons, locked gates preventing entry or animals threatening or intimidating authorized personnel from accessing the meter.

**Sec. 13-76. Disconnection of service unrelated to delinquency.**

- (1) Voluntary disconnection
  - (a) Persons may periodically desire to temporarily turn off water service.
  - (b) Voluntary disconnects and reconnects of existing water service shall be made only under the following specific conditions:
    - (i) Water service charges are paid in full and not delinquent;
    - (ii) The monthly service charge shall be paid during the period of disconnection; and
    - (iii) Disconnection and reconnection shall be made only by those persons approved and authorized for such work by the Town.
- (2) Involuntary disconnection
  - (a) Where water service is temporarily discontinued for pipeline repairs or related matters, the Town shall not impose a disconnect or reconnect fee.
- (3) Abandonment of water service.
  - (a) A water connection to the Town water system shall be considered to be abandoned, upon ten (10) days' written notice to the owner and the failure to cure, under either of the following conditions:
    - (i) Water service has been discontinued for nonpayment of water service charges and said delinquency has not been rectified within three (3) months of the discontinuance of water service; or
    - (ii) Water service was voluntarily disconnected as set forth above and the minimum monthly service charge has not been paid for a continuous twelve (12) month period.
  - (b) If service is determined to be abandoned, abandonment shall be made at the water main with a repair clamp and the water meter removed at the cost of the property owner.
  - (c) Prior to reconnection of abandoned water, the person seeking water service shall pay, among other potential charges, all delinquent fees and costs to reactivate the water service or a new water tap fee.

**Sec. 13-77. Water service charges.**

- (1) Water service charges are hereby levied and assessed for water service at the rates as set forth in the Town Fee Schedule. Water service charges for properties located outside the corporate limits of the Town shall be one and one-half times the rates charged for properties within the Town.
- (2) Except as provided below, the fees for water service shall include a charge based on the size of the water meter and a charge based on the amount of water taken through the water meter.
- (3) For structures with a common meter serving multiple dwelling units, the fees for water service shall include on a charge based on the number of dwelling units served by the common meter and a charge based on the amount of water taken through the water meter.
- (4) Water users outside the corporate limits of the Town shall be on individual meters.
- (5) Water meters shall be read once per month and water users shall be billed monthly. If any meter shall fail to register in any billing period, the water user shall be charged according to the average quantity of water used during a similar period.
- (6) Water service rates for non-potable only service to green belt areas, parks, and dual systems shall be charged in the amount set forth in the Town Fee Schedule.

**Sec. 13-78. Bulk potable water for construction.**

- (1) For purposes of this section, *construction hydrant meter* means a Town-authorized temporary metering device placed upon a fire hydrant or other Town water supply source by which a construction contractor may obtain water to be used during construction.
- (2) A cash deposit based on the cost of repairing or replacing a construction hydrant meter, in the amount determined by the Town, shall be required for each meter to assure its return in good working order.
- (3) Bulk potable water for construction purposes within the Town may be obtained from a construction hydrant meter authorized by the Town. Bulk water service shall be metered.
- (4) The water delivered through the construction hydrant meter shall be billed to the contractor on a monthly basis in the amount set forth in the Town Fee Schedule.

**Sec. 13-79. Damage to property and equipment of water system.**

No person shall in any way damage any property, equipment, or appliance, constituting part of the water system.

**Sec. 13-80. Trespass, interference with water system prohibited.**

No person shall trespass upon the property of the water utility, tap any water mains, make any connections therewith, in any manner interfere with the water system or the property, equipment, mains, valves, or any other appliances of the water system, change or alter the position of any valve or appliances of the water system, or change or alter the position of any valve or appliance regulating the flow of water in any water utility main, unless authorized to do so in writing by the Town Manager.

**Sec. 13-81. Authority to turn on water.**

No person other than a duly authorized employee of the Town shall open or turn on any Town water valve or curb stop regulating the flow of water from the Town mains to any premises, lot, building or house for any reason.

**Sec. 13-82. Pollution of the water system prohibited.**

No person shall deposit in any part of the water system any substance or material that will in any manner injure or obstruct the water system or any material or substance that would tend to contaminate or pollute the water or obstruct the flow of water.

**Sec 13-83. Control, repair, and tests of fire hydrants.**

All fire hydrants connected to a Town owned water main are part of and shall be maintained by the Town. The installation, maintenance, testing and repairs of all fire hydrants, stand pipes, and fire sprinklers on private waterlines or watermains are the responsibility of the property owner.

**Sec. 13-84. Operation of fire hydrants.**

No person, other than authorized Town or fire department personnel, shall open or operate any fire hydrant, standpipe or fire sprinkler system on public property without written authorization from the Town.

**Sec. 13-85. Interruption of service by utility.**

Town water may at any time be shut off from the street main due to emergencies or for the purpose of making any connections or extensions of the water mains or to perform any other work necessary to repair and maintain the water system. Notice will be given whenever reasonably possible. The Town is not liable for any damages that may occur directly or indirectly on account of the Town water being cut off for any purpose.

**Secs. 13-86 —13-110. - Reserved.**

**ARTICLE IV - Water Rights Dedication**

Sec. 13-111. Title.

Sec. 13-112. Intent and purpose.

Sec. 13-113. Definitions.

Sec. 13-114. Water rights dedication requirement.

Sec. 13-115. Cash in lieu of water dedication.

Sec. 13-116. Water dedication rate.

Sec. 13-117. Water and sewer demand analysis.

Sec. 13-118. Dedication of water rights for park, open space or recreation uses.

Sec. 13-119. Little Thompson Water District.

Sec. 13-120. Annexations.

Sec. 13-121. Procedure.

Sec. 13-122. Water court transfer fee.

Sec. 13-123. Yield by water type and decree

Sec. 13-124. Lease back.

Sec. 13-125. Return flows and augmentation, exchange, or reuse plans.

Sec. 13-126. – 13-129. Reserved.

**Sec. 13-111. Title.**

The ordinance codified in this Article shall be known and may be cited as the Town Water Rights Dedication Ordinance.

**Sec. 13-112. Intent and purpose.**

It is the intent and purpose of this Article to require the dedication of water rights to the Town sufficient to satisfy any new or additional demand for Town water service resulting from the extension of water service, annexation of land to the Town or any change in land use, within or outside the limits of the Town, which will require new or additional water supply from the Town, and thereby to assure an adequate and stable supply of water to all Town water users, to ensure the financial stability of the Town water utility and to promote the general welfare of the public.

**Sec. 13-113. Definitions.**

As used in this Article, unless the context otherwise requires,

*Annexation* means the act of attaching, adding, joining or uniting a parcel of land to the legal entity known as the Town of Johnstown.

*Applicant* means any individual, partnership, association, organization or corporation requesting water service from the municipal water system of the Town.

*Appurtenant* means belonging to, accessory or incident to, adjunct, appended, annexed to or used in conjunction with.

*Change in land use* shall include expansion of an existing use.

*Consumptive use* means the amount of water consumed and which does not return to the stream system after use.

*Conveyance of water rights* means the process by which legal title to water rights is transferred by appropriate deed, stock assignment, allotment contract or other record transfer.

*Dedicate or dedication* means to appropriate an interest in land or water rights to some public use, made by the owner, and accepted for such use by or on behalf of the public.

*Extension of water service* means any extension of the Town water service for which a tapping charge is assessed or any increase in Town water service resulting from a change in use of property, an increased use of property or an increase in irrigated area.

*Historical use affidavit* means a notarized written statement on a form approved by the Town, which sets forth, among any other information that may be requested by the Town, the following information concerning each water right proposed for dedication to the Town:

- (1) The name and address of the owner;
- (2) The amount of each water right or the number of shares of stock;

- (3) If the water right is used for irrigation, the number of acres presently being irrigated and a legal description and/or map of the acreage irrigated;
- (4) A copy of the stock certificate in any ditch or reservoir company which furnishes water and, unless this requirement is waived by the Town, all decrees or judgments determining or adjudicating each water right proposed for dedication to the Town and any other water rights appurtenant to the property;
- (5) A copy of the document by which the present owner of each water right received title to the water right proposed for dedication to the Town and any other water rights appurtenant to the property;
- (6) A copy of all diversion records for each water right proposed for dedication or transfer to the Town, unless this requirement is waived by the Town; and
- (7) A description of the historical use of the water right, including the amount and time of diversions and, if the use was irrigation, the type of irrigation, the number of acres irrigated, the crops grown and a description of any other water rights used on the land irrigated.

*Lease* means any grant for permissive use which results in the creation of a landlord-tenant relationship.

*Owner* means the property owner, annexor or developer, as the case may be and the context indicates, and shall include any part owner, joint owner, tenant in common or joint tenant.

*Raw water credit* means the number of SFE's for which dedication credit is provided by the Town for the dedication of a particular acceptable water right to the Town.

*Single family equivalent unit (SFE)* means a number related to the volume of water necessary to meet the demand and consumptive use requirements of an average dwelling unit housing not more than three and one-half (3.5) persons and having not more than three thousand (3,000) square feet of irrigated area. The SFE unit value assigned to such average dwelling unit is one (1.0). The SFE unit value assigned to any particular dwelling unit may be greater than, equal to or less than one (1.0). The SFE unit value assigned to other uses shall be based on the Town's estimated volume of water demanded and consumed by such uses as compared to the volume of water demanded and consumed by such average dwelling unit.

*Sufficient priority* means that a water right has a date as of which it is entitled to use water in relation to other water rights deriving their supply from the same source which is sufficiently senior that it may reasonably be expected to provide a dependable water supply for the requirements of this Article. Factors to be considered in making this determination shall include, but not by way of limitation, the appropriation date and adjudication date of the water right, the decreed use, the historical use of the water right, the physical flow available and the administrative practices of the office of the State Engineer.

*Town water service or water service* means treated water service or raw water service furnished by the Town for any purpose, including but not limited to domestic, commercial, and industrial uses.

*Transfer, dedicate, or dedication of water rights* means the conveyance of legal title to water rights to the Town.

*Water court transfer fee* means the estimated cost per SFE of court filing fees, publication fees, professional fees and other reasonable and customary costs associated with required proceedings in the water court for the Town to make full and lawful use of water rights dedicated to or acquired by the Town for use in its municipal water system, the amount of which is set forth in the Town Fee Schedule.

*Water credit* means the number of acre-feet, or the number of SFEs, for which dedication credit is provided by the Town for the dedication of a particular acceptable water right to the Town.

*Water right* means a decreed right to use in accordance with its priority a certain portion of the waters of the State by reason of the appropriation of the same. It shall include both direct-flow and storage rights.

**Sec. 13-114. Water rights dedication requirement.**

- (1) Any person who seeks approval of any of the following:
  - (1) an extension of water service;
  - (2) annexation of land to the Town; or
  - (3) any change in land use, within or outside the limits of the Town, if such change in land use will increase the demand for Town water service,

shall dedicate surface water rights to the Town of an amount and priority to produce, after dedication of such water rights to the Town and completion of any necessary water court transfer proceedings, a sufficiently reliable source of water acceptable to the Town to supply at least the amount of water needed to supply the additional deliverable and fully consumable water per year for each SFE, which water will be available for diversion at such point or points of diversion as the Town may designate for use and consumption by the Town for municipal purposes.

- (2) If wastewater from in-house or in-building uses will not be treated by the Town's municipal wastewater treatment facilities or other wastewater treatment facilities of equal efficiency and which provide similar return flow patterns, the Town shall increase the dedication requirement so that, after dedication of such water rights to the Town, the water rights to be dedicated will produce an amount of deliverable and fully consumable water per year for each SFE that is sufficient to ensure an adequate supply of water to satisfy the proposed use or uses.
- (3) Any person required to dedicate water rights to the Town shall designate, on forms to be prescribed by the Town, all water rights proposed to be dedicated to the Town with proof of ownership or otherwise show the legal ability to dedicate the water rights, and shall provide a legal description of the land for which the extension of water service is requested or for which approval of annexation or a change in land use is sought; and, in addition, shall specify the proposed use or uses for which Town water service is requested and the number of SFE units required for such use or uses. The form shall be accompanied by a historical use affidavit, except that, if the total number of SFE units is greater than thirty (30) SFE units, the Town may, in its discretion, require, in addition to the historical use affidavit, an engineering report prepared at said person's expense by an engineer experienced in water rights matters to analyze the historical use of the water rights proposed for dedication to the Town.
- (4) Upon receipt of the foregoing, the Town, in its sole discretion, shall determine whether the water rights are acceptable to the Town and whether the water rights are sufficient to satisfy the requirements of Article. In making such determination, the Town shall consult with persons knowledgeable in water rights matters.
- (5) The water dedication requirement shall be satisfied by the person seeking approval of the extension of water service, annexation or a change in land use, regardless of whether that person will be the ultimate user of the Town water service.
- (6) All costs and expenses to dedicate water rights to the Town to satisfy the water dedication requirements contained in this Article shall be paid by the person required to dedicate such water rights. Costs and expenses necessary to change dedicated water rights so they can be diverted and used by the Town for municipal use shall be paid by the person required to dedicate water

rights to the Town in the form of payment of a water court transfer fee or as otherwise required by the Town. Payment of the water court transfer shall not create an ownership interest in the dedicated water.

- (7) Prior to commencing a project that requires water or sewer service, the owner shall be required to enter into a water and sewer service agreement with the Town.

**Sec. 13-115. Cash in lieu of water dedication.**

Town Council may, in its discretion, accept cash-in-lieu of the required water dedication. If cash-in-lieu is approved, the rate shall be based on a per SFE standard and shall at a minimum be equal to the fair market value of water rights required to satisfy the water dedication requirement provided in this Article, determined as of the date of actual cash-in-lieu payment.

**Sec. 13-116. Water dedication rate.**

- (1) Unless otherwise approved or required by the Town, in its discretion, the required water dedication for the uses set forth below, which are based on the anticipated annual water usage and account for treatment system losses, distribution system losses, contractual assessments and drought protection, shall be as follows:
- (a) A single-family detached dwelling unit shall require the dedication of 0.33 acre-feet of water for indoor use.
  - (b) A single-family attached, townhome, or multifamily dwelling unit shall require the dedication of 0.29 acre-feet of water for indoor use.
  - (c) The dedication requirements for zoning districts and land use types other than those listed above shall be determined by the Town on a case-by-case basis based on proposed uses.
  - (d) Irrigation of dwelling unit lots consisting of less than or equal to 3,000 square feet that do not contain a non-potable system shall require the dedication of 0.17 acre-feet of water for outdoor use.
  - (e) Spray irrigation for seed and sod shall require the dedication of 2.5 acre-feet of water per irrigated acre.
  - (f) Drip irrigation shall require the dedication of 1.5 acre-feet of water per irrigated acre.
  - (g) Xeriscape irrigation shall require 1.0 acre-feet of water dedication per irrigated acre
- (2) For clarity, a single-family equivalent without a separate non-potable irrigation system shall require the dedication of 0.50 acre-feet of water per residence for a landscaped lot consisting of less than or equal to 3,000 square feet, unless otherwise approved by the Town. The 0.50 acre-feet per residence consists of 0.33 acre-feet of water for in-home consumptive use and 0.17 acre-feet of water for irrigation. This shall be the basis for a single-family equivalent (SFE).

**Sec. 13-117. Water and sewer demand analysis.**

- (1) The applicant shall include with any annexation petition, subdivision, development plan submittal, or the request for extension of water service, a written analysis sufficient to allow the Town to fully evaluate the probable water demand and consumption and the sewer service requirements for the property to be developed, based on the specific development plan proposed. The analysis shall include the entire property and shall specify the use of all land in the property. Water demands and consumption shall be estimated separately for each use category (e.g. single-family residential, multifamily residential, commercial, office, industrial, parks or others), and irrigation demands and consumptive use shall be set forth separately for each use category which is applicable to the property.



- (2) Subject to Town approval, the applicant may use historical water service(s) from similar projects based on their use and size for both consumptive and irrigation use in preparing the water and sewer demand analysis.
- (3) In lieu of the analysis described above, the Town may elect to provide its own water and sewer demand analysis if the Town has sufficient information and experience with other similar developments to adequately evaluate the probable water demands and consumption and the sewer service requirements for the property.

**Sec. 13-118. Dedication of water rights for park, open space or recreation uses.**

- (1) If land is dedicated to the Town for park, open space or recreation uses, the owner shall also dedicate water rights sufficient to irrigate said land, as provided in this Article.
- (2) Where the Town enters into an agreement to accept cash-in-lieu of in-kind land dedication for parks, open space or recreation uses, and the Town is unable to specifically determine the irrigation demand for the public project for which the cash is contributed, the amount of water rights dedication, or cash-in-lieu of water rights dedication, in the Town Council's discretion, required to meet the water dedication requirements shall be equal to the amount required to irrigate eighty percent (80%) of the land area which otherwise would have been required for in-kind land dedication by the Code or the Town.

**Sec. 13-119. Little Thompson Water District.**

If a property is served by the Little Thompson Water District or the Town determines that all or part of a property would be better served by the Little Thompson Water District, either temporarily or permanently, and the Little Thompson Water District is willing to provide water service, Town Council may permit such property to receive water service from the Little Thompson Water District upon such terms and conditions set forth in an agreement between the Town and the owner.

**Sec. 13-120. Annexations.**

- (1) At the time of annexation, the annexor shall identify all water rights appurtenant to the property to be annexed and shall not, after the filing of the petition for annexation, transfer, assign or sell any such appurtenant water rights without the written consent of the Town.
- (2) Unless otherwise agreed by the Town, at the time of annexation, the annexor shall dedicate to the Town all water rights appurtenant to the property to be annexed. The Town may, in its discretion, permit the annexor to defer dedication of the water rights until a subsequent date, consistent with the provisions of this Article. The Town may also, in its discretion, permit the annexor to dedicate water rights that are not appurtenant to the property, in addition to or in lieu of, water rights that are appurtenant to the property.

**Sec. 13-121. Procedure.**

- (1) Unless otherwise agreed by the Town, no extension of water or sewer service, including any new or additional service, shall be furnished by the Town until adequate water in a sufficient amount to provide the services is dedicated to the Town and there has been full compliance with the provisions of this Article.
- (2) The Town shall evaluate any water rights offered to the Town for dedication. The Town shall determine whether said water rights are to be accepted based upon the following criteria: priority date, historical point of diversion, location of historical use, historical yield, historical

consumptive use, the contribution to historical consumptive use of other water rights or sources of water supply, future use of the land historically irrigated, including future irrigation, considerations with respect to title, anticipated difficulties with transferring the water rights to appropriate points of diversion, places of storage and municipal uses, the Town's contractual obligations and arrangements, expected needs of the Town and of the Town's municipal water supply system, composition of the Town's water rights portfolio at the time of the proposed annexation, and any other appropriate factors.

- (3) The Town reserves the right, in its discretion, to accept, reject or accept in part any water rights proposed for dedication to the Town. If the Town determines that the water rights proposed for dedication to the Town are unacceptable to the Town, or insufficient to comply with the dedication requirements, the Town may, in its discretion, determine whether the Town will accept cash-in-lieu of dedication to satisfy all or part of the dedication requirement.
- (4) Unless otherwise permitted by the Town based on extraordinary circumstances, no final plat or development plan for residential uses shall be approved by the Town unless sufficient water rights dedications and/or cash-in-lieu payments have been accepted by the Town to provide sufficient water supply for the demands projected for all proposed uses within the platted area. Non-residential subdivisions may be approved prior to full water rights dedication, however no building permits shall be issued prior to completing all necessary analysis, acceptance, and dedication of water rights as set forth in this Article to meet the water demands of said use.
- (5) A change in land use or expansion of an existing use may, in the Town's determination, require updated water demand information and the dedication of additional water, in accordance with this Article.
- (6) The Town reserves the right to review actual water usage at a point in time after water usage has been established to confirm the adequacy of the water demand projections and executed water and sewer service agreement, and to require additional water rights dedication and/or cash-in-lieu payments based on actual water usage. If additional water rights are not dedicated in a timely manner, as required by the Town, the Town may, in its discretion, disconnect water service to the subject property. (Prior contractual water and sewer service agreement references to "Section 13-68(h) of the Ordinance" shall be deemed to mean and include this subsection.)
- (7) All costs and expenses related to the dedication of water rights to the Town shall be borne by the person required to dedicate the water rights to the Town pursuant to this Article.
- (8) Any decision or recommendation made by the Town Manager or other Town agent or designee under any delegation of authority or responsibility contained in this Article or otherwise relating to water rights dedication shall be submitted to the Town Council for determination or ratification, as the case may be. No such decision or recommendation shall be of any force or effect until finally determined or ratified by the Town Council.
- (9) In the event the water rights offered to the Town for dedication provide raw water credits in excess of those required by this Article, the Town may, in its discretion, purchase the surplus water upon terms that are agreeable to the owner.
- (10) The Town shall not require that groundwater wells or their appurtenant water rights be offered to the Town for dedication or purchase, nor shall the Town provide any raw water credits for such structures or water rights.
- (11) All determinations provided for herein shall be made by the Town in the exercise of its reasonable judgment.
- (12) All dedications of water rights to the Town hereunder shall be effected by delivering to the Town sufficient warranty deeds, stock certificates with appropriate stock assignments, written approval of the transfer of allotment contracts or by other acceptable means, as is appropriate to the

particular transaction. All title documents shall be subject to approval by the Town. No water rights dedication shall be considered completed until the Town has accepted sufficient documents transferring title to the Town.

**Sec. 13-122. Water court transfer fee.**

Water court transfer fees, calculated on a per SFE basis and based upon whether water has been decreed for municipal use, are hereby assessed. Water court transfer fees shall be paid in the amount set forth on the Town Fee Schedule and, unless otherwise agreed by the Town, at the earlier of the time of approval of a final plat, execution of a water and sewer service agreement or the extension of water service.

**Sec. 13-123. Yield by water type and decree**

(1) Based on the provisions of this Article, the Town shall evaluate any water rights offered to the Town for dedication. If the following water rights are accepted by the Town and are decreed for municipal use in the Town, the following raw water credits shall be provided:

<b>Water Rights</b>	<b>Raw Water Credits (Acre Feet Yield)</b>
Consolidated Home Supply Ditch & Reservoir Company	16 SFEs per share (8 Acre Feet Yield)
Colorado Big Thompson Project Units (CBT)	0.7 SFE per unit (0.35 Acre Feet Yield)

If the following water rights are accepted by the Town and are not decreed for municipal use in the Town, the following raw water credits shall be provided:

<b>Water Rights</b>	<b>Raw Water Credits (Acre Feet Yield)</b>
Consolidated Home Supply Ditch & Reservoir Company	12.8 SFEs per share (6.4 Acre Feet Yield)
Colorado Big Thompson Project Units (CBT)	0.7 SFE per unit (0.35 Acre Feet Yield)

(2) For water rights acceptable to the Town for dedication that are not set forth in the table above, the Town, in its discretion, shall determine the raw water credit.

**Sec. 13-124. Lease back.**

If the owner of property to be annexed, subdivided or otherwise subsequently developed desires to retain land, or any portion thereof, in agricultural production or as open space prior to development, the owner may, pursuant to written agreement with the Town, lease back, on an annual basis and for irrigation, aesthetic and recreational purposes only, all or part of the water rights dedicated to the Town pursuant to this Article. Unless otherwise agreed by the Town, the terms of any such leases shall be at fair market value, as determined by the Town, and on such other terms and conditions as required by the Town. The owner shall pay, at a minimum, all assessments due and owing on the water. Said leases shall provide that, in the event any portion of the land for which the water is leased is platted during the term of the lease, the Town may cancel the lease, in whole or in part, to the extent a portion of the leased water is determined by the Town to be necessary for water service to the property so platted.

**Sec. 13-125. Return flows and augmentation, exchange, or reuse plans.**

The Town shall have dominion and control of all water supplied through its water system, subject to reasonable use thereof by its water users in compliance with applicable agreements, leases, licenses and the Code. Such dominion and control shall continue without interruption as to all wastewater, return flows, runoff, sewage, or tail water attributable to or originating in water supplied through Town-owned or controlled water rights or facilities. Except as otherwise agreed by the Town in writing, the Town shall have the exclusive right to recapture such return flows or claim credit therefrom for reuse, successive use, exchange, replacement, augmentation, substitute supply or any other lawful purposes, and the Town's dominion and control over water shall continue to attach to all such return flows, regardless of form, even after they return to the groundwater aquifers or the surface stream systems. All return flows from water supplied through Town-owned or controlled water rights or facilities remain the property of the Town.

**Secs. 13-126—13-129. - Reserved.**

#### **ARTICLE V - Infrastructure Reimbursement**

Sec. 13-130. Water and sewer line reimbursements and regional storm water infrastructure; purpose.

Sec. 13-131. Conditions invoking eligibility for reimbursement.

Sec. 13-132. Time period for reimbursement.

Sec. 13-133. Computation of recoverable reimbursement; reimbursement agreement; interest.

Sec. 13-134. Payment by benefited properties.

Sec. 13-135. Upsizing or capacity upgrades by the Town.

Secs. 13-136.—13-150. - Reserved.

#### **Sec. 13-130. Water and sewer line reimbursements and regional storm water infrastructure; purpose.**

It is the intention of the Town Council in providing a reimbursement procedure under this Article to provide an appropriate incentive for developers of private property to pay for the construction of water and sewer mains and regional stormwater facility infrastructure to connect their property with existing utilities by providing a process whereby a developer may recoup a portion of the initial construction cost of such infrastructure from benefitted offsite properties. The Town Council also recognizes that it is necessary for a developer to timely apply to the Town for reimbursement and further that there shall be a limitation on the period of time, expressed in years, whereby a developer may recoup the cost.

#### **Sec. 13-131. Conditions invoking eligibility for reimbursement.**

Developers who construct off-premises water or sewer mains or regional storm water improvements that benefit other properties may, in the Town's discretion, be entitled to reimbursement from persons desiring to connect to the off-premises mains or are in the drainage area of the storm water improvements if all of the following circumstances exist:

- (1) The developer constructs the off-premises water or sewer main or regional storm water improvements in accordance with Town specifications and requirements with prior approval by the Town;

- (2) The developer provides the Town with the final certified costs of the improvements and satisfactory evidence that all such costs, including engineering, construction and other costs in connection with the project, were paid in full;
- (3) The developer provides the Town with completed bid forms containing the description, estimated quantity and unit price for each item included in the project from at least three (3) qualified contractors, unless the Town otherwise agrees, with an indication of which contractor was awarded the project;
- (4) The developer provides the Town with a map of the improvements for which the developer is seeking reimbursement, including the following:
  - (a) The location of the improvements;
  - (b) The name of the owner of each property specially benefitted by the improvement; and
  - (c) The legal description of each property benefitted by the improvement;
- (5) The Town is notified of the completion of the construction within three months of the completion and is provided documentation evidencing the date of such completion.
- (6) Prior to completion of the construction, the developer provided notice of the opportunity to participate in the cost of the construction to all owners of benefitted properties, or their predecessors in interest, against whom reimbursement may be assessed and provides proof of such notice to the Town;
- (7) The off-site benefitted property to be served by the improvements was owned at the time of construction by a person who did not participate in the cost of construction; and
- (8) The person against whom the reimbursement is to be assessed requests approval for water or sewer line extensions or services which connect to the off-premises water or sewer main either directly or indirectly or are in the drainage area of the regional storm water improvements during the time period in which the developer is eligible for reimbursement.

**Sec. 13-132. Time period for reimbursement.**

If the developer is eligible for reimbursement, the developer must obtain approval for such reimbursement from the Town Council. If approved, the developer shall be entitled to reimbursement for a ten-year period following completion of the construction. The ten-year period may be renewed, in Town Council's discretion, for a maximum of two additional five-year periods by action of the Town Council upon written request of the person who paid for such initial construction, or their successor in interest, if the request is made prior to the lapse of the initial ten-year or first five-year renewal period.

**Sec. 13-133. Computation of recoverable reimbursement; reimbursement agreement; interest.**

- (1) If all conditions are met, the Town shall proportionally allocate the eligible costs of the construction to the land area on a frontage, flow capacity, drainage area, acreage or other equitable basis. The developer seeking reimbursement shall submit a proposed formula for allocation of the costs to the Town. The allocation shall be calculated on a gross acreage if allocated on a drainage area basis, and shall include all rights-of-way, stormwater facilities, parks and other private land which may be dedicated to public purposes within each tract. For sewer, the allocations and reimbursement shall be limited to a total depth over diameter capacity of the sewer main at fifty 50%. In each case, the reimbursement will be computed by prorating the construction cost, without any additional charges other than interest, against the property served by the off-premises main.
- (2) The Town may, in its discretion, at the expense of the developer, retain a third party to confirm the reasonableness of the developer's costs of construction.

- (3) After analysis of the foregoing, the Town may set forth the reimbursement recoverable from each benefitted property in the reimbursement agreement.
- (4) An interest component may be added to the amount that is subject to reimbursement, but shall apply to the first ten-year period only, and not to renewal periods. The interest shall be equal to that of ten-year U.S. treasury bills on the date of the completion of construction.

**Sec. 13-134. Payment by benefitted properties.**

- (1) The reimbursement contemplated herein shall be paid by the owner or developer of benefitted properties prior to the approval of plans for construction of additional extensions or when service taps are requested, whichever comes first.
- (2) The Town shall not be obligated or liable financially or otherwise for any portion of the reimbursement or for the failure of an owner or developer to pay the reimbursement.
- (3) If the Town collects the reimbursement on behalf of the developer, the Town shall retain an administrative service charge of three percent (3%) of the funds collected.

**Sec. 13-135. Upsizing or capacity upgrades by the Town.**

The Town may require a developer to construct utility infrastructure as part of the developer's planned improvements for which a reimbursement agreement may apply pursuant to this Article. The Town, in its discretion, may elect to participate in utility upsizing or capacity upgrades. If the Town participates, the Town shall be responsible for the difference in material costs only to upsize the applicable utility and the reimbursements available to the developer shall be limited to the original construction planned, not to the upsizing or capacity upgrade paid for by the Town.

**Secs. 13-136.—13-149. - Reserved.**

**ARTICLE VI - Water Conservation**

Sec. 13-150. General.

Sec. 13-151. Levels of drought condition.

Sec. 13-152. Water waste.

Sec. 13-153. Drought surcharge.

Sec. 13-154. Penalty for violation.

Sec. 13-155 – 13-169. Reserved.

**Sec. 13-150. General.**

The Town is considered a semi-arid climate receiving just over 13" of rain annually. It is with this focus that the Town encourages water wise applications to conserve our valuable water resources.

**Sec. 13-151. Levels of drought condition.**

- (1) There shall be three (3) separate levels of drought conditions as detailed below. The Town Council's decision to determine a restriction level shall be based upon the following criteria:

- (a) Water delivery limitations placed on the Town by its raw water providers;
  - (b) Snow pack and reservoir level;
  - (c) Available water supplies in general;
  - (d) Peak water demand usage which may impact the ability of the Town to provide adequate and water supply and fire flows to the water distribution system; and
  - (e) Any other relevant factor that affects the Town's available water supply.
- (2) Level 1 shall be a normal year, with standard conservation practices in effect, and shall be in effect without further action by the Town Council. Under Level 1 conditions, the following provisions shall apply:
- (a) It shall be unlawful for any consumer or other person, or for the owner of any property to cause, permit, suffer, or allow any person to irrigate, sprinkle, or otherwise apply water from the Town's water system to any outdoor vegetation, including, but not limited to, lawns and gardens, between the hours of 10:00 a.m., and 6:00 p.m. Therefore, watering may occur from midnight to 10:00 a.m. and then from 6:00 p.m. to midnight.
  - (b) The foregoing restriction shall not apply to:
    - (i) Irrigation of land used for commercial agriculture;
    - (ii) Watering by hand of any outdoor vegetation using a manually operated hose equipped with an automatic shut-off valve;
    - (iii) Watering by hand of any community gardens using a manually operated hose equipped with an automatic shut-off valve;
    - (iv) Irrigation of, short grass on city-owned or operated golf courses and city owned athletic fields; or
    - (v) Irrigation of land using non-potable water sources which do not directly apply water from the treated municipal water utility system.
- (3) Level 2 shall be a moderate drought year limiting outdoor irrigation as hereinafter provided and shall become effective as provided by resolution adopted by the Town Council. Under Level 2 conditions, no person or property owner shall utilize water from Town's water system for the purpose of spray irrigation or hand-watering of lawns, gardens or other landscapes unless such usage complies with all of the following restrictions:
- (a) Spray irrigation and hand-watering shall occur only on the homeowner's appropriate watering day and only between the hours of 6:00 p.m. and 10:00 a.m. Therefore, on the homeowner's appropriate watering day, watering may occur from midnight to 10:00 a.m. and then from 6:00 p.m. to midnight;
  - (b) Spray irrigation and hand-watering shall occur only on the designated property watering days to be indicated as either an even- or odd-numbered address. The last digit of the address of the property owner will determine the designated watering day. Even addresses may water on Sunday and Thursday. Odd addresses may water on Saturday and Wednesday;
  - (c) No person or property owner shall utilize water from the Town's water system for the purpose of washing sidewalks, driveways, patios or similar hardscapes;
  - (d) Vehicles may be washed only on a property owner's assigned watering days, but shall be washed with a bucket or a hose running with an automatic shut-off nozzle. If possible, persons are encouraged to park vehicles on their lawns while washing occurs, but such vehicles may be on the lawn only while they are being washed and shall be immediately removed from the lawn upon completion. Commercial vehicle washing facilities are exempt from this regulation;

- (e) There shall be no lawn watering from the date of October 15 through the date of April 15. Trees and shrubs may be watered on either a Saturday or Sunday in accordance with the Level 2 irrigation schedule;
  - (f) Watering of newly planted grass shall only occur subject to a permit issued by the Water Department. The cost of the permit shall be the amount set forth in the Town Fee Schedule; and
  - (g) Irrigation with well water may occur only subject to the premises being clearly posted with a notice visible from the street indicating that irrigation is with well water;
  - (h) Only non-potable water may be used for construction purposes;
  - (i) The Town may, by resolution, at such times where warranted, provide appropriate measures for watering large areas, such as open space and parks by schools and homeowners associations; and
  - (j) In addition to the restrictions set forth herein, Town Council may by resolution impose time restrictions on the use of municipal water for irrigation purposes.
- (4) Level 3 shall be severe drought conditions prohibiting lawn irrigation and shall become effective as provided by resolution adopted by the Town Council.

**Sec. 13-152. Water waste.**

- (1) No person or property owner shall cause, allow or permit any water waste.
- (2) Water waste is the intentional or negligent use of water which results in water being utilized in a wasteful or inefficient manner. Water waste includes, without limitation, the following:
  - (a) Water applied in any manner, rate or quantity such that runoff results from the landscaped area being watered and water runs onto public or private streets or into drainage or storm drainage facilities;
  - (b) Failure to repair or shut off within one (1) hour any irrigation system that is malfunctioning;
  - (c) Excessive use of water for any exempt activities set forth in this Article including, without limitation, vehicle washing and use of child-type swimming pools; or
  - (d) Excessive means more than the minimum reasonably necessary to accomplish the task.

**Sec. 13-153. Drought surcharge.**

The Town Council may establish by resolution a temporary drought surcharge for excessive water usage. Funds received from the surcharge shall be used solely for leasing or acquisition of water rights, the cost of enforcement of water restrictions and water department operation and maintenance. This shall be a temporary surcharge and may last no longer than a single irrigation season. These charges shall be in addition to the charges expressed for usage rates specified by this Chapter.

**Sec. 13-154. Penalty for violation.**

Prior to the issuance of a summons and complaint, any person alleged to have violated any provision of this Article shall first have received one written warning from the Town. Thereafter, any person alleged to have violated any of the provisions of this Article may be served a summons and complaint and be subject to the penalties set forth in Article IV of Chapter 1 of the Code.

**Secs. 13-155 to 13-169 Reserved.**

**ARTICLE VII - Storm Water Utility**



Sec. 13-170. Storm Water Utility Enterprise.

Sec. 13-171. Definitions.

Sec. 13-172. Storm water management plan.

Sec. 13-173. Storm water fees.

Sec. 13-174. Certain properties exempt from fees.

Sec. 13-175. - Administrative review; appeals process.

Sec. 13-176. Storm water facilities required for subdivisions.

Sec. 13-177. Title granted to Town and responsibility for accepted facilities.

Sec. 13-178. Town to maintain storm water facilities; exception.

Sec. 13-179. Disclaimer.

Secs. 13-180. - 13-199. - Reserved.

**Sec. 13-170. Storm Water Utility Enterprise.**

- (1) The Town Council recognizes the establishment of the Town's Storm Water Utility Enterprise and confirms the operation of the Storm Water Utility Enterprise as an "Enterprise" within the meaning of Section 20 of Article X of the State Constitution.
- (2) The Town Council recognizes that the creation and establishment of the Town's Storm Water Utility serves the purpose of providing storm water facilities for drainage and control of flood and surface waters within the Town, including areas to be subdivided and developed, is necessary in order that storm and surface waters may be properly drained, treated and controlled and to protect the health, safety and welfare of the Town and its inhabitants.
- (3) The Town Council designates itself as the governing body of the Storm Water Utility and shall exercise the Town's legal authority relating to the Storm Water Utility Enterprise, but shall not levy a tax.
- (4) The Town Council directs that funds of the Storm Water Utility Enterprise and funds of the Town may be commingled for purposes of investment so long as accurate records are kept of the amount of such funds allocable to the Enterprise and to the Town.
- (5) The Town Council ratifies, approves and confirms all action not inconsistent with the provisions of this Section heretofore taken by Town Council or by the officers and employees of the Town directed toward the operation of the Storm Water Utility Enterprise as an "Enterprise" under Section 20 of Article X of the State Constitution.

**Sec. 13-171. Definitions.**

*Best Management Practices (BMPs)* means methods that have been determined to be the most effective, practical means of preventing or reducing pollution from storm water runoff. These include schedules of activities, prohibitions of practices, maintenance procedures and other management practices. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or water disposal or drainage from raw material storage.

*Detention* means the collection and temporary storage of storm water in such a manner as to provide treatment through physical, chemical or biological processes, with subsequent gradual release of the storm water.

*Developed land* means land on which any part of its surface has been modified by the works of humans in such a way that the land's natural ability to absorb and hold precipitation has been reduced.

*Drainage basin* means the watershed area contributing storm water to the storm water system.

*Equivalent residential unit (ERU)* means the average impervious area of a residential lot.

*Impervious surface* means a surface that has been compacted or covered so that it is highly resistant to infiltration by water.

*Retention* means the prevention of, or to prevent the discharge of, a given volume of storm water runoff into surface waters by permanent storage.

*Storm water* means the flow of surface water that results from and occurs following a precipitation event or irrigation return flow.

*Storm water management* means all activities related to the administration, planning, master planning, financing, construction, operation and maintenance of the storm water system.

*Storm Water Management Plan* means a plan for receiving, handling and transporting storm water within the Town storm water system.

*Storm Water Utility* shall be operated as an enterprise following the accepted principles and procedures established by the Governmental Accounting Standards Board as a publicly held "Enterprise Fund."

*Storm water system* means all natural and manmade elements, facilities, structures, equipment and land that are used for or incidental to the conveyance, control, treatment or disposition of storm water.

*Storm water system development charges or storm water development charges* means charges that are a one-time payment that fund the expansion of public facilities needed to accommodate new development. The intent is for new development to pay for its proportional share of the capital costs for additional infrastructure capacity.

*Surface waters* means water naturally open to the atmosphere (rivers, lakes, reservoirs, ponds, streams, impoundments, seas, etc.) and all springs, wells or other collectors directly influenced by surface water.

### **Sec. 13-172. Storm water management plan.**

The Town Manager, or his or her designees, shall develop a Storm Water Management Plan for the Town based on sound engineering studies that indicate the location of all facilities in the Town, including those facilities that currently exist and those determined to be needed and that are intended to be constructed in the future. The Town Council may adopt the Plan by resolution. All substantial modifications or amendments shall also be made by resolution of the Town Council. The Plan shall guide the Storm Water Utility in the construction, operation and maintenance of the storm water system. The Town shall, in all ways and within the limits of its powers, solicit adjacent municipalities and counties to cooperate in providing storm water facilities in drainage basins, or parts thereof, extending outside the Town limits and in general to carry out the Plan. Maps showing all drainage basins and proposed

facilities may be furnished to the Larimer and Weld County Commissioners for their use in this matter as such maps are requested and become available and updated.

**Sec. 13-173. Storm water fees.**

- (1) Revenues. The Storm Water Utility must receive sufficient revenue to ensure proper operation and maintenance, development and perpetuation of the system and maintenance of the utility's financial integrity. Operation and maintenance expenses include the annual cost of salaries and wages, employee fringe benefits, power, other purchased utilities, repair materials and supplies, smaller items of equipment that do not extend the useful life of major facilities and general overhead. These costs represent the normal everyday costs of operation that should be covered by monthly service charges. Major capital improvements are typically funded through either debt financing cash reserves from storm water management utility fees or system development charges.
- (2) System development charges. As each parcel of land is developed or redeveloped and approved as to final plat, each gross acre of such filing shall be assessed a system development charge in the amount set forth in the Town Fee Schedule. These charges fund the expansion of public facilities needed to accommodate new growth.
- (3) Storm water management utility fee. There is hereby imposed on every property within the Town and upon the owners thereof a storm water management fee in the amount set forth in the Town Fee Schedule. Each single-family residential lot shall be equivalent to one (1) ERU. A schedule of ERUs applicable properties other than single-family residential properties shall be set by resolution in the Town Fee Schedule. This fee is deemed reasonable and is necessary to pay for the operation, maintenance and minor capital expenses associated with replacement and improvement of the Town storm water facilities and of such future storm water facilities as may be required and to pay for the design, right-of-way acquisition and construction or reconstruction of storm water facilities to the extent that such costs have been determined to be the responsibility of developed properties. The proceeds of this fee are deemed to be in payment for use of the Town's storm water system by the real property on which the fee is imposed and by the owners thereof.

**Sec. 13-174. Certain properties exempt from fees.**

The following land uses are exempt from storm water management utility fees:

- (1) Public park land;
- (2) Public or private ponds, lakes, reservoirs, rivers, creeks, natural water courses, wetlands or irrigation ditch/canal rights-of-way;
- (3) Public streets, highways, rights-of-way and alleys;
- (4) Railroad rights-of-way except railroad property not utilized for railroad purposes;
- (5) Cemeteries; and
- (6) Lands actively used for agriculture and larger than two (2) acres in size.

**Sec. 13-175. - Administrative review; appeals process.**

- (1) Petition. A person who disputes the amount of a storm water management utility fee may petition for a hearing. The petition shall be in writing, filed with the Town Clerk and contain facts in support of the position alleged therein. The petition shall be submitted under oath in writing or orally at the duly scheduled hearing. A person may only file one petition in connection with a

particular dispute, except upon a showing of changed circumstances sufficient to justify the filing of an additional petition.

- (2) Hearing. The Town Manager may hold a hearing on the petition or may designate another person as a hearing officer with authority to hold such hearing. The hearing shall be held within a reasonable time after the filing of a petition at the Town Hall or other place as designated by the hearing officer, and notice thereof and the proceedings shall otherwise be in accordance with the rules and regulations issued by the Town. The petitioner shall have the burden of proof.
- (3) Final order. Within fourteen (14) days of a hearing, the hearing officer shall make written findings of fact and conclusions based upon all relevant information contained in the petition and presented at the hearing. The hearing officer's determination shall be considered a final order, which may, within ten (10) days of its issuance, be appealed to the Town Council.
- (4) Appeal of the final order. An appeal to the Town Council shall be in writing and filed with the Town Clerk, setting forth the specific errors and omissions of the hearing officer in such hearing officer's final order. At the time of filing, appellant must pay the docket fee in the amount set forth in the Town Fee Schedule. Written notice of the hearing shall be given to all parties concerned at least (5) days prior to the hearing. The appellant shall have burden of proof on an appeal. The Town Council shall make its final determination and affirm, modify or reverse the final order.
- (5) Service. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this Article. Service may also be accomplished by electronic mail on the condition that the recipient acknowledges receipt of the electronic mail.

**Sec. 13-176. Storm water facilities required for subdivisions.**

Prior to the final approval of the plat of any subdivision or planned unit development ("PUD") plan, the owners of the property being subdivided shall, at such owners' cost, prepare detailed plans and specifications for the construction and installation of all storm water facilities and BMPs required for such subdivision, including the facilities required to convey storm water to existing drains, detention ponds or other existing discharge points, all in conformity with the Plan adopted by the Town. The Town shall review such plans and specifications and, after the Town acceptance of the same, the plat of the subdivision or PUD plan may be approved, subject to the Town being furnished with acceptable assurance that such facilities will be constructed and installed as indicated and approved.

**Sec. 13-177. Title granted to Town and responsibility for accepted facilities.**

Title granted to the Town for storm water structures and facilities, including but not limited to detention ponds, inlet and outlet structures and ditches, shall be by warranty deed and unencumbered fee simple title. All storm water facilities constructed, installed or provided hereunder shall, upon acceptance of the same by the Town, become the property of the Town, and the Town thereafter shall be responsible for the operation and maintenance of the same. The Town shall have exclusive authority in determining what facilities to accept, own, operate, and maintain.

**Sec. 13-178. Town to maintain storm water facilities; exception.**

The Town shall maintain all public storm water facilities accepted by the Town located within the Town-owned land, Town rights-of-way and public easements, and may maintain additional dedicated public storm water facilities located within or adjacent to the Town. Such public facilities include, but are not limited to, open drainage ways and piped storm waters constructed expressly for use by the general public and as a part of the Town storm water facilities, bridges, roadside storm water ditches and gutters, flood control facilities, including detention and retention basins, dikes, overflow channels, pump stations

and other improvements that have been designed and constructed expressly for use by the general public. Such public storm water facilities do not include facilities not accepted by the Town for maintenance.

**Sec. 13-179. Disclaimer.**

Floods or drainage problems associated with storm water runoff may occasionally occur which exceed the capacity of storm sewer facilities constructed and maintained pursuant to this Article. This Article does not imply, and the Town expressly disclaims, that property liable for the charges established herein will always be free from storm water flooding or flood drainage. This Article does not purport to reduce the need or the necessity for the owner obtaining flood insurance. The establishment of a Storm Water Management Utility, its functions, maintenance of storm water drainage structures and facilities and the activities of the Storm Water Management Utility and/or its agents does not create liability of any nature or kind on the part of the Town for damages caused by storm water except as provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S.

**Secs. 13-180.—13-199. - Reserved.**

**ARTICLE VIII - Cross-Connection Control Program**

Sec. 13-200. Purpose.

Sec. 13-201. Authority.

Sec. 13-202. Responsibility.

Sec. 13-203. Administration.

Sec. 13-204. General requirements.

Sec. 13-205. Standards for backflow prevention assemblies.

Sec. 13-206. Installations

Sec. 13-207. Testing and maintenance.

Sec. 13-208. Right of entry.

Sec. 13-209. Violations.

Sec. 13-210 – 220. Reserved.

**Sec. 13-200. Purpose.**

The purpose of this Article is to:

- (1) Protect the Town's public potable water supply from the possibility of contamination or pollution by isolating within the Town's customers' internal distribution system such contaminants or pollutants which could backflow or back-siphon into the public water system;

- (2) Promote the elimination or control of existing cross-connections, actual or potential, between the Town's customers' on-site potable water systems and non-potable systems
- (3) Provide for the maintenance of a continuing program of cross-connection control that will effectively prevent the contamination or pollution of potable water systems by cross-connection; and
- (4) Provide that backflow prevention devices within structures, building and appurtenant plumbing will be regulated by the Town's plumbing code, as adopted and in effect from time to time, and in accordance with this Article.

**Sec. 13-201. Authority.**

The Town, as the water purveyor, has the primary responsibility and authority for preventing water from unapproved sources, or any other substances, from entering the public potable water system, pursuant to the Town's Home Rule Charter and applicable federal and state laws and rules and regulations.

**Sec. 13-202. Responsibility.**

The Town, or such person's designee, shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or back-siphonage of contaminants or pollutants through the water service connection. If the Town determines that an approved backflow device is required at the Town's water service connection to any customer's premises, the Town shall give written notice to said customer to install an approved backflow prevention device at each service connection to such customer's premises. The customer shall install the approved device or devices at the customer's own expense within ninety (90) days of the receipt of the notice or the customer's water service may, in the Town's discretion, be discontinued until the proper device or devices are installed.

**Sec. 13-203. Administration.**

- (1) The Town, by and through its public works department, shall operate a "cross-connection control program," which includes, among other procedures, the provisions required by this Article and the required recordkeeping related to initial inspection, hazard level, initial device testing, yearly device testing and device replacement and similar measures.
- (2) Each property owner located in the Town or served by the Town's water system, or that has Town water facilities on such property, shall allow his or her property to be inspected for possible cross-connections, and such owner shall follow the provisions of the Town's cross-connection program if a cross-connection is permitted.

**Sec. 13-204. General requirements.**

The following requirements shall be met for all containment backflow prevention assemblies, required on identified hazardous cross connections:

- (1) Commercial, industrial, multi-family and institutional buildings shall have an approved reduced pressure zone assembly to isolate all building fixtures and taps from the Town's water distribution system.
- (2) Backflow prevention assemblies shall be installed in an accessible location to facilitate maintenance, testing and repair. Drawings must show various installations.

- (3) All backflow prevention assemblies shall be installed on the customer side, following the water meter, at a Town approved location.
- (4) It shall not be permissible to have connections or tees between the meter and service line backflow prevention assembly, unless approved in writing by the Town.
- (5) The valves associated with the backflow prevention device shall not be used as the inlet or outlet valve of the water meter. Test cocks shall not be used as supply connections.
- (6) In order to ensure that backflow prevention assemblies continue to operate satisfactorily, they shall be tested at the time of installation and on an annual schedule thereafter. Such test shall be conducted in accordance with American Society of Sanitary Engineering (A.S.S.E.) and/or University of Southern California, Foundation of Cross-Connection Control and Hydraulic Research (U.S.C. F.C.C.C. and H.R.) performance standards and field test procedures as directed by the Colorado Department of Public Health and Environment, as adopted and in effect from time to time.
- (7) All costs for design, installation, maintenance, repair and testing shall be borne by the customer.
- (8) All fire sprinkler systems shall conform to the applicable sections in the most-current edition of the National Fire Protection Association pamphlets and to the policies and procedures of, as appropriate, the Front Range Fire Rescue Fire Protection District or the Loveland Fire Recue Authority.
- (9) All identified hazardous cross-connections to the Town's water system shall conform to, or be brought into conformance with, the requirements of this Article within one year of adoption of this Article.

#### **Sec. 13-205. Standards for backflow prevention assemblies.**

Any backflow prevention assembly required herein shall be a model and size approved by the department of public works. Only approved backflow prevention assemblies shall be used. The term "approved backflow prevention assembly" shall mean an assembly that has been manufactured in full conformance with the standards established by the latest version of the Colorado Department of Public Health and Environment Cross-Connection Control Manual. Final approval shall be evidenced by a "certificate of approval" issued by an approved testing laboratory certifying full compliance with Colorado Department of Public Health and Environment standards and A.S.S.E. and/or U.S.C. F.C.C.C. and H.R. specifications. The following testing laboratories are qualified to test and certify backflow prevention assemblies, and an assembly being listed on their periodic approved list shall constitute meeting all of the above requirements:

- (1) A.S.S.E., American Society of Sanitary Engineering, 28901 Clemens Road, Suite 100, Westlake, Ohio 44145.
- (2) U.S.C. Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, OHE 430-D University Park-MC, 1453, Los Angeles, California 90089-14534.2.

In addition, the Town may provide written approval of testing laboratories other than the laboratories listed above.

#### **Sec. 13-206. Installations.**

The following requirements shall apply with respect to installation of any backflow prevention assembly:

- (1) Backflow prevention assemblies shall be installed in accordance with the specifications of the Town plumbing code, as adopted and in effect from time to time.
- (2) Backflow prevention assembly installations shall be inspected and approved for use by the Town.
- (3) All backflow assemblies shall be installed in the horizontal position unless a variance is obtained for other installation pursuant to the variance procedures applicable to the Town's plumbing code. Any variance granted may include specifications for vertical installation and may contain such other terms and conditions as are determined necessary by the Town or the chief building official.
- (4) A single check valve is not considered to be a backflow prevention assembly.
- (5) Reduced pressure backflow prevention devices shall be installed above ground. The unit shall be placed at least twelve (12) inches above finish grade to allow clearance for the repair work. A concrete slab at finish grade is recommended. Proper drainage shall be provided for the relief valve and drainage may be piped away from the location, provided that the valve and drain line are readily visible from above grade and provided that the relief valve is separated from the drain line by a minimum of double the diameter of the supply line. A modified vault installation may be used if constructed with ample side clearances. Precautions shall be taken to protect above ground installations from freezing and damage, and the Town may impose installation specifications upon an installation to protect the same from freezing or damage, and to protect the public water system and water supply.

#### **Sec. 13-207. Testing and maintenance.**

The following requirements shall apply with respect to testing and maintenance of cross-connection assemblies:

- (1) Identified hazardous cross connections (containment protection): The property owner and the customer at any premises where backflow prevention assemblies are installed shall obtain a certified test of the assemblies at least once per year. Such duty shall be a joint and several obligation of the property owner and the customer. If the Town deems the hazard to be great enough, the Town may, require certified inspections and testing at more frequent intervals. The certified tests shall be at the expense of the property owner and the customer and shall be performed by a certified technician approved by the Colorado Department of Public Health and Environment and the department of public works. In addition, an inspection of the assembly may be performed at any time pursuant to the right-of-entry procedures contained in this Article.
- (2) As necessary, the backflow prevention assembly shall be repaired or replaced at the expense of the property owner and the customer whenever the assembly is found to be defective. Records of all such tests, repairs or replacements shall be kept for three years by the property owner and the customer and the department of public works.
- (3) Existing backflow prevention assemblies shall be tagged by the technician performing the test at the completion of the test, showing the names of the technician and date of test.
- (4) All testing equipment used in the testing of backflow prevention assemblies shall be checked for accuracy yearly, or more often, and the proof of compliance shall be submitted to the department of public works upon request.
- (5) The department of public works retains the right to test or otherwise check the installation and operation of any containment assembly at any time to assure proper operation.

#### **Sec. 13-208. Right of entry.**



By previously arranged appointment and upon presentation of proper credentials, a department of public works representative shall have the right of entry to inspect any and all buildings or premises for the presence of cross-connections, for possible hazards relative thereto and for determining compliance with this Article. This right of entry shall be a condition of water service in order to protect the health, safety and welfare of the customers throughout the Town's water distribution system. The property owner and the customer shall work cooperatively with the department of public works to schedule an inspection or be subject to the remedies set forth in [this Article](#). Questions regarding proper credentials should be directed to the Town.

**Sec. 13-209. Violations.**

- (1) Failure of a property owner or customer to cooperate in the installation, maintenance, testing or inspection of backflow prevention assemblies as required by this Article shall be grounds for the discontinuance of water service to the premises or the requirement of installation of an air-gap separation from the public potable water system.
- (2) The Town may discontinue water service to any premises within the Town if unprotected cross-connections exist on the premises. When a defect is found in an installed backflow prevention assembly, or if a backflow prevention assembly has been removed or bypassed, the Town may discontinue water service until such conditions or defects are corrected.
- (3) In the Town's judgment and discretion, the discontinuance of service may be summary, immediate and without written notice when such action is necessary to protect the purity of the public potable water supply, the safety of the water system or the health, safety and welfare of members of the public.
- (4) It shall be unlawful for any person to violate any provision of this Article. In addition to the discontinuance of water service or other action taken by the Town, a person who violates the provisions of this Article shall be subject to the penalties set forth in Article IV of Chapter 1 of the Code. The Municipal Court is further authorized to enter orders for injunctive relief to require compliance with this Article.

**Sec. 13-210 – 13-220. Reserved.**

**TOWN OF JOHNSTOWN, COLORADO  
ORDINANCE NO. 2020-\_\_**

**AN ORDINANCE AMENDING ARTICLE II OF CHAPTER 13 OF THE JOHNSTOWN MUNICIPAL CODE TO ADD SECTION 13-\_\_ ESTABLISHING A SPECIAL FEE TO BE PAID BY BENEFITTED PROPERTIES IN THE AREA GENERALLY LOCATED NEAR AND ADJACENT TO STATE HIGHWAY 60 CONCERNING REGIONAL SANITARY SEWER IMPROVEMENTS**

**WHEREAS**, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

**WHEREAS**, Town Council is vested with authority to administer the affairs of the Town; and

**WHEREAS**, the Town is aware that the potential for growth and development in and around the area generally located east of U.S. Interstate 25 (“I-25”) and in relative close proximity to State Highway 60, as shown on Exhibit A attached hereto and incorporated herein by reference (“Region”), is significant; and

**WHEREAS**, the Town is further aware that, while the opportunity exists, growth and development cannot occur due to constraints in the capacity of the Town’s sanitary sewer system and limitations in the existing sanitary sewer interceptor lines to carry wastewater flows to the Town’s Central Wastewater Treatment Plant (“Central WWTP”); and

**WHEREAS**, in 2019, IMEG Corporation, a Delaware corporation (“IMEG”), conducted a system-wide study and evaluation of the Region’s sanitary sewer system, which included an assessment of development and a calculation of the remaining available capacity in the existing lift stations and sanitary sewer interceptor lines, and concluded that, despite the potential for many thousands of new residential dwelling units, the Town could only issue approximately five hundred (500) to seven hundred (700) additional residential building permits in the Region until major upgrades to the sanitary sewer system are undertaken and that, without the upgrades, a moratorium would need to be considered upon the delivery of wastewater flows delivered to the Central WWTP (“Study”); and

**WHEREAS**, as a part of the Study, IMEG analyzed the best location to install the necessary infrastructure in the Region to expand the sanitary sewer system and deliver additional wastewater flows to the Central WWTP and concluded that, as subsequently amended, three new sanitary sewer interceptor lines should be installed and a new lift station should be constructed to serve the Region, including: (i) a sanitary sewer interceptor line from the Johnstown Farms development to the Central WWTP; (ii) a sanitary sewer interceptor line generally located at I-25 to the Central WWTP north of State Highway 60; (iii) a sanitary sewer interceptor line generally located from I-25 along State Highway 60 connecting to the Johnstown Farms lift station; and (iv) a new lift station at Johnstown Farms with an additional force main to accommodate a larger design flow (collectively, the “Improvements”); and

**WHEREAS**, a depiction of the proposed location of the Improvements is attached hereto and incorporated herein by reference as Exhibit B; and

**WHEREAS**, based upon two estimates, one from IMEG and one from a contractor retained by IMEG, the Town anticipates that the total cost to design, construct and install the Improvements is approximately \$70,000,000; and

**WHEREAS**, while the Town has historically required developers to install infrastructure to accommodate development, Town Council recognizes that the Improvements are extensive and require the expenditure of significant funds that may not reasonably imposed upon any single developer; and

**WHEREAS**, to foster growth and development, Town Council desires that the Town install the Improvements, using a variety of funding mechanisms, and recover the capital improvement costs from the imposition of a special fee, to be known as the “Regional Sewer Fee,” paid by property owners or developers in the Region who will economically benefit from the Improvements by the ability to connect to the sanitary sewer interceptor lines and discharge wastewater flows to the Central WWTP and thus develop their properties; and

**WHEREAS**, the Town is a home rule municipality that, under Article XX, Section 6 of the Colorado Constitution, has the authority to enact fees to recover the cost of providing infrastructure to properties within its jurisdiction; and

**WHEREAS**, the Colorado Supreme Court has affirmed this authority in several separate decisions, including *Loup-Miller Const. Co. v. City and County of Denver*, 676 P.2d 1170 (Colo. 1984), *Bloom v. City of Fort Collins*, 784 P.2d 304 (Colo. 1989), and *E-470 Public Highway Authority v. The 455 Company*, 3 P.3d 18 (Colo. 2000); and

**WHEREAS**, to fairly apportion the cost to be recovered from and among the benefitted properties in the Region, IMEG determined that the special fee should be based on the industry standard measurement for the generation of wastewater, providing that each single family equivalent (“SFE”) generates approximately two-hundred twenty (220) gallons per day of wastewater, and recommended that the special fee be imposed on a per SFE basis; and

**WHEREAS**, the utilization of an SFE basis for the special fee allows the application to be scalable based on the type of development, wherein non-residential development, including commercial and industrial uses, would have SFE values assigned based upon a sewer projection analysis; and

**WHEREAS**, based on the geographic layout of the Region and market conditions and projections, the Town reasonably anticipates the construction of approximately two hundred and fifty (250) residential dwelling units or other types of construction totaling approximately two hundred fifty single family equivalents (250 SFEs) annually in the Region, and a total of approximately fifteen thousand five hundred (15,500) SFEs in the Region; and

**WHEREAS**, a depiction of the anticipated SFEs in the Region is attached hereto and incorporated herein by reference as Exhibit C; and

**WHEREAS**, after an analysis of the funding options, including, among other potential options, an interfund loan from the general fund and to the sanitary sewer enterprise fund in the approximate amount of \$9,500,000 and the issuance of a revenue bond in the approximate amount of \$55,000,000.00, payable over a thirty (30) year term, the revenue available to Town and cost of debt to fund the

Improvements, the Town Manager and the Town's Finance Director concluded that, to fund the Improvements, the special fee should equate to \$9,500.00 per SFE;

**WHEREAS**, based on the foregoing, for the purpose of providing sanitary sewer services to the Region and defray the cost of the Improvements, Town Council desires to impose a Regional Sewer Fee upon benefitted properties in the Region in the amount of \$9,500.00 per SFE and desires that the Town collect the Regional Sewer Fee at the time of issuance of each building permit; and

**WHEREAS**, alternatively, rather than collect the Regional Sewer Fee one at a time upon issuance of each building permit, Town Council recognizes that having an influx of funds may ultimately reduce the Town's cost to fund the Improvements and thus desires to provide discretion to permit a reduction in the amount of the Regional Sewer Fee when a property owner or developer of a large subdivision in the Region prepays all, or a significant portion of the Regional Sewer Fees, due and owing for each dwelling unit or other type of development in the subdivision; and

**WHEREAS**, Town Council directs that revenues recognized from the Regional Sewer Fee be deposited in the sanitary sewer enterprise fund and be used solely for the cost of the Improvements or for reimbursement to the Town for the cost of Improvements and not be used for the operation and maintenance of the Town's sanitary sewer system or for any other purpose and that, once the cost of Improvements are paid in full, the properties in the Region not be required to pay the Regional Sewer Fee; and

**WHEREAS**, the Town Council hereby finds, determines and declares that the Regional Sewer Fee is reasonably related to the expenses incurred by the Town in carrying out its legitimate goal of providing wastewater treatment services to the Region; and

**WHEREAS**, the Town Council hereby further finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public health, welfare, peace, safety and property, that this Ordinance is necessary for the protection of public convenience and welfare and that this Ordinance is in the best interests of the citizens of the Town.

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:**

**Section 1.** Section 13-\_\_\_. Article II of Chapter 13 of the Johnstown Municipal Code shall be amended to add Section 13-\_\_\_, which shall read in full as follows:

**Sec. 13-\_\_ – Regional Sewer Fee**

- (1) Purpose. To foster growth and development in and around the area generally located east of U.S. Interstate 25 and in relative close proximity to State Highway 60, the Town desires to undertake the design, construction and installation of significant regional sanitary sewer infrastructure improvements that will benefit property owners in the geographic area and recover the cost of such improvements from the benefitted property owners.
- (2) Definitions.

For purposes of this Section, the following definitions apply:

*Benefitted Property* means a parcel of land, of whatever size and whatever designation, that is subject to a building permit in the Region.

*Building permit* means a building permit issued in accordance with the Code before building or construction activity may be initiated on a Benefitted Property.

*Improvements* means the infrastructure designed, constructed and installed in the Region and the related expenditures to expand the sanitary sewer system and deliver additional wastewater to the Central Wastewater Treatment Plant (“Central WWTP”), as may be subsequently replaced, expanded, upgraded, or renamed, and includes, without limitation: (i) a sanitary sewer interceptor line from the Johnstown Farms development to the Central WWTP; (ii) a sanitary sewer interceptor line generally located at I-25 to the Central WWTP north of State Highway 60; and (iii) a sanitary sewer interceptor line generally located from I-25 along State Highway 60 to a newly constructed lift station at Johnstown Farms.

*Property owner(s)* means the current and future owner or developer of Benefitted Property in the Region.

*Region* means the area in the Town generally located east of U.S. Interstate 25 (“I-25”) along and in relative close proximity to State Highway 60 as depicted on Appendix A to this Article.

*Regional Sewer Fee* means the special fee imposed upon property owners in the Region to reimburse the Town for cost of designing, constructing and installing the Improvements.

*SFE* means “single family equivalent” and is a number related to the volume of wastewater generated by an average dwelling unit housing not more than three and one-half persons. The SFE unit value assigned to an average dwelling unit is generally one. In the Town’s discretion, the SFE unit value assigned to any particular dwelling unit may be greater than, equal to or less than one. The SFE unit value assigned to other uses shall be based on the Town’s estimated volume of wastewater generated by such uses as compared to the generation of wastewater by an average dwelling unit.

(3) Establishment and payment of special fee.

- (a) There is hereby established a special fee known as the Regional Sewer Fee.
- (b) The Regional Sewer Fee shall be in the amount of:

Detached Residential (per SFE)	\$ 9,500.00
Duplex and Triplex (per unit)	\$ 7,500.00
Townhomes <8 units/acre (per unit)	\$ 6,500.00
Townhomes >8 units/acre (per unit)	\$ 6,000.00
Multi-Family (per unit)	\$ 5,000.00
Commercial, Industrial and Other (per SFE)	\$ 9,500.00.

- (c) The Regional Sewer Fee may be subject to interest rate increases as provided, if at all, in the Town Fee Schedule.
  - (d) The Regional Sewer Fee shall be paid by property owners in the Region at the time of issuance a building permit.
- (4) Prepayment of fee. To incentive prepayment and reduce the Town's cost of financing the Improvements, in lieu of the payment of the Regional Sewer Fee at the time of issuance of a building permit, upon request of the property owner or developer, Town Council may reduce the Regional Sewer Fee when the owner or developer of a large subdivision prepays all or a significant portion of the Regional Sewer Fees due and owing for each dwelling unit or other type of development in the subdivision.
- (5) Exemption from payment of fee. If a request is made upon application for a building permit, property owners shall not be required to pay the Regional Sewer Fee for the following building permits:
- (a) Alterations or expansion of existing buildings where no additional dwelling units are created or square footage added;
  - (b) The construction of accessory buildings or structures that do not add dwelling units or square footage to the principal building or use of the land;
  - (c) The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same square footage; or
  - (d) Additional residential dwelling units in existing established subdivisions that were allocated capacity in the Town's sanitary sewer interceptor lines prior to January 1, 2021.
- (6) Use of funds; accounting. The revenues recognized from the Regional Sewer Fee shall be remitted to the sanitary sewer enterprise fund and used solely for the cost of the Improvements or to reimburse Town for the cost of Improvements and shall not be used for the operation and maintenance of the Town's sanitary sewer system or for any other purpose. The Town shall keep an accurate accounting of the cost of the Improvements and the revenues collected from the Regional Sewer Fee.
- (7) Fee not an impact fee or development charge. The Town Council does not intend that the Regional Sewer Fee be construed as an impact fee or development charge within the meaning of Section 29-20-104.5, C.R.S., as amended, but that the Regional Sewer Fee be a special fee within the home rule authority of the Town. To the extent that the provisions of Section 29-20-104.5, C.R.S., as amended, conflict with the provisions of this Section, the Section shall control.

**Section 2. Code revisions.** Minor changes such as the format and other changes to unify the revised Code may be necessary. The Town Clerk is hereby authorized to make such changes, provided that neither the intent nor substantive content will be altered by such changes.

**Section 3. Publication; Effective Date; Recording.** This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Town's Home Rule Charter and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk and by the Certificate of Publication. This Ordinance shall become effective upon final

passage as provided by the Home Rule Charter of the Town of Johnstown, Colorado. Copies of the entire Ordinance are available at the office of the Town Clerk.

**INTRODUCED, AND APPROVED** on first reading by the Town Council of the Town of Johnstown, Colorado, this \_\_\_\_ day of \_\_\_\_\_, 2020.

**TOWN OF JOHNSTOWN, COLORADO**

**ATTEST:**

By: \_\_\_\_\_ By: \_\_\_\_\_  
Diana Seele, Town Clerk Gary Lebsack, Mayor

**PASSED UPON FINAL APPROVAL AND ADOPTED** on second reading by the Town Council of the Town of Johnstown, Colorado, this \_\_\_\_ day of \_\_\_\_\_, 2020.

**TOWN OF JOHNSTOWN, COLORADO**

**ATTEST:**

By: \_\_\_\_\_ By: \_\_\_\_\_  
Diana Seele, Town Clerk Gary Lebsack, Mayor

Johnstown Fee Schedule

Chapter 1 - General Provisions

ARTICLE IV General Penalty

**Sec. 1-62 General Penalty for violations of Code; continuing violations**

Penalty Up to \$2,650 **Need to change to fee schedule in code**

**Sec. 1-63 Application of penalties to juveniles**

Penalty Up to \$2650 **Need to change to fee schedule in code**

Chapter 2 - Administration and Personnel

ARTICLE II

Sec 2-44

General Fees

Reproductions:

Xerox copies (agendas, minutes, etc.) - (per page)	\$0.25
Certified Copies (per page)	\$1.25
Verbatim Transcripts	Cost + \$15.00
Voice Recorded Audio	\$10.00
CD/DVD (each)	\$20.00

Bound Reports and Publications:

Any/All items	Cost +10%
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Project Plans and Bid Specifications:

Small Projects	\$10.00
Large Projects	\$25.00
Town Maps (blueprints)	\$40.00
Black & White Maps - 24x36	\$25.00

Special Services:

CORA (first hour is free - fee is per hour after)	\$30.00
Postage	Standard Postal Rate
Non-sufficient funds (return check) fee	\$25.00

Park Reservations:

No Alcohol:	
All Parks	\$5.00
With Alcohol:	
Hays Park	\$25.00

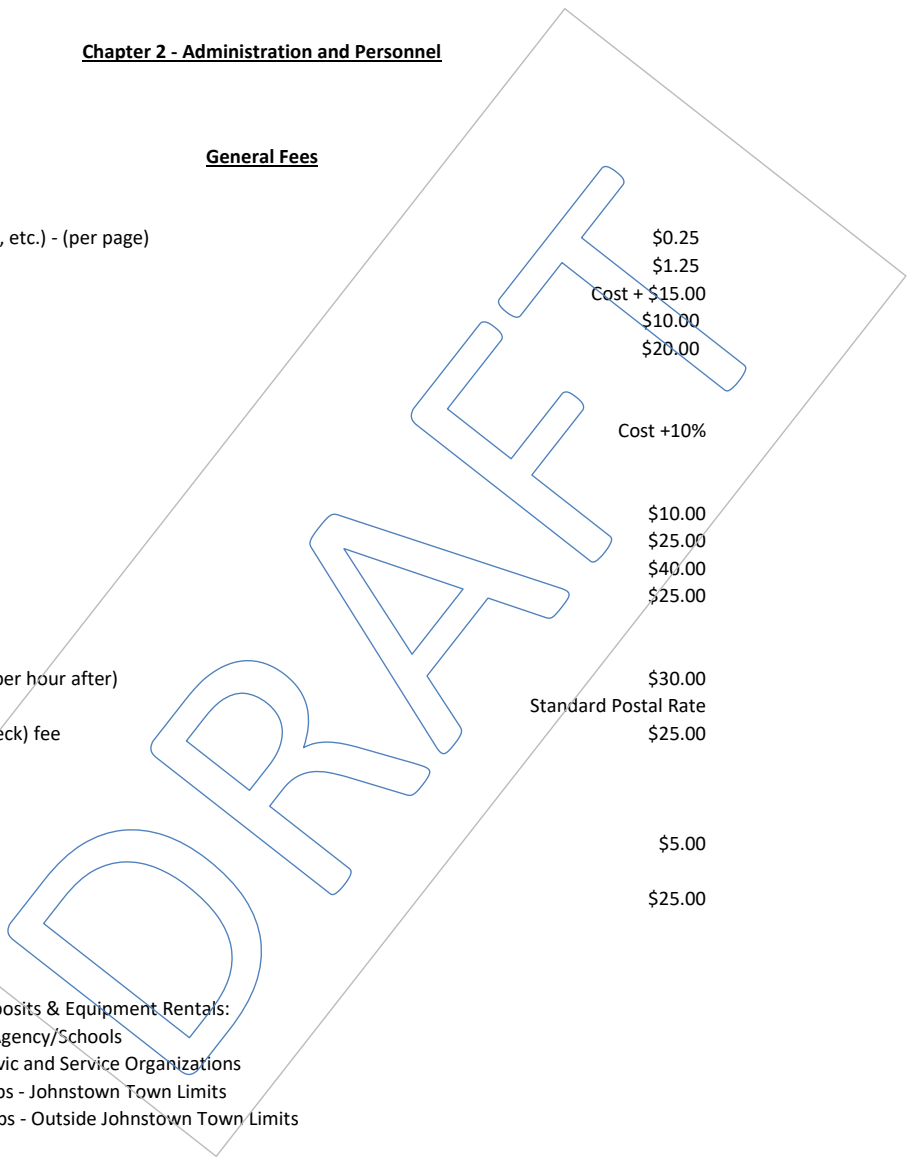
Johnstown Community Complex:

- Room Rental Fees, Damage Deposits & Equipment Rentals:
- Class I: Government Agency/Schools
  - Class II: Non-Profit/Civic and Service Organizations
  - Class III: Private Groups - Johnstown Town Limits
  - Class IV: Private Groups - Outside Johnstown Town Limits

	<u>Large Room</u>	<u>Small Room</u>
Class I	No Charge/Negotiated	No Charge/Negotiated
Class II	No Charge/Negotiated	No Charge/Negotiated
Class III	\$30.00/hr	\$15.00/hr
Class IV	\$50.00/hr	\$25.00/hr

Damage Deposits

Kitchen	No charge
Large Room (No Alcohol) - 1 to 50 People (inside RE-5J district)	\$200.00
Large Room (No Alcohol) - 51 to 200 people (inside RE-5J district)	\$300.00
Large Room (No Alcohol) - 1 to 200 people (outside RE-5J district)	\$400.00
Large Room (With Alcohol)	\$500.00





Town of Johnstown - Fee Schedule

Item 5.

Damage Deposits:		
Kitchen:		
	Class I - IV (includes all but dishwasher)	\$50.00
Alcohol:		
	Class I - IV (4hr maximum - stop serving by 12:00 am)	\$200.00
General:		
	Class I - III	\$20.00
Equipment Rentals:		
	TV, VCR, Overhead projector, Extension cords and screen may be used if available	

**ARTICLE III Municipal Court**

**Sec. 2-74 Fees imposed by the Municipal Court**

Parking Citations	\$10.00	Need to change to fee schedule in code
Traffic Citations	\$25.00	Need to change to fee schedule in code
All other citations	Up to 10% of fine	Need to change to fee schedule in code

**Chapter 4 - Revenue and Finance**

**ARTICLE IV Sales Tax**

**Sec. 4-55 (8) License for retail sale of tangible property**

Business License	\$50.00	
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**ARTICLE VI Development Cost Reimbursement**

**Sec. 4-91 Funds deposit agreement**

Development Deposit	Per cost agreement	
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**ARTICLE VII Lodging Tax**

**Sec. 4-103 Tax Levied**

Lodging Tax	3%	
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**Sec. 4-111 Penalties; assessment**

Penalty	10% of tax due or \$10 whichever is greater	Need to change to fee schedule
Interest	1.5% monthly	Need to change to fee schedule
Penalty due to fraud	50%	Need to change to fee schedule
Docket fee	\$50.00	Need to change to fee schedule

**Chapter 5 - Franchises and Communication Systems**

**ARTICLE III Telephone Occupation Tax**

**Sec. 5-91 Levy of tax; amount**

Per telephone account/monthly	\$.30/month/line	Need to change to fee schedule
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**ARTICLE IV Franchise Expenses**

**Sec. 5-111 Application**

Franchise Deposit	\$5,000.00	Need to change to fee schedule
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**Sec. 5-113 Payment of Town expenses**

Expenses/Deposits	We need to eliminate the \$\$ value in this section	
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**Chapter 6 - Business Licenses and Regulations**

**ARTICLE I Licenses and Permits Generally**

**Sec. 6-6 Fees**

Business Licenses	\$50.00	Need to change to fee schedule
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**Town of Johnstown - Fee Schedule**

Item 5.

**ARTICLE II Fireworks Permit**

**Sec. 6-42 Application**

Application Fee (to Fire Chief) \$10.00 **Need to change to fee schedule**

**Sec. 6-46 Cleanup bond**

Pyrotechnic display \$200.00 **Need to change to fee schedule**

**ARTICLE III Fireworks Public Display Permit**

**Sec. 6-63 Application**

Fireworks Public Display Permit \$10.00 **Need to change to fee schedule**

**ARTICLE IV Auction and Auctioneers**

**Sec. 6-83 Fee**

Auction/Auctioneer \$5/day **Need to change to fee schedule**  
 Auction House \$5/Year **Need to change to fee schedule**

**ARTICLE V Skating Rinks, Merry-Go-Rounds, Shows and Exhibitions**

**Sec. 6-102 Fees**

License Fee Set by Council

**ARTICLE VI Skating Rinks, Merry-Go-Rounds, Shows and Exhibitions**

**Sec. 6-111 License fee; when payable**

Coin operated game machines \$20.00/each machine **Need to change to fee schedule**

**ARTICLE VII Peddlers and Solicitors**

**Sec. 6-133 Application; application fee**

Solicitor's/Peddler's \$10.00 **Need to change to fee schedule**

**Sec. 6-135 License fee**

Solicitor's/Peddler's License \$2.50/Day **Need to change to fee schedule**  
 \$10.00/Week **Need to change to fee schedule**  
 \$25.00/Month **Need to change to fee schedule**  
 \$50.00/Annual **Need to change to fee schedule**

**Sec. 6-174 License fee - Liquor License**

License fee state liquor law license fee  
 Application fee Fee is equal to maximum amount set by state liquor laws

**ARTICLE VIII Tree Trimmers**

**Sec. 6-161 Application and licensing required for tree trimmers**

License \$5.00 **Need to change to fee schedule**

**ARTICLE X Contractor Licenses**

**Sec. 6-186 Forms; fees; validity**

Contractor license - per year \$100.00 **Need to change to fee schedule**

**Sec. 6-189 Disciplinary procedures, violations and penalties**

Docket fee \$50.00 **Need to change to fee schedule**

**Chapter 7 - Health, Sanitation and Animals**

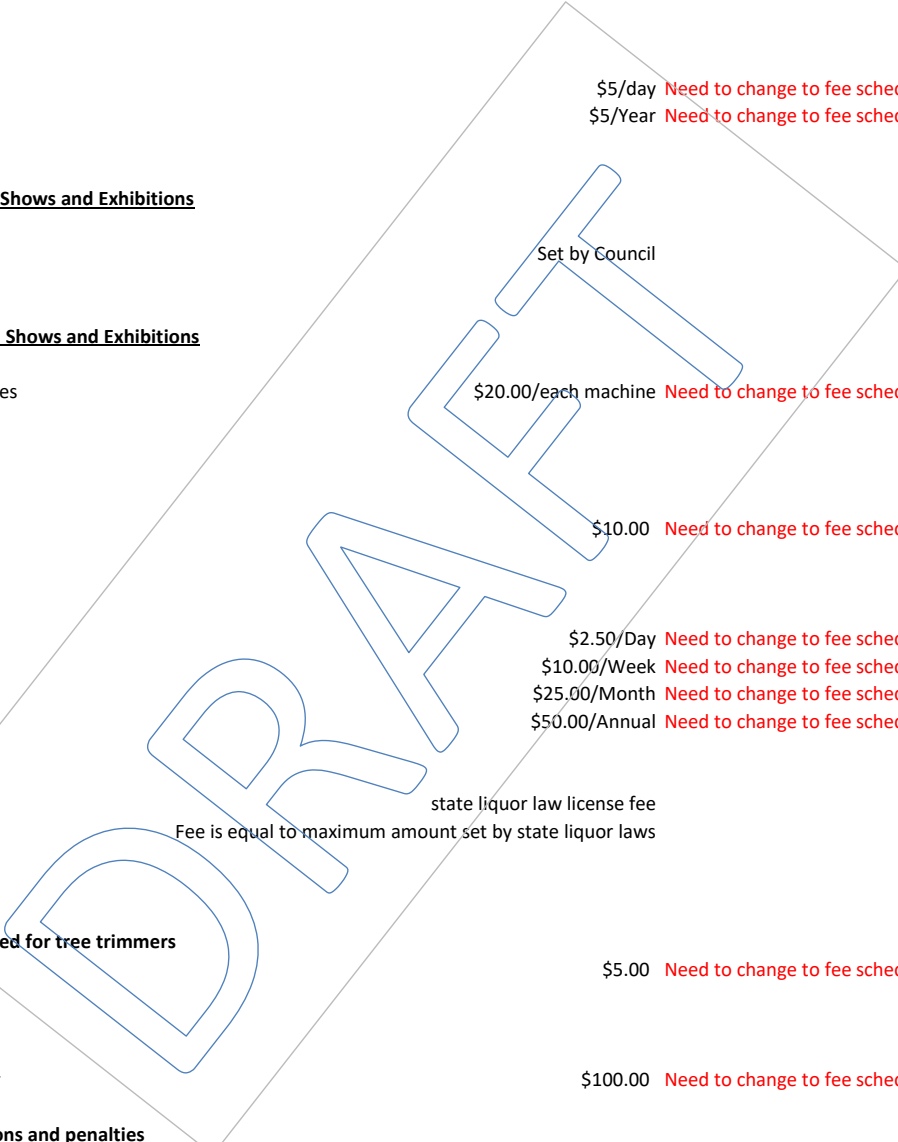
**ARTICLE III Garbage and Refuse**

**Sec. 7-43 Accumulation of refuse; abatement**

Abatement of property Actual Cost + 10%

**Sec 7-62 Persons Served by water taps to receive service...**

Refuse Collection (per month):  
 Standard service - 95 gallon tote \$11.14 **Need to reference fee schedule**  
 Senior service - 65 gallon tote \$8.42



**Town of Johnstown - Fee Schedule**

Item 5.

**ARTICLE V Weeds**

**Sec. 7-82 Abatement by Town; assessment of costs**  
Abatement of weeds

Actual Cost + 5%

**ARTICLE VI Trees**

**Sec. 7-106 Failure to remove trees upon notice; removal by Town; costs to be charged to owner**  
Tree removal

Actual Cost + 5%

**Sec. 7-107 Cost for removal of trees on lots or blocks along sidewalk**  
Tree removal/tree trimming

Actual Cost + 5%

**Sec. 7-108 Failure to pay assessment; lien created**  
Lien surcharge

Actual Cost + 10%

**ARTICLE VII Animal Control**

**Sec. 7-128 License Fee**

Spayed/Neutered (per year)  
Not spayed/neutered (per year)

\$4.00  
\$10.00

**Sec. 7-131 License; duplicate tags; ownership changes**

Duplicate tag  
Ownership change:  
    Spayed/Neutered  
    Not spayed/neutered

\$1.00 **Need to change to fee schedule**  
\$4.00 **Need to change to fee schedule**  
\$10.00 **Need to change to fee schedule**

**Sec. 7-154 Violation; penalty**

First Offense  
Second Offense  
Third Offense

Min \$25.00 - Max \$1,000 **Need to change to fee schedule**  
Min \$50.00 - Max \$1,000 **Need to change to fee schedule**  
Min \$75.00 - Max \$1,000 **Need to change to fee schedule**

**Chapter 8 - Vehicles and Traffic**

**ARTICLE II Model Traffic Code**

**Sec. 8-26 Penalties**

See section 1-62 & 1-63

Up to \$2,650

**ARTICLE V Traffic Safety Regulations**

**Sec. 8-81 Compulsory proof of insurance**

Penalties

≥\$100.00 **Need to change to fee schedule**

**Sec. 8-82 Mandatory use of safety belt**

See section 1-62 & 1-63

Up to \$2,650

**Sec. 8-83 Mandatory routes for overweight trucks**

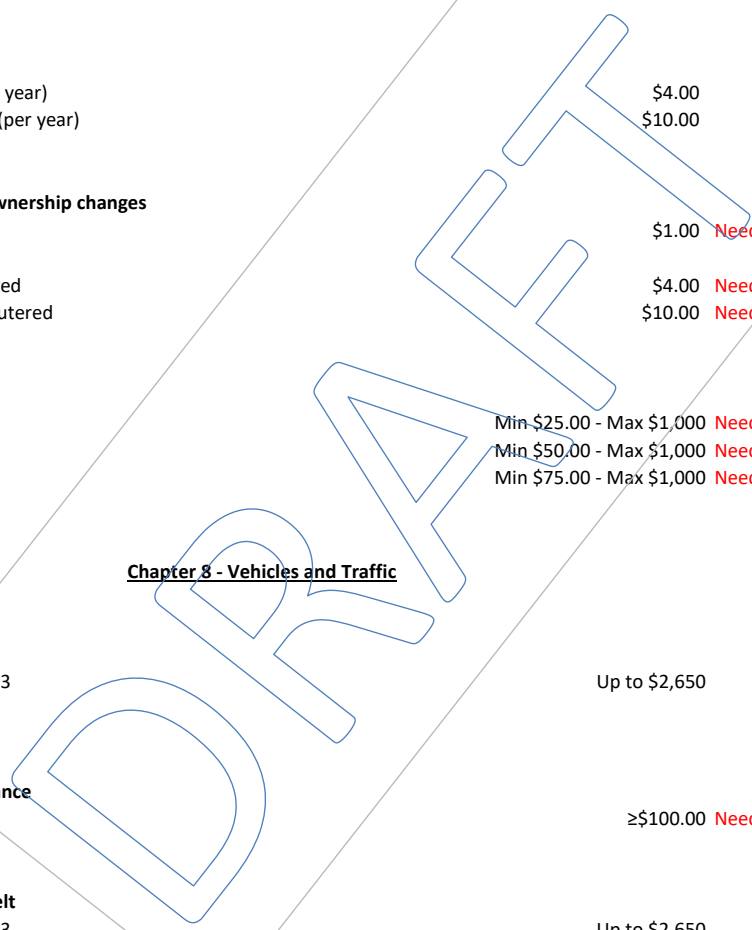
Violation

\$500.00 **Need to change to fee schedule**

**ARTICLE VI Golf Cars**

**Sec. 8-87 Inspection and permitting requirements (every 3 years)**

\$20.00 **Need to change to fee schedule**



**Town of Johnstown - Fee Schedule**

Item 5.

Chapter 11 - Streets, Sidewalks and Public Property

**ARTICLE III Sidewalks, Curbs and Gutters**

**Sec. 11-42 Notice and order to install sidewalk, curb, gutter or curbwalk...**

Penalty Actual Cost

**ARTICLE VI Cemetery**

**Sec. 11-111 Grave spaces and charges (includes grave opening)**

Resident - with perpetual care	\$1,600.00	Res. #2010-06	Need to change to fee schedule
Non resident - with perpetual care	\$3,000.00		Need to change to fee schedule
Weekend or holiday openings	\$1,200.00		Need to change to fee schedule

**Sec. 11-115 Cost of grave openings**

Weekdays	\$700.00	Need to change to fee schedule
Saturdays	See weekend/holiday openings	Need to change to fee schedule

**Sec. 11-120 Urn ashes**

Columbarium	\$1,500.00	
Urn space with perpetual care (resident)	\$850.00	Need to change to fee schedule
Urn space with perpetual care (nonresident)	\$1,350.00	Need to change to fee schedule
Grave openings on weekends or holidays	\$700.00	Need to change to fee schedule
Urn sites not subject to above terms:		
Grave openings on weekdays	\$350.00	Need to change to fee schedule
Grave openings on weekends or holidays	See weekend/holiday openings	Need to change to fee schedule

**Sec. 11-127 Infant graves at reduced price**

Resident	\$100.00	Need to change to fee schedule
Nonresident	\$200.00	Need to change to fee schedule

**Sec. 11-143 Disinterment charges**

Disinterment charges	\$250.00	Need to change to fee schedule
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Chapter 13 - Municipal Utility

**ARTICLE I General**

**Sec. 13-7. Billing procedure and general utility charges**

Late fee	\$10.00
NSF check fee	\$25.00
Duplicate bill (per month)	\$2.00
New user account set up fee	\$10.00
County special assessment fee	10% of balance due
Recording Lien on property	Actual cost

**Sec. 13-8. Utility service charges, delinquencies; remedies.**

New service connection fee	\$10.00
Restoration fee	\$40.00

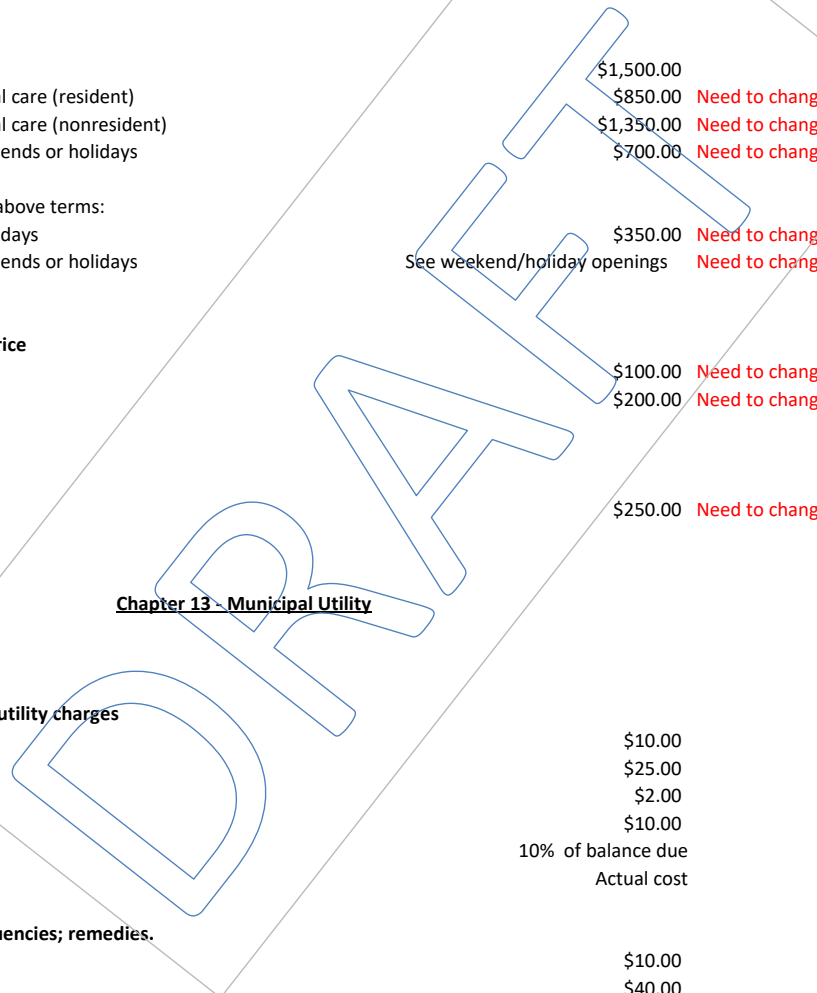
**ARTICLE II Sewer**

**Sec. 13-44. Private wastewater disposal**

Permit and inspection fee:	
Residential and Commercial	Set by Council or \$1,000
Industrial	Set by Council or \$1,000

**Sec. 13-45. Sanitary sewers, building sewers and connections.**

Building sewer permits:	
Residential	\$100.00
Commercial	\$500.00



**Town of Johnstown - Fee Schedule**

Item 5.

**Sec. 13-52. Sewer service charges.**

Customer Class - In Town:	<u>Base</u>	<u>Usage*</u>
Residential	\$31.56	\$3.63/1000g
Nonresidential	\$31.56	\$3.63/1000g
RV facility with disposal station(s)(per pad)	\$12.62	

\*Usage amount calculated by averaging water use during the months of December, January, and February

Customer Class - Outside Town:	<u>Base</u>	<u>Usage*</u>
Residential	\$47.34	\$5.45/1000g
Nonresidential	\$47.34	\$5.45/1000g
RV facility with disposal station(s)(per pad)	\$18.93	

\*Usage amount calculated by averaging water use during the months of December, January, and February

Surcharge for solids and irregular concentrations	
BOD	\$.0698/lb
Suspended solids	\$.107/lb

Industrial Users - domestic treatment only Calculation

**Sec. 13-55. Sewer Tap Fees**

Sewer tap fees:	
Single Family, Duplex, Town Homes (per unit)	
≤ 3/4"	\$5,280.00
1"	\$7,650.00
1.5"	\$14,850.00
2"	\$23,850.00
3"	\$52,650.00
Multi Family (per Unit)	\$2,640.00

Water Meter Size - Out of Town Rates	
≤ 3/4"	\$7,920.00
1"	\$11,475.00
1.5"	\$22,275.00
2"	\$35,775.00
3"	\$78,975.00

Low Point Waste Water Treatment Plant Expansion -	
≤ 3/4"	\$4,589.00
1"	\$7,663.63
1.5"	\$15,281.37
2"	\$24,459.37
3"	\$48,964.63
4"	\$76,498.63
6"	\$152,951.37
8"	\$244,731.37

Sewer Regional Improvement Fee:	
Per Single Family Equivalent	\$9,500.00
Duplex and Triplex (per unit)	\$7,500.00
Town Homes <8 units/acre (per unit)	\$6,500.00
Town Homes >8 units/acre (per unit)	\$6,000.00
Multi-Family (per unit)	\$5,000.00
Commercial, Industrial and Other (per SFE)	\$9,500.00

**Town of Johnstown - Fee Schedule**

Item 5.

**ARTICLE III Water**

**Sec. 13-74. Meters generally, maintenance, cost of installation.**

Meter Cost*:	
5/8" Meter	\$475.00
3/4" Meter	\$495.00
1" Meter	\$630.00
1.5" Meter	\$875.00
2.0" Meter	\$1,150.00
2.5" <	To be individually calculated

\* Meter yokes, meter pits, meter domes, including lid and inner lid are the responsibility of the contractor. All items must be listed on the approved material list.

Meter Testing fee	\$100.00
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**Sec. 13-75. Potable Water Tap and Raw Water Development Fee**

Potable water tap fee:

Water Meter Size - In Town Rates	
≤ 3/4"	\$6,437.00
1"	\$10,247.98
1.5"	\$19,893.14
2"	\$31,949.59
3"	\$70,530.23

Water Meter Size - Out of Town Rates	
≤ 3/4"	\$9,655.50
1"	\$15,371.97
1.5"	\$29,839.71
2"	\$47,924.39
3"	\$105,795.35

Raw Water Development Fee:	
≤ 3/4"	\$5,441.96
1"	\$9,251.32
1.5"	\$17,958.45
2"	\$28,842.37
3"	\$63,670.88

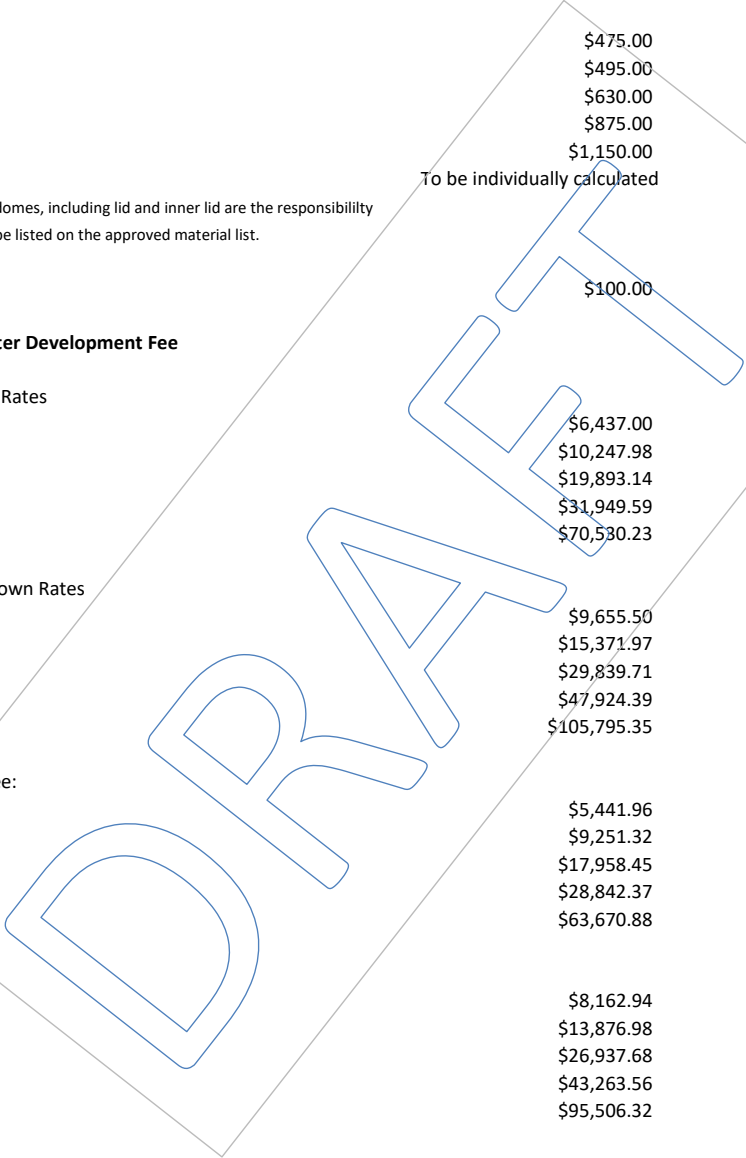
Out of Town Rates:	
≤ 3/4"	\$8,162.94
1"	\$13,876.98
1.5"	\$26,937.68
2"	\$43,263.56
3"	\$95,506.32

**Sec. 13-77. Meter obstruction.**

Meter obstruction fee (per incidence)	\$100.00
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**Sec. 13-78. Disconnection of Service.**

Service restoration fee	\$40.00
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**Town of Johnstown - Fee Schedule**

Item 5.

**Sec. 13-79. Water service charges.**

Water Usage Rates:

Residential - Single Family Equivalent - In Town:

Base	\$21.53
Volume charge - 0 - 5,000 gallons	\$3.00
Volume charge - 5,001 - 10,000 gallons	\$3.45
Volume charge - 10,001 - 15,000 gallons	\$3.97
Volume charge - 15,001 - 20,000 gallons	\$4.56
Volume charge - 20,001 - 25,000 gallons	\$5.25
Volume charge - >25,000 gallons	\$6.03

Residential - Single Family Equivalent - Outside Town:

Base	\$32.30
Volume charge - 0 - 5,000 gallons	\$4.50
Volume charge - 5,001 - 10,000 gallons	\$5.18
Volume charge - 10,001 - 15,000 gallons	\$5.95
Volume charge - 15,001 - 20,000 gallons	\$6.84
Volume charge - 20,001 - 25,000 gallons	\$7.87
Volume charge - >25,000 gallons	\$9.05

Residential - Multi-Family - In Town:

Base (per dwelling unit)	\$10.77
Volume charge - 0 - 100,000 gallons	\$3.00
Volume charge - 100,001 ≤	\$4.56

Residential - Multi-Family - Out of Town:

Base (per dwelling unit)	\$16.15
Volume charge - 0 - 100,000 gallons	\$4.50
Volume charge - 100,001 ≤	\$6.84

Nonresidential/Commercial/Industrial - In Town:

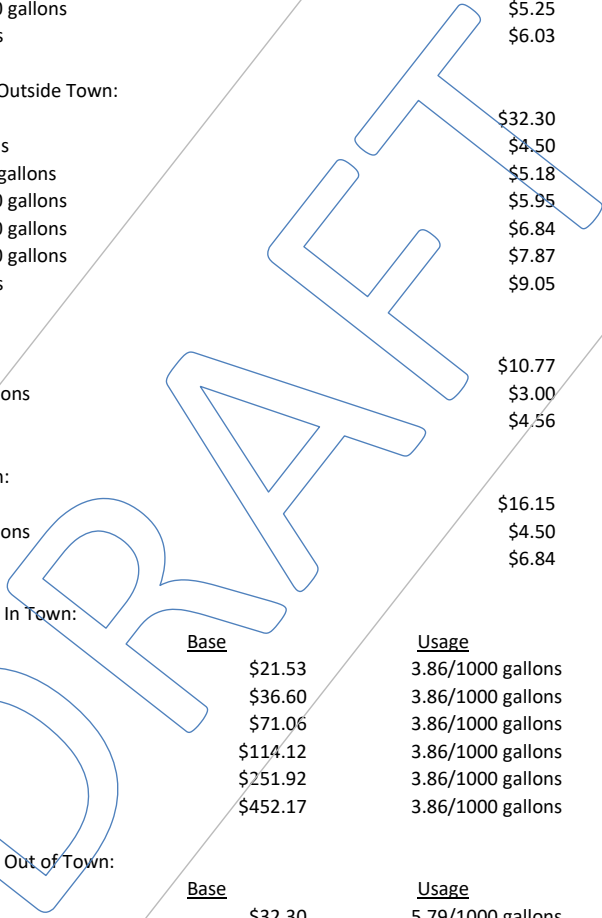
By meter size:	<u>Base</u>	<u>Usage</u>
Commercial - 5/8"	\$21.53	3.86/1000 gallons
Commercial - 1"	\$36.60	3.86/1000 gallons
Commercial - 1.5"	\$71.06	3.86/1000 gallons
Commercial - 2"	\$114.12	3.86/1000 gallons
Commercial - 3"	\$251.92	3.86/1000 gallons
Commercial - 4"	\$452.17	3.86/1000 gallons

Nonresidential/Commercial/Industrial - Out of Town:

By meter size:	<u>Base</u>	<u>Usage</u>
Commercial - 5/8"	\$32.30	5.79/1000 gallons
Commercial - 1"	\$54.90	5.79/1000 gallons
Commercial - 1.5"	\$106.59	5.79/1000 gallons
Commercial - 2"	\$171.18	5.79/1000 gallons
Commercial - 3"	\$377.88	5.79/1000 gallons
Commercial - 4"	\$678.26	5.79/1000 gallons

Bulk water \$11.00

Raw water use - per 1000 gallons \$1.75



**Town of Johnstown - Fee Schedule**

Item 5.

**Article V - Water Rights Dedication**

**Sec.13-117. Procedure.**

Court Fees (water rights decreed for municipal use):	
Consolidated Home Supply Ditch	\$150/SFE
Colorado Big Thompson	\$0.00
Other acceptable water rights	\$150/SFE
Court Fees (water rights not decreed for municipal use):	
Consolidated Home Supply Ditch	\$300/SFE
Colorado Big Thompson	\$0.00
Other acceptable water rights	\$300/SFE

**Article VI - Water Conservation**

**Sec. 13-151. Levels of drought condition.**

New grass/sod watering permit	\$50.00
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**Sec. 13-153. Drought surcharge.**

Drought surcharge	To be determined as needed.
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**Sec. 13-154. Penalty for violation**

First offense	Written warning
Second offense	≥ \$100.00
Third offense	≥ \$250.00
Fourth + offense	≥ \$500.00

**ARTICLE VII Storm Water Utility**

**Sec. 13-175 Storm water fees**

System development charges	\$1,100/acre
Storm water management utility fee (monthly)	\$5.00/ERU

**Chapter 15 - Annexation**

**Sec. 15-4 Procedure prior to approval or denial of petition; approval or denial**

Annexation filing fee	\$100.00	Need to change to fee schedule
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**Chapter 16 - Zoning**

**ARTICLE V Amendments**

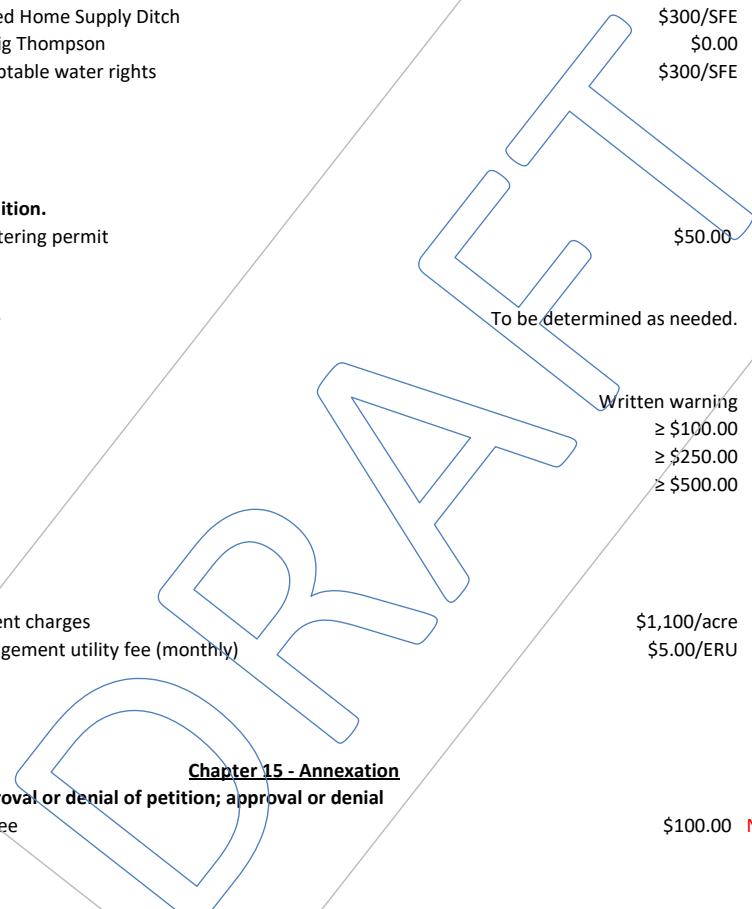
**Sec 16-62 Procedure**

Amendment fee	\$25.00	Need to change to fee schedule
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**ARTICLE XX Sign Code**

**Sec 16-363 Permit Requirements**

Sign Permit	Varies based on project valuation
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Town of Johnstown - Fee Schedule

Item 5.

Chapter 17 - Subdivisions

**ARTICLE II Applicability of Regulations**

**Sec. 17-13 Fees**

Preliminary Plat	\$500.00	Need to change to fee schedule
Final Plat	\$500.00	Need to change to fee schedule
Each filing	\$25.00	Need to change to fee schedule
Recording Fee	Actual Cost	

**ARTICLE IV Dedication and Reservation of Land**

**Sec. 17-51 Dedication**

Park Fee	\$500.00/lot	Need to change to fee schedule
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**ARTICLE XII Impact Fees\***

**Sec. 17-224 Transportation Facilities Development Fee**

Residential:		
Detached Housing	2,777.00	Need to change to fee schedule
Attached Housing	2,363.00	Need to change to fee schedule
Nonresidential Development by Type:		
Retail	\$4.92/SF	Need to change to fee schedule
Office	\$2.98/SF	Need to change to fee schedule
Industrial/Other	\$1.92/SF	Need to change to fee schedule

**Sec. 17-225 Parks and Recreation Facilities Development Fee**

Residential:		
Single-family detached	1,194.00	Need to change to fee schedule
All other dwelling units	1,016.00	Need to change to fee schedule

**Sec. 17-226 Public Facilities Development Fee**

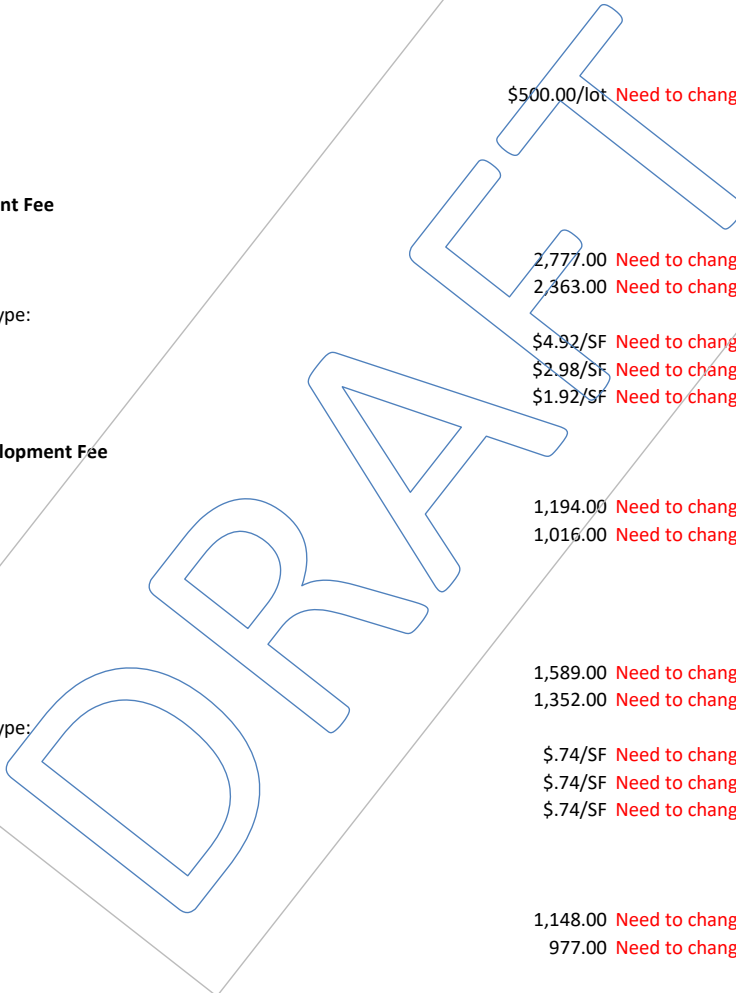
Residential:		
Detached Housing	1,589.00	Need to change to fee schedule
Attached Housing	1,352.00	Need to change to fee schedule
Nonresidential Development by Type:		
Retail	\$.74/SF	Need to change to fee schedule
Office	\$.74/SF	Need to change to fee schedule
Industrial/Other	\$.74/SF	Need to change to fee schedule

**Sec. 17-227 Library Facilities Development Fee**

Residential:		
Single-family detached	1,148.00	Need to change to fee schedule
All other dwelling units	977.00	Need to change to fee schedule

**Sec. 17-228 Police Facilities Development Fee**

Residential:		
Detached Housing	733.00	Need to change to fee schedule
Attached Housing	624.00	Need to change to fee schedule
Nonresidential Development by Type:		
Retail	\$.68/SF	Need to change to fee schedule
Office	\$.25/SF	Need to change to fee schedule
Industrial/Other	\$.25/SF	Need to change to fee schedule



**Town of Johnstown - Fee Schedule**

Item 5.

**Sec. 17-230 - Fire and emergency services provider facilities development fee**

Loveland Fire Rescue Authority

Residential

Single Family  
Multi Family

Fee Per Dwelling Unit

895.00 *Need to change to fee schedule*  
622.00 *Need to change to fee schedule*

Nonresidential

Commercial (per square foot)  
Industrial (per square foot)

0.30  
0.03

Front Range Fire Rescue Fire Protection District

Residential

Single Family or Two-Family  
Multi Family

Fee Per Dwelling Unit

1,087.00 *Need to change to fee schedule*  
692.00 *Need to change to fee schedule*

Nonresidential (per square foot)

0.60

**Sec. 17-247 Payment of Costs**

Site specific development plan based on external costs including:

Development Review  
Publication and Printing  
Public Hearings & Reviewing

Actual costs  
Actual costs  
Actual costs  
Actual costs

**Sec. 17-288 Administrative review; appeals**

Docket fee

\$50.00

\* Impact fees are set by ordinance but for convenience have been included in this document.

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**Town of Johnstown - Fee Schedule**

Item 5.

**Building Permit Fees**

**Sec. 18-121 Fees and Charges**

IBC/IRC Building Permit Fee Table:

Total Valuation (in dollars)	Base Fee	Additional fee (or fraction thereof)
1 - 500	23.50	0
500 - 2,000	23.50	\$3.05 per \$100 of value
2,000 - 25,000	69.25	\$14.00 per \$1000 of value
25,000 - 50,000	391.25	\$10.10 per \$1000 of value
50,000 - 100,000	643.75	\$7.00 per \$1000 of value
100,000 - 500,000	993.75	\$5.60 per \$1000 of value
500,000 - 1,000,000	3,233.75	\$4.75 per \$1000 of value
1,000,000 +	5,608.75	\$3.65 per \$1000 of value

**Building Plan Submittal/Review Fees:**

Non-residential	65% of Permit Fee
Residential	30% of Permit Fee
Residential - new home or new stock plan review	\$500.00
Residential - new stock home, basement, alteration	\$50.00
Residential - addition, detached garage, shed, etc	\$100.00
Residential - miscellaneous, deck, arbor	\$20.00
Plan resubmittal fee	\$50.00
Cost of external consulting reviews	Actual cost

**Electrical Fees:**

Meter (temporary & permanent) - each	\$38.00
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**Commercial, Solar & Non-living Residential spaces:**

Total Valuation (in dollars)	Base Fee	Additional fee (or fraction thereof)
≤ \$2,000	77.00	n/a
≥ \$2,000	77.00	\$6.00 per \$1000 of value

**Residential Living Space:**

Total Valuation (in square feet)	Base Fee	Additional fee (or fraction thereof)
≤ 1,000	77.00	n/a
1,001 - 1,500	116.00	n/a
1,501 - 2,000	155.00	n/a
2,001 +	155.00	\$6.00 per 100 square feet

**Development and Other Fees:**

Johnstown Use Tax	3.50%
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**Inspection & Miscellaneous Fees:**

Backflow Preventer	\$47.00
Building Re-inspection, After Hours, Plan Resubmittal (per hour)	\$47.00
Electrical Re-inspection (per hour)	\$50.00
Temporary Certificate of Occupancy (6 month expiration)	\$600.00