

## CHAPTER 3

### Public Works

<b>Article I</b>	<b>Excavation, Grading and Right-of-Way Encroachment</b>	
	Sec. 3-1-1	Excavation and grading
	Sec. 3-1-2	Liability for damages
	Sec. 3-1-3	Violations and penalties
<b>Article II</b>	<b>Water and Sewer Administration</b>	
	Sec. 3-2-1	Use classification schedule
	Sec. 3-2-2	Billings and payments
	Sec. 3-2-3	Service shutoff; delinquent charges
	Sec. 3-2-4	System extensions
	Sec. 3-2-5	Rebate of extension cost
	Sec. 3-2-6	Violations and penalties
<b>Article III</b>	<b>Sewers</b>	
	Sec. 3-3-1	Definitions
	Sec. 3-3-2	Management authority designated
	Sec. 3-3-3	Powers and duties of Public Works Director
	Sec. 3-3-4	Unlawful disposition of unsanitary matter
	Sec. 3-3-5	Unlawful discharge into natural outlets
	Sec. 3-3-6	Standards for measurements, tests and analyses
	Sec. 3-3-7	Vandalism of water and sewage works property prohibited
	Sec. 3-3-8	Joint water and sewer service limited
	Sec. 3-3-9	Private systems
	Sec. 3-3-10	Prohibited and permitted uses
	Sec. 3-3-11	Connections; maintenance and repair
	Sec. 3-3-12	Permit requirements, procedures and fees
	Sec. 3-3-13	Rates and charges
<b>Article IV</b>	<b>Water</b>	
	<i>Division 1</i>	<i>Water System</i>
	Sec. 3-4-1	Policy and purpose
	Sec. 3-4-2	Definitions
	Sec. 3-4-3	Conditions for use; permit required
	Sec. 3-4-4	Responsibility for installation and maintenance
	Sec. 3-4-5	Damage to structures or equipment
	Sec. 3-4-6	Use for industrial purposes
	Sec. 3-4-7	Metering of services
	Sec. 3-4-8	Customer plumbing
	Sec. 3-4-9	Right of entry for inspections, repairs and installations
	Sec. 3-4-10	Responsibility for cost
	Sec. 3-4-11	Separate lines for each structure
	Sec. 3-4-12	Approval of materials and installation by Town
	Sec. 3-4-13	Specifications for construction and installation
	Sec. 3-4-14	Service taps
	Sec. 3-4-15	Water tap fees and unmetered water service charges
	Sec. 3-4-16	System development fees and connection charges
	Sec. 3-4-17	Rates and charges
	Sec. 3-4-18	Tampering with or pollution of system; penalties
	Sec. 3-4-19	Powers and duties of Public Works Director

<i>Division 2</i>	<i>Cross-Connection and Backflow Control</i>
Sec. 3-4-31	Policy and purpose
Sec. 3-4-32	Control requirements
Sec. 3-4-33	Existing cross-connections
Sec. 3-4-34	Irrigation and fire systems
Sec. 3-4-35	Violations and penalties

**Article V Overhead Utilities**

Sec. 3-5-1	Intent
Sec. 3-5-2	Definitions
Sec. 3-5-3	Utilities in newly developed areas
Sec. 3-5-4	Repair and replacement of utility lines
Sec. 3-5-5	Upgrading and rerouting utility lines
Sec. 3-5-6	Prohibited acts
Sec. 3-5-7	Violations and penalties
Sec. 3-5-8	Emergency service
Sec. 3-5-9	Exceptions

**Article VI Design, Construction and Excavation Criteria and Standards**

Sec. 3-6-1	Authority of Public Works Director
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**Article VII Public Right-of-Way Use – Encroachments, Prohibited Acts and Conditions**

Sec. 3-7-1	Encroachments, litter prohibited
Sec. 3-7-2	Restrictions on tires and equipment
Sec. 3-7-3	Road closures prohibited
Sec. 3-7-4	Street monuments
Sec. 3-7-5	Violations and penalties

**Article VIII Flood Damage Prevention**

Sec. 3-8-1	Legislative declaration
Sec. 3-8-2	Statement of purpose
Sec. 3-8-3	Methods of reducing flood losses
Sec. 3-8-4	Definitions
Sec. 3-8-5	Lands to which this Article applies
Sec. 3-8-6	Basis for establishing the areas of special flood hazard
Sec. 3-8-7	Compliance
Sec. 3-8-8	Enforcement and penalties
Sec. 3-8-9	Abrogation and greater restrictions
Sec. 3-8-10	Interpretation
Sec. 3-8-11	Warning and disclaimer of liability
Sec. 3-8-12	Procedures and administration
Sec. 3-8-13	Designation of the Public Works Director
Sec. 3-8-14	Duties and responsibilities
Sec. 3-8-15	Variance procedure
Sec. 3-8-16	Amendment procedure
Sec. 3-8-17	General standards
Sec. 3-8-18	Specific standards
Sec. 3-8-19	Floodways

## ARTICLE I

### Excavation, Grading and Right-of-Way Encroachment

#### Sec. 3-1-1. Excavation and grading.

(a) Approval required; rules and regulations. The Public Works Director shall have authority to promulgate necessary rules and regulations to implement the purposes of this Section, impose fees, adequately regulate the issuance of right-of-way encroachment excavation permits, the conduct of excavation pursuant to such permits, the placement of cut and fill material and the subsequent repair and/or restoration of public rights-of-way. No activities described herein may be conducted without a permit or site plan approval as required herein.

(b) Right-of-way excavation and encroachment permits. An excavation and encroachment permit shall be obtained whenever a developer, contractor, property owner, utility company or other individual purposes to install utility lines, landscaping, culverts, driveway paving, or any other improvement or alteration in a Town road right-of-way or wishes to obtain access to a Town street. For the purposes of this Section, utilities include water, sewer, natural gas, electricity, telephone and cable television. Excavation and encroachment permits are required to assure that the method of installation meets Town specifications, allows for proper drainage and adequate revegetation of disturbed area outside the roadway and to assure adequate reconstruction and/or repair of any damage to Town roads or right-of-way caused thereby.

(c) General grading, excavation and/or stockpiling or placement of fill. All site grading activities, including but not limited to excavation and/or fill or stockpiling activities within privately or publicly owned parcels for which there is not an approved site plan and/or valid building permit issued shall be reviewed as "property development," and as a "site plan" pursuant to the requirements specified in Section 4-4-3 of this Code. The site plan approval, when issued, shall constitute the general grading permit. Any grading proposal, regardless of its size and scope, shall be reviewed by the Town Council for comment prior to final decisions as required by Section 4-4-3.

(d) Exemptions. The following activities are exempt from Subsections (a)—(c) of this Section:

(1) When approved by the Public Works Director or the Town Engineer in writing, grading in an isolated, self-contained area if there is no danger to private or public property. Maximum quantities of material moved shall not exceed fifty (50) cubic yards.

(2) Cemetery graves, if located within a zone district which permits this use.

(3) Excavations for utilities.

(4) Refuse disposal sites for which other permits are issued by the Town or to which other Town requirements specifically apply.

(5) Exploratory excavations under the direction of soil engineers or engineering geologists.

(6) Topsoil for landscaping not to exceed fifty (50) cubic yards unless otherwise approved in writing by the Public Works Director or Town Engineer.

(7) Excavation, stockpiling, encroachment or site development conducted by the Town on property owned or controlled by the Town.

(e) Grading impacts and revegetation. All graded or filled areas shall be revegetated in accordance with requirements listed in Section 4-4-22. All grading related activities shall not fill, alter or divert any drainages, whether historic or developed, nor shall impact any environmentally sensitive areas such as wetlands, nor shall result in potential safety or access problems without prior approval from the Town Council.

(f) Public safety. Whenever the Public Works Director or the Town Engineer determines that any existing excavation or embankment or fill on private property has become a hazard to life and limb, or endangers property or adversely affects the safety, use or stability of a public way or drainage channel, or has adverse wetlands or environmental impacts, the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the Public Works Director or the Town Engineer, shall within the period specified herein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this Article. (Ord. 1994-15 §2; Ord. 1995-1 §1; Ord. 1999-14 §2; Ord. 2000-15 §1)

**Sec. 3-1-2. Liability for damages.**

Any person or business entity who shall undertake work pursuant to a permit issued under the provisions of this Article or perform work under contracts with the Town or by virtue of permission obtained from the Town shall be liable for all damage and personal injury to persons, animals or property by reason of intentional acts, negligence or carelessness connected with such work. (Prior code 90-14; Ord. 1994-15 §3; Ord. 1995-1 §1)

**Sec. 3-1-3. Violations and penalties.**

Any person found in violation of the provisions hereof or of any regulation adopted pursuant to Section 3-1-1 shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to such penalties as are provided in Chapter 1, Article I. (Prior code 90-23; Ord. 1994-15 §4)

## **ARTICLE II**

### **Water and Sewer Administration**

**Sec. 3-2-1. Use classification schedule.**

The following use classifications shall apply to both sewer and water rates.

(1) Residential classifications:

a. Single-family residential units (per unit). Single-family homes, duplexes and any residential unit, including condominiums and townhomes, serviced and billed individually, individually billed mobile homes, mobile homes on single lots and mobile homes established as permanent residences: one (1) EQR per up to three-bedroom and/or three-bathroom unit. For each additional bedroom over three (3), and for each additional bathroom over three (3): one-

tenth (0.1) of an EQR. NOTE: Only one (1) kitchen is permitted; if a residence has more than one (1) kitchen, then additional EQR values should be assigned in accordance with multi-family residential units. A *kitchen* is defined as any area having facilities for storing food, cooking and dishwashing.

b. Multi-family residential units intended for long-term rental. Apartments, single apartments (as defined in Sections 4-2-1 and 4-6-51 of this Code), condominiums, townhouses larger than a duplex or which do not have separate lots and individual billing services, small cabins in courts not associated with motels, and residential units combined with and a part of business or commercial buildings:

1. Four-or-more-bedroom unit (per unit): one and twenty-five hundredths (1.25) EQR.
2. Three-bedroom unit (per unit): one and five hundredths (1.05) EQR.
3. Two-bedroom unit, two (2) baths (per unit): eighty-five hundredths (0.85) EQR.
4. Two-bedroom unit, one (1) bath (per unit): eighty hundredths (0.80) EQR.
5. Single-bedroom or studio unit, one (1) bath (per unit): sixty-five hundredths (0.65) EQR.
6. Hot tubs.
  - a) Less than three hundred (300) gallons: twenty hundredths (0.20) EQR.
  - b) Larger than three hundred (300) gallons, per three hundred (300) gallons or fraction thereof: twenty hundredths (0.20) EQR.

NOTE: More than one (1) kitchen per unit will be charged additionally, i.e., as a multifamily unit; swimming pools are additive; common laundry facilities or individual laundry hookups are included in the values listed above; recreation rooms or clubhouse facilities are additive. A *bath* is defined as any area having a toilet.

c. Transient residential units. Hotels, motels, mobile home parks, dormitories, bed and breakfast hotels, hostels, recreational vehicle parks and similar facilities:

1. Manager's and employees' unit: Use multifamily or single-family or transient-residential-unit classification, as applicable (per unit). NOTE: Use single-family classification for unit with characteristics of a single-family dwelling. Use multifamily classification for a unit that is a part of a larger complex. Use transient-residential classification if facility furnished has characteristics of hotel, motel and similar facilities.

2. Motels, hotels and rooming houses without kitchen facilities:

- a) Units having not more than two (2) bed spaces (per rental unit): twenty-five hundredths (0.25) EQR.

b) Units having more than two (2) bed spaces per rental unit (per additional bed space): five hundredths (0.05) EQR.

3. Motels with kitchen facilities:

a) Units having not more than two (2) bed spaces (per rental unit): forty hundredths (0.40) EQR.

b) Units having more than two (2) bed spaces per rental unit (per additional bed space): five hundredths (0.05) EQR.

4. Mobile home parks (per each available space): eighty-five hundredths (0.85) EQR.  
NOTE: Includes laundry facilities within individual mobile home.

5. Dormitories, bed and breakfast hotels, and hostels (per each rental bed space): ten hundredths (0.10) EQR.

6. Recreational vehicle parks:

a) Camping or vehicle spaces without sewer hookup (per space): thirty-five hundredths (0.35) EQR.

b) Camping or vehicle spaces with sewer hookup (per space): forty hundredths (0.40) EQR.

NOTE: Includes central bath house facility, if provided. Retail space is additive. Spaces which have a mobile home year round are to be evaluated as a mobile home in Subsection (c)(1)c4 above.

7. Laundry facilities in classification unit complex are additive (per washing machine or available hookup): one and five hundredths (1.05) EQR.

8. Hot tubs:

a) Less than three hundred (300) gallons: twenty hundredths (0.20) EQR.

b) Larger than three hundred (300) gallons, per three hundred (300) gallons or fraction thereof: twenty hundredths (0.20) EQR.

NOTE: Swimming pools, laundry facilities and retail space within classification unit complex are additive. Recreation rooms and clubhouse facilities are additive.

(2) Commercial classifications:

a. Restaurants and bars. Restaurants, bars, lounges, banquet rooms and drive-ins:

1. Restaurants and bars [per ten (10) seats]: sixty-five hundredths (0.65) EQR. In areas with fixed seats, the number of fixed seats will be considered equal to the occupant load. In

areas without fixed seats, the occupant load will be determined by the Uniform Building Code - the most current edition adopted by the Town.

2. Banquet rooms [per ten (10) seats]: thirty-five hundredths (0.35) EQR. In areas with fixed seats, the number of fixed seats will be considered equal to the occupant load. In areas without fixed seats, the occupant load will be determined by the Uniform Building Code - the most current edition adopted by the Town.

3. Drive-ins (per car stall): thirty-five hundredths (0.35) EQR.

4. Take-out only or delivery only (i.e., bakery, pizza or hotdog stand, Orange Julius, etc.): one and zero-tenths (1.0) EQR per take-out area.

b. Commercial buildings. Office buildings, retail sales buildings, multiple-use buildings, laundromats, service stations, shops, garages and similar facilities:

1. Offices, office buildings, athletic facilities [per one thousand (1,000) square feet of gross occupied area]: sixty-five hundredths (0.65) EQR. *Occupied area* includes all work areas, including reception area, connecting halls, offices, conference rooms, file and storage rooms, hallways, stairwells, mechanical rooms, etc., which are common to more than one (1) tenant. A use which is not specifically listed below (such as a mechanical room) will be assigned the same use rate as its adjacent neighboring use as defined elsewhere in Section 3-2-1. The Public Works Director and/or Town Engineer will make this determination based on review of submitted floorplans.

2. Retail sales area [per one thousand (1,000) square feet of gross sales, stocking and display area], including hallways, stairwells, mechanical rooms, etc., which are common to more than one (1) tenant: thirty-five hundredths (0.35) EQR.

3. Laundromats (per washing machine or available hookup): one and sixty hundredths (1.60) EQR. NOTE: This category does not include commercial laundries.

4. Service stations:

a) The first six (6) or fewer fuel nozzles shall be charged forty hundredths (0.40) EQR each. Each nozzle in excess of the sixth nozzle shall be charged fifteen hundredths (0.15) EQR.

b) Add, for each bay/rack where cars can be washed: one and fifty hundredths (1.50) EQR.

NOTE: Contract pumps and pumps used for special users (i.e. not available for public use) are exempt.

5. Nonretail work area, such as garages, machine shops, fire stations and warehouses [per one thousand (1,000) square feet]: twenty hundredths (0.20) EQR. NOTE: Office and retail areas are additive.

6. Process water from commercial establishments discharged to the collection system shall be evaluated based on the metered water inflow [per one thousand (1,000) gallons per day, maximum day]: two and fifty hundredths (2.50) EQR.

NOTE: The Town may reevaluate the EQR of the discharger should the impact of the discharge exceed the equivalent of the single-family residential unit. Should the sewage strength exceed three hundred thirty (330) milligrams per liter of BOD<sub>5</sub> or SS, additional charges will be determined by the Town for strength exceeding these values. In cases where there is batch discharge of process water, the Town may require the discharger to obtain prior approval by the Superintendent of the time and rate of discharge.

c. Employee dwelling units or other dwelling units attached as accessory uses shall be calculated using the Multi-family Classification Schedule.

d. Hot tubs.

1. Less than three hundred (300) gallons: twenty hundredths (0.20) EQR.

2. Larger than three hundred (300) gallons, per three hundred (300) gallons or fraction thereof: twenty hundredths (0.20) EQR.

(3) Church and school classifications:

a. Churches [per one hundred (100) sanctuary or classroom seats]: one and fifty hundredths (1.50) EQR. NOTE: Rectories or other living areas are additive.

b. Schools. Day-care centers and public and private day schools:

1. Without gym and without cafeteria (per fifty-student occupancy): one and fifty hundredths (1.50) EQR.

2. Without gym and with cafeteria or with gym and without cafeteria (per fifty-student occupancy): one and eighty-five hundredths (1.85) EQR.

3. With gym and with cafeteria (per fifty-student occupancy): two and ten-hundredths (2.10) FQR.

NOTE: Teachers, librarians, custodians and administrative personnel associated with the school function are considered to be included in the above values. Administrative centers, warehouses, equipment (such as buses) repair and/or storage centers, swimming pools and similar facilities are additive.

(4) Miscellaneous classifications:

a. Swimming pools. Swimming pools and wading pools:

1. Private pools associated with single-family residential units [per forty thousand (40,000) gallons of pool volume]: fifty-five hundredths (0.55) EQR.

2. Pools associated with multi-family and transient residential units [per forty thousand (40,000) gallons of pool volume]: one and five hundredths (1.05) EQR.

3. Commercial and public pools [per forty thousand (40,000) gallons of pool volume]: one and five hundredths (1.05) EQR.

NOTE: A permanent sign must be placed prominently at all pool filter installations stating that pools are not to be drained without permission from the Superintendent, that pool draining rates will be subject to approval of the Superintendent and that draining shall be limited to the hours between 11:00 p.m. and 6:00 a.m. the next day.

b. Recreational vehicle waste disposal stations. Service station and other commercial sanitary dump facilities: five and zero hundredths (5.00) EQR. NOTE: The Superintendent will have the authority to deny waste disposal at the plant should the waste receiver be full or if the waste being dumped will cause plant operation problems.

c. Public rest rooms (per toilet or urinal): twenty hundredths (0.20) EQR.

d. Septic waste and other batch-waste disposal: The Town shall establish a per-dump charge for operation and maintenance purposes. Dumps shall only occur at the treatment plant. The preceding note in Subsection (c)(4)b of this Section shall apply.

(5) Other classifications. The Town shall evaluate, interpret and establish rates for all users not specifically identified in the classifications above. Industrial users will be subject to the requirements of the United States Environmental Protection Agency as those requirements pertain to assessment of user charges and cost recovery. (Prior code 158-16, 187-18; Ord. 1994-1 §1; Ord. 1995-1 §1; Ord. 1999-14 §§3, 4, 5; Ord. 2006-20)

### **Sec. 3-2-2. Billings and payments.**

(a) Service outside Town limits. Nothing in this Chapter shall obligate the Town to furnish service to any property outside of the corporate limits of the Town nor otherwise limit or restrict the Town's authority to set conditions on, assess additional charges and fees for, and in all other regards regulate the use of the Town's water or sewer systems.

(b) Statements. Statements for service shall be rendered quarterly. Charges for late payments, service line repair and other extraordinary charges shall be added to the statements. Bills shall be mailed the same week of every quarter and shall be payable within twenty (20) days from the postmark on the statement. Bills paid after the twenty-first day after the postmark will be charged one percent (1%) per month as a carrying charge.

(c) Reconnections. It is unlawful, after service has been discontinued, for any person to reconnect the same without the consent of the Town and upon payment of the fee set forth in Appendix A to this Code.

(d) Noncontinuous service. Service charges are imposed on a calendar year basis. Property temporarily unoccupied for any portion of a calendar year must pay for service for the entire year. If a property is to be vacated permanently or for a period of more than six (6) months, the owner shall notify the Town to discontinue service. Service may later be reinitiated upon payment of the fee set

forth at Appendix A. If the property usage changes in the interim period (thus changing the tap fee or service charge amounts, the system development fee shall be that shown for the new use under Appendix A, while the fee for noncontinuous service shall be computed for the old use under Appendix A. (Ord. 1995-1 §1; Ord. 1999-14 §6)

**Sec. 3-2-3. Service shutoff; delinquent charges.**

(a) In the event the charges for water or sewer service are not paid when due, the sewer and/or water service to the premises or property served in connection with the delinquent account may be discontinued by the Town in any manner by which disconnection or discontinuance of such service can reasonably be accomplished. The Town will deliver a shutoff notice by hand or regular first class mail to the owner or occupant. Such notice will require that the delinquent charges be paid within seventy-two (72) hours of the time of service of the notice. If neither the owner nor the occupant can be located for personal service, it shall be lawful to attach the notice to the front door of the property, or in some other prominent place. Notwithstanding any other provisions of this Article, shutoff of sewer service, if necessary, will be accomplished by shutting off water service. Charges for shutoff notices and reconnection of service shall be as set forth in Appendix A to this Code.

(b) The owner of any property or premises served by the Town's water or sewer systems shall be held personally liable for any and all charges imposed under the provisions of this Chapter from the time such become due. Until paid, all rates, tolls, fees and charges together with any interest thereon shall constitute a first and perpetual lien on and against the property served, and any such lien may be foreclosed in the manner provided by law.

(c) In addition to or as an alternative to any other means of collection, in the event that the charges are not paid when due, the Town may certify such charges to the County Treasurer, to be collected in the same manner as other taxes, with ten percent (10%) of the amount of such delinquency added thereto to defray the costs of collection. All laws of the State for the assessment and collection of general taxes and the enforcement of liens therefor, including laws for the sale of property for delinquent taxes and the redemption of the same, shall apply. (Ord. 1995-1 §1)

**Sec. 3-2-4. System extensions.**

(a) Extensions of the Town's water or sewer system to serve any properties not currently served shall be designed and constructed by the owner of the property to be served. All extensions shall be designed in compliance with Town standards and subject to Town review and approval.

(b) The Public Works Director may govern scheduling of any taps and may defer permits until adequate water and sewer supply facilities can be constructed and placed in operation in order to serve the subject development.

(c) The developer shall deed to the Town the entire water or sewer system after it has been completed and accepted.

(d) Any development within the Town, or which annexes to the Town, must pay all costs associated with bringing utility and access facilities to the development. Although the Town will cooperate in planning and arranging for such facilities, the development bears the responsibility for making all necessary connections and extensions, including bringing the facilities across neighboring property to the development boundaries.

(e) The Town may request an inspector to be hired by the developer to inspect construction of water and sewer infrastructure to be dedicated to the Town. The Town has the authority to approve or deny the developer's choice of inspector as well as to designate the amount of time that the inspector is required to be onsite. The Town also has the right to any construction notes, records or other field documentation recorded by the inspector as they pertain to the construction of the public infrastructure and utility lines.

(f) The applicant is required to submit "as-built" Mylars for water, sewer, roadway alignment and drainage improvements within three (3) months of completion of said infrastructure. The applicant shall pay the cost of transferring and posting the "as-built" drawings to the Town's records. The plans, drawings and legal descriptions shall be prepared and certified by a qualified professional engineer or professional land surveyor in accordance with the requirements of the Town and prior to the Town accepting the public improvements. If needed due to revisions, an amended final plat showing all public improvements as existing shall be submitted within three (3) months of completion of the "as-built" drawings of the public improvements. This information shall be submitted in digital form compatible with the Town's GIS system. (Prior code 187-15, 187-17; Ord. 1995-1 §1; Ord. 1999-14 §7)

#### **Sec. 3-2-5. Rebate of extension cost.**

Whenever an owner is required to invest in connecting transmission lines or pay for oversized lines, lift stations or other facilities that may also serve future development, the Town may, but is not required to, enter into a rebate agreement repaying some or all of that cost by providing a means of assessing the future development served. Lines will be considered oversized only when they have capacities exceeding the needs of the subject proposed development and intended for further development. Lines eight (8) inches in diameter and smaller will not be considered as oversized. (Ord. 1995-1 §1; Ord. 1999-14 §8)

#### **Sec. 3-2-6. Violations and penalties.**

(a) The Public Works Director shall notify the owner, or authorized agent of the owner, of the building or premises in which there is found a violation of this Chapter, other than violation of Section 3-3-7 (vandalism). The Public Works Director shall set a specific time for the owner to have the violation removed or corrected. If the owner fails to correct the violation within the specified time, the Public Works Director may, if in his or her judgment an imminent health hazard exists, order that service to the building or premises be terminated. Additional fines or penalties may also be imposed following termination of service.

(b) The owner or authorized agent of the owner responsible for the maintenance of the water or sewer system in the building who normally permits a violation to remain uncorrected after the specified time set by the Public Works Director shall, upon conviction thereof by the Court, be required to pay a fine as set forth in Chapter 1, Article I of this Code.

(c) Any person violating any of the provisions of this Chapter, or failing to pay any fee or charge when required, shall become liable to the Town for any expense, loss or damage occasioned by reason of such violation. In the event of failure to comply with any lawful notice of the Town with respect to use of the system, the Town may take action as required, in its sole discretion, to prevent or abate actual or anticipated damage or danger to the system, and such costs shall be properly charged against the property served and shall constitute a lien thereon.

(d) In addition to and notwithstanding any other provisions and regulations, the Town may, at its option, disconnect the water line from any property owned by any person violating any of the provisions of this Chapter from the facilities of the Town. The costs of the disconnection and severance shall be charged against the property formerly served by the Town and, until paid, shall constitute a lien which shall be collected in the same manner as provided for herein for the collection of rates, tolls, fees and charges, or as otherwise provided by law. (Prior code 187-25, 187-26, 187-27, 187-34; Ord. 1995-1 §1; Ord. 1999-14 §9)

## ARTICLE III

### Sewers

#### Sec. 3-3-1. Definitions.

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

*Actual cost* means all direct costs applicable to the construction of a given facility, including construction, engineering, inspection and plan approval fees, as-built drawings and other costs necessary for completion and including hourly rates for personnel involved.

*Bed spaces.* Double, queen-size and king-size beds count as two (2) bed spaces.

*Biochemical Oxygen Demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, as defined in the current edition of Standard Methods for Examination of Water and Wastewater, in five (5) days at twenty degrees centigrade (20°C.) expressed in milligrams per liter (mg/l).

*Building* means any structure used or intended for human occupancy.

*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. Every *building drain* shall extend to a point not less than five (5) feet [one and five-tenths (1.5) meters] outside the inner face of the building wall. (See also *storm drain*.)

*Building sewer* means the extension of the building drain to the public sewer or other place of disposal. (See also *sewer service line*.)

*Combined sewer* means a sewer designated by the Town Council to receive both wastewater and stormwater or surface water.

*Contractor* means any person licensed by the Town to perform work or furnish materials within the Town.

*Customer* means any person authorized to discharge wastewater into the public sewer under a permit issued by the Town.

*Easement* means an acquired legal right in a person or governmental entity to use the land of another for a specific purpose.

*EQR* means equivalent residential unit; that amount of capacity necessary to serve an average single-family residence (three-bedroom, three-bathroom), or its equivalent.

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

*Garbage* means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce. *Garbage* is properly shredded under the terms of this Article when it has 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 ( $\frac{1}{2}$ ) inch (1.27 cm) in any dimension.

*Industrial user* means any user of a publicly owned treatment works which discharges more than the equivalent of twenty-five thousand (25,000) gallons per day (gpd) of sanitary wastes, or which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of the sewage system or to injure or interfere with the sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, creates any hazard in or has any adverse effect on the waters receiving any discharge from the treatment works.

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

*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.

*Owner* means the person in whom legal title to real property is vested.

*Permit* means written permission of the Public Works Department to connect to the public sewer of the Town pursuant to the ordinances, rules and regulations of the Town.

*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. Neutral water, for example, has a pH value of seven (7) and a hydrogen-ion concentration of  $10^{-7}$ .

*Public sewer* means a sewer main which is owned and controlled by the Town.

*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 groundwater, stormwater and surface waters that are not admitted intentionally.

*Service charge* means a charge levied on users to pay the cost of operation and maintenance of the public sewer and sewage works. It is synonymous with *user charge*.

*Sewage* means the spent water of a community. The preferred term is *wastewater*. (See *wastewater*.)

*Sewage treatment plant* means any arrangement of devices and structures used for treating wastewater.

*Sewage works* means all facilities for collecting, pumping, treating and disposing of wastewater.

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

*Sewer opportunity fee* means a fee charged to areas outside the Town limits which are annexing to the Town to offset the costs of building additional capacity to serve areas already inside the Town. *Sewer opportunity fee* is in addition to tap fees and connection and inspection charges.

*Sewer service line* means the extension from the building drain to the public sewer, including the physical connections to the public sewer. It is synonymous with *building sewer*.

*Slug* means any discharge of waste 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 flow during normal operation and may adversely affect the collection system and/or performance of the wastewater treatment works. It is synonymous with *batch discharge*.

*Storm drain* (sometimes termed *storm sewer*) means a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source. (See *building drain*.)

*Stub-in* means that part of the sewer service line lying within the public right-of-way.

*Superintendent* means the Superintendent of the Wastewater Treatment Works of the Silverthorne-Dillon Joint Sewer Authority or his or her authorized deputy agent or representative.

*Suspended solids (SS)* means total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater. It may be referred to as *nonfilterable residue*.

*System development fee*. See *tap fee*.

*Tap* means the connecting of the sewer service line to the public sewer main. It is synonymous with *connection*.

*Tap fee* means a charge accompanying application for initial connection to the public sewer main or for subsequent expansion of usage and additions to existing taps. *Tap fee* does not include inspection charges. [See Section 3-3-12(b)(5).] *Tap fee* is synonymous and interchangeable with *system development fee*.

*Unpolluted water* means 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 and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

*User* means any person discharging wastewater into the public sewer.

*Wastewater* means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, in combination with any groundwater, surface water and stormwater that may be present.

*Wastewater facilities.* See *sewage works*.

*Wastewater treatment works.* See *sewage treatment plant*.

*Watercourse* means a natural or artificial channel for the passage of water, either continuously or intermittently. (Prior code 158-1; Ord. 1995-1 §1; Ord. 2006-20)

### **Sec. 3-3-2. Management authority designated.**

The operation and management of the public sewer system shall be under the control of the Town Manager, who shall direct the maintenance, operation and expansion thereof. (Prior code 158-2)

### **Sec. 3-3-3. Powers and duties of Public Works Director.**

(a) System maintenance and permit issuance. The Public Works Director shall have charge of all facilities of the public sewer system, and it shall be his or her duty to supervise the system and maintain and control the same as provided by this Article. In addition to his or her other duties, the Public Works Director shall issue permits to make connections with the sewers, and all connections shall be made under his or her supervision.

(b) Supervision of connections; maintenance of Town apparatus. The Public Works Director shall have control of the laying of all sewer lines. The Public Works Director shall have the general supervision of the putting in of all taps and service pipes or other connections with the main sewer line. He or she shall also have charge of and be responsible for all tools, machinery, pipes, meters, fixtures, plumbing material and all other apparatus and appliances owned by the Town or used by it in the maintenance and operation of the public sewer system and shall keep account of all such material and the manner in which the same is used, kept or disposed of.

(c) Power and authority to make inspections.

(1) The Public Works Director shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the public sewer in accordance with the provisions of this Article.

(2) The Public Works Director is authorized to obtain information concerning industrial processes which have a direct bearing on the kinds and sources of discharge to the public sewer. The industry may withhold information considered confidential, but the industry must establish that the revelation to the public of the information in question might result in an advantage to competitors. (See Subsection (d) below.)

(3) While performing any of the work on private properties referred to in Subsection (1) above, the Public Works Director shall observe all safety rules established by the owner of the premises.

(4) The Public Works Director 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 said easement.

(d) Power to require information. The Public Works Director may require a user of sewer services to provide information needed to determine compliance with this Article. This information may include but is not limited to:

- (1) Wastewater discharge peak rate and volume over a specified time period.
- (2) Chemical analyses of wastewaters.
- (3) Information on raw materials, processes and products affecting wastewater volume and quality.
- (4) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials judged important to sewer use control by the Public Works Director.
- (5) A plot plan of the user's property, showing sewer and pretreatment facility location.
- (6) Details of wastewater pretreatment or interceptor facilities.
- (7) Details of systems to prevent and control the loss of materials through spills to the public sewer. (Prior code 158-3; Ord. 1995-1 §1)

**Sec. 3-3-4. Unlawful disposition of unsanitary matter.**

It shall be unlawful for any person to 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 said Town, any human excrement, garbage or other objectionable waste delineated within this Article or constituting or considered to constitute a nuisance under any other law or ordinance of the Town or the State. (Prior code 158-4)

**Sec. 3-3-5. Unlawful discharge into natural outlets.**

It shall be unlawful to discharge to any natural outlet within the Town, or in any area under the jurisdiction of said Town, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Article. (Prior code 158-5)

**Sec. 3-3-6. Standards for measurements, tests and analyses.**

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. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis, subject to approval by the Public Works Department. (Prior code 158-8)

**Sec. 3-3-7. Vandalism of water and sewage works property prohibited.**

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the water or wastewater facilities of the Town or of any governmental entity, including the Silverthorne-Dillon Joint Sewer Authority. Any person violating this provision shall be subject to immediate arrest under a charge of disorderly conduct. (Prior code 158-9; Ord. 1995-1 §1)

**Sec. 3-3-8. Joint water and sewer service limited.**

Water and sewer service shall be taken only as a unit for those persons any part of whose property proposed to be served is located within the Town limits, unless both Town services are not available, as determined by the Public Works Director. (Prior code 158-10; Ord. 1995-1 §1)

**Sec. 3-3-9. Private systems.**

(a) General prohibition. Except as provided below, no cesspool, septic tank, privy, vault, outside toilet, grease trap, leach field or other private sewage and wastewater disposal system shall be constructed or maintained within the Town limits.

(b) Private systems on annexed lands. Private sewage and wastewater disposal systems on annexed lands, which systems were in existence at the time of annexation of said lands to the Town, will be permitted by the Town to be used and maintained only until such time as public sewer lines are within four hundred (400) feet of said properties.

(c) Requirements and procedures. Private sewage and wastewater disposal systems meeting the criteria in Subsection (b) above are subject to the following requirements and procedures:

(1) Before the continued operation of any such system, the owner shall first obtain a written permit from the Public Works Department. The application for such permit shall be made on a form supplied by the Town, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Public Works Department. A permit and plan inspection fee, plus the sewer tap fee applicable to the proposed usage, shall be paid to the Town at the time the application is filed.

(2) A permit for a private wastewater disposal system shall not become effective until after inspection by and approval of the Public Works Department. The inspection shall be made within seventy-two (72) hours of the receipt of the application by the Public Works Department.

(3) The type, capacities, location and layout of a private wastewater disposal system shall comply with all requirements of the State Department of Public Health and the Summit County individual sewage disposal system requirements. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot served by said system is less than forty-three thousand five hundred sixty (43,560) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(4) Within thirty (30) days of the time a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer in

compliance with this Article, and any septic tanks, cesspools or other private wastewater disposal systems shall be removed or cleaned of sludge and filled with suitable material.

(d) Connection of private system to public sewer. No connection of any building in which plumbing has already been installed and connected with a cesspool, septic tank or other private sewage disposal system shall be made with the public sewer of the Town or with any district of the Town unless the plumbing previously installed is in reasonable compliance with the rules and regulations of the State Board of Health regarding the supervision, regulation and inspection of plumbing and in compliance with the Building and Plumbing Codes of the Town.

(e) Additional requirements by health officer. No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by an official health officer with jurisdiction.

(f) Maintenance responsibility assigned. The owner shall operate and maintain the private sewage disposal system in a sanitary manner at all times, at no expense to the Town.

(g) Authority to inspect. The Town shall have the same powers and authority in relation to inspection, observation, measurement, sampling and testing of private wastewater disposal systems as are conferred in Section 3-3-3(c), in relation to public sewers. (Prior code 158-11; Ord. 1995-1 §1)

#### **Sec. 3-3-10. Prohibited and permitted uses.**

(a) Discharge of stormwater and unpolluted drainage. No person shall discharge or cause to be discharged any unpolluted waters, such as stormwater, surface water, groundwater, roof runoff, subsurface drainage or cooling water, to any sewer, except that stormwater runoff from limited areas, which stormwater may be polluted at times, may be discharged to the sanitary sewer by permission of the Public Works Department.

(b) Unpolluted industrial cooling water, unpolluted drainage stormwater (other than that exempted under Subsection (a) above), and all other unpolluted drainage shall be discharged to a natural outlet approved by the Public Works Department and other regulatory agencies.

(c) Prohibited substances. No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(2) Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, to contaminate the sludge of any municipal system, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant.

(3) Any waters or wastes having a pH lower than five point five (5.5) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.

(4) Solid 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 wastewater facilities, 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 and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(d) Substances limited in concentration or quantity; discretion of Public Works Department. Discharge into the Town's sanitary sewer of the following described substances, materials, waters or waste shall be limited to concentrations or quantities which will not harm either the sewers, the wastewater treatment process or equipment or have an adverse effect on the receiving stream or otherwise endanger lives, limb, public property or constitute a nuisance. The Public Works Department may set limitations lower than the limitations established in the regulations below if, in its opinion, more severe limitations are necessary to meet the above objectives. In forming its opinion as to the acceptability of any substance for discharge into the Town's sanitary sewer, the Public Works Department shall give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, the materials and construction of the sewers, the wastewater treatment process employed, the capacity of the wastewater treatment plant, the degree of treatability of the waste in the wastewater treatment plant and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Public Works Department are as follows:

(1) Wastewater having a temperature higher than one hundred fifty degrees Fahrenheit (150°F.) (65°C.).

(2) Any water or waste containing fats, wax, grease or oil, whether emulsified or not, in excess of twenty-five (25) milligrams per liter or containing any substance which may solidify or become viscous at temperatures between thirty-two degrees Fahrenheit (32°F.) (0°C.) and one hundred degrees Fahrenheit (100°F.) (401°C.).

(3) Industrial wastes containing floatable oils, fat or grease.

(4) Any garbage that has not been properly shredded. (See Section 3-3-1.) Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

(5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Public Works Department for such materials.

(6) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Public Works Department to meet the requirements of the Town or of state, federal or other public agencies.

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.

(8) Quantities of flow, concentrations or both, which constitute a slug, as defined herein.

(9) Waters or wastes containing substances which are not amenable to 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.

(10) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended or dissolved solids which interfere with the collection system or create a condition deleterious to wastewater treatment facilities or treatment processes.

(e) Measurements, tests, analyses; approval by Public Works Department. 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. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the Public Works Department.

(f) Special agreements between Town and industrial concerns. No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefor by the industrial concern. Any user which discharges any toxic pollutant which causes a resultant increase in the cost of managing the effluent or the sludge of the treatment works shall pay for such increased costs. (Prior code 158-12; Ord. 1995-1 §1)

### **Sec. 3-3-11. Connections; maintenance and repair.**

(a) Liability for costs and damages. All costs and expenses incidental to the installation and connection of the building sewer to the public sewer lines shall be borne by the owner. The owner shall indemnify the Town against any loss or damage that may directly or indirectly be occasioned by the installation and connection of the building sewer to the public sewer lines.

(b) Connection of new dwellings to public sewer. Every new dwelling in the Town requiring sewer disposal service shall be connected with the public sewer prior to occupancy.

(c) Use of temporary toilets during construction. If, during the construction of any dwelling or improvement, temporary toilet facilities are required to be used, they shall be used in accordance with the regulations of the County Health Department or the State Board of Health. As soon as such dwelling or improvement is occupied, the use of temporary toilet facilities shall be discontinued, and all evidence of such use shall be removed.

(d) Connection of surface runoff drains to sewer prohibited. No person shall connect any roof downspout, foundation drain, areaway drain or other source of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer, unless such connection is approved by the Public Works Department for purposes of disposal of polluted surface drainage.

(e) Compliance with specified regulations. The connection of the building sewer to the public sewer shall conform to the requirements of the Building and Plumbing Codes and other applicable

rules and regulations of the Town and the procedures set forth in appropriate specifications of the American Society for Testing and Materials and the Water Pollution Control Federation Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Public Works Department before installation.

(f) Supervision by Public Works Department. The applicant for the building sewer permit shall notify the Public Works Department when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made by the Public Works Department, at the applicant's expense.

(g) Responsibility of property owner for maintenance. The owner of any premises for which a sewer connection is made shall at all times keep all pipes from the main line (including the connections to the main line) to and on his or her premises in good working order. The owner shall repair, correct or replace, at his or her own cost, any pipe, fixture or appliance found to allow excessive infiltration or that does not comply with any law or regulations of the Town or the State.

(h) Pretreatment and flow-equalizing facilities. 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 at his or her expense.

(i) Authority for sewer service shutoff. The Public Works Director may cause the main sewer line to be shut off when he or she deems it necessary for making connections or extensions to the same or for cleaning the same. Upon the determination by the Public Works Director that any sewer main is defective or does not comply with any law or regulation of the Town or the State, the line so determined to be defective or in noncompliance shall be shut off and replaced or repaired by the Town.

(j) Procedure for service shutoff.

(1) If at any time the Public Works Director ascertains that the plumbing fixtures, pipes or appliances from the main line to and on any premises are so defective as to allow excessive infiltration or do not comply with any law or regulation of the Town or State, it shall be his or her duty to immediately notify the owner of the premises connected to the sewer service or his or her agent or the user of such service to repair or replace the same, and if the same are not repaired or replaced within the time specified in such notice, said time being that amount reasonably calculated by the Public Works Department to allow completion of such repair or replacement, but in any event not less than seventy-two (72) hours from the time of such notice being served, mailed or otherwise delivered to the owner, agent or user, the Public Works Director shall shut off the water service line to the property.

(2) It is unlawful for any person to fail or refuse to comply with the order provided for in this Section.

(k) Failure of owner to repair, cost assessment. If any owner fails to make such repairs or replacement within the time specified, it shall be the duty of the Public Works Department to proceed at once upon the expiration of the specified time to cause such repairs or replacement to be made and to immediately report the cost and expense thereof and the legal description and the name of the record owner of the property involved to the Town Clerk. The Town shall forthwith, in writing, notify the

owner of the amount of such charges, and the same shall be due and payable thirty (30) days after the date of mailing of the notice of charges.

(l) Cost liability; property lien. The owner of any property or premises affected by the procedures set forth in Subsections (j) and (k) above shall be held personally liable for any and all charges imposed under the provisions of this Article. These charges shall become and remain a lien upon such property or premises until paid. Such charges may be collected from the owner by an action in the name of the Town, and said action may be for the enforcement of said lien.

(m) Any person who, without permit, allows any nonapproved or additional property to be served by using the existing sewer service line shall be liable for then-existing tap fees plus accrued sewer service fees from the time of the earliest sewer connection of the existing service line, plus any other lines, late charges or penalties for late payment set forth herein. (Prior code 158-14; Ord. 1995-1 §1)

### **Sec. 3-3-12. Permit requirements, procedures and fees.**

(a) Permit required. It shall be unlawful for any person to uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Town.

(b) Classes; fees.

(1) There shall be two (2) classes of building sewer permits: for residential and commercial service and for service to establishments producing industrial wastes. In either case, the owner or his or her agent shall make application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent to an evaluation of the application in the judgment of the Public Works Director.

(2) System development fee. There shall be a minimum system development (tap) fee payable to the Town as set forth in Appendix A to this Code. An additional fee shall be paid for any property requiring more than one (1) equivalent residential unit. Such fee shall be equal to the number of equivalent residential units greater than one (1) times the minimum system development fee. The fees shall be paid at the time of building permit issuance.

(3) Abatement after one (1) year. Any system development fee paid pursuant to this Article shall entitle the permittee thereunder to connect to the sewer system only so long as such connection is made within one (1) year after the date of issuance of the permit and payment of the fee. Failure to connect within such one-year period shall result in an automatic revocation of the permit. After such one-year period, the permittee may connect to the sewer system only upon payment of any additional fees caused by any intervening increase in system development fees. If connection should be allowed without collection of the additional fee, such additional amounts will be added to any monthly service fee which may be due or become due and may be collected as a past-due service fee. Continued failure to pay such additional fee shall result in discontinuance of service until such fee is paid.

(4) Expanded use. Any property to which an additional use is to be added, so that the connected equivalent residential units will be increased, including but not limited to a residential apartment as defined in Section 4-6-53 of this Code, must pay a system development fee prior to the issuance of a certificate of occupancy or use of the expanded facility or premises. Failure to

pay the additional fee shall result in termination of service. The additional system development fee is to be in the amount obtained by multiplying the number of additional equivalent residential units by the basic unit system development fee.

(5) Reduced use. In the event the sewage discharge of a property is to be permanently reduced below current levels, the owner of such property may either:

a. Continue to pay service charges at the current rate and remain entitled to the EQR at that level; or

b. Propose to sell back to the Town the excess EQR at one-half ( $\frac{1}{2}$ ) the current system development fee rate or sell back a portion of the excess EQR at one-half ( $\frac{1}{2}$ ) the current system development fee and pay the full service charge applicable to the reduced use. The Public Works Director will make the determination on a case-by-case basis whether the Town will accept the proposal.

(6) Connection charge. The system development fee described at Subsection (b)(2) reflects equity values in the Town's system and results in the customers' right to tap and use the facilities. In addition to this fee, there is hereby established a connection charge in an amount as needed to cover the actual cost of making the physical connection to the Town's system. The connection charge shall include provision of the sewer tap and the actual tapping of the Town's main by Town personnel and inspection of the sewer service line by Town personnel. Any sewer tap over four (4) inches in diameter shall be contracted by the customer and performed under the supervision of Town personnel.

(7) Any residential apartments for which building permits or certificates of occupancy are neither applied for nor issued shall be charged the full system development fee in effect at the time of the apartment's discovery, plus any service fees which the Town or Municipal Court may determine to be due. Failure to pay such fees upon demand by the Town shall be cause for termination of all water and sewer service to the principal residence as well as the residential apartment.

(c) Building permit required. Application for a sewer connection permit shall be made to the Town on a form that shall be provided by the Town. No application for such permit for any new building shall be complete unless it is accompanied by a valid building permit issued for said building and, in the case of property for which building permits are not issued by the Town, by plans showing the proposed construction in detail judged sufficient by the Public Works Department.

(d) Deposits; back charges. No sewer service may be obtained until the applicant's payments are made at the office of the Town Clerk. No sewer service will be available until all back charges are paid. (Prior code 158-15; Ord. 1995-1 §1; Ord. 1998-5 §1; Ord. 1999-14 §10)

### **Sec. 3-3-13. Rates and charges.**

(a) Basis of charges. Sewer tap fees and sewer service charges shall be based on an equivalent residential unit (EQR), flat-rate basis, as set forth in Section 3-2-1.

(b) Establishment of billing. Every building, property or other premises to which sewer service is rendered or proposed to be rendered shall be assigned a total EQR value based on its sewer use

classifications. The Town shall determine from time to time the use or uses to which any building, property or other premises is being put in relation to sewer use classifications. Based on such determination, the Town shall make any adjustments in the assigned total EQR value of the building, property or other premises the Town may deem necessary or advisable to maintain an equitable use-to-service charge ratio. For billing purposes, the total EQR value assigned multiplied by the appropriate service rate establishes the billing. In no event shall any person, building, premises or property be billed for less than one and zero-tenths (1.0) EQR.

(c) The rates and charges for service shall be as set forth in Appendix A to this Code.

(d) The senior citizen rate for sewer service set forth in Appendix A shall be available upon presentation of evidence of age of sixty-five (65) years or more and proof of primary residence within the Town. The senior citizen rate is limited to one (1) residence within the corporate limits of the Town which must be the primary place of residence of the person applying for the rate.

(e) User surcharge system. The Town will assess a surcharge rate for all nonresidential users discharging wastes with biochemical oxygen demand and suspended solids strengths greater than the average residential user. Such users will be assessed a surcharge sufficient to cover the costs of treating such user's above-normal strength wastes. Normal strength wastes are three hundred thirty (330) milligrams per liter of both BOD and suspended solids. The surcharge rate structure for such above-normal strength waste discharges shall be determined by the Public Works Director.

(f) Sewer opportunity fee. Any areas outside the Town limits which are proposed to be annexed to the Town or otherwise receive sewer service and which do not have reserved capacity in the Silverthorne-Dillon Joint Sewer Authority treatment plant shall pay a sewer opportunity fee as set forth in Section 4-4-92(d) of this Code.

(g) Review of wastewater service charges. The Town shall periodically review total annual cost of operation and maintenance as well as each user's wastewater contribution percentage (determined and expressed in EQRs), and will revise the system as necessary to assure equity of the service charge system as established herein and to assure that sufficient funds are obtained to adequately operate and maintain the wastewater treatment works. If a significant user, such as an industry, has completed in-plant modifications which would change that user's wastewater contribution percentage, such user may present to the Public Works Department information describing the modifications, and the Public Works Department shall then determine if the user's wastewater contribution percentage is to be changed and shall notify the user thereof. (Prior Code 158-16; Ord. 1994-1 §1; Ord. 1995-1 §1; Ord. 2006-20)

## ARTICLE IV

### Water

#### *Division 1 Water System*

##### **Sec. 3-4-1. Policy and purpose.**

(a) It is hereby declared that the fees and regulations hereinafter set forth will serve a public use and are necessary to ensure and protect the health, safety, prosperity, security and general welfare of the inhabitants of the Town.

(b) The purpose of the fees and regulations is to provide for the control, management and operation of the water system of the Town, including additions, extensions and connections thereto.

(c) No private water system may be constructed or maintained within the Town, unless permitted in the manner set forth at Section 3-3-9 for private wastewater systems. (Prior code 187-1; Ord. 1996-11 §9)

##### **Sec. 3-4-2. Definitions.**

(a) Unless the context specifically indicates otherwise, the meanings of terms used herein shall be as follows:

*Actual cost* means all direct costs applicable to the construction of a given facility, including construction, engineering, inspection plan approval fees, as-built drawings and other costs necessary for completion.

*Agency* means the Town, which is vested with the authority and responsibility of the enactment and enforcement of this Article.

*Air gap* means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of said vessel. An approved *air gap* shall be at least double the diameter of the supply pipe, measured vertically, above the top of the rim of the vessel and, in no case, less than one (1) inch. When an *air gap* is used at the service connection to prevent the contamination or pollution of the public potable water system, an emergency bypass shall be installed around the air-gap system, and an approved reduced-pressure principal device shall be installed in the bypass system.

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

*Auxiliary water supply* means any water supply on or available to the premises other than the Town's approved public potable water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source, such as a well, spring, river, stream, harbor, etc., or used waters or industrial fluids. These waters may be polluted or

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

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

*Backflow preventer* means a device or means designed to prevent backflow or back siphonage, and approved by the State Health Department.

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

*Bed spaces.* Double, queen-size and king-size beds count as two (2) bed spaces.

*Building* means an enclosed habitable structure with outside walls and a roof designed and constructed for permanent shelter of persons and inhabitable as a dwelling or business.

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

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

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

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

*Contractor* means any person licensed by the Town to perform work and to furnish materials therefor within the Town.

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

*Cross-connection* means any unprotected, actual or potential connection or structural arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any substance, other than the intended potable water, with which the system is supplied. By pass arrangements, jumper connections, removable sections, swivel or changeover devices and other temporary or permanent

devices through which or because of which backflow can or may occur are considered to be *cross-connections*.

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

*Customer* means any person or governmental authority or agency authorized to connect to a public water system under a permit issued by the Town Council.

*Double check valve assembly* means an assembly of two (2) independently operating approved check valves with tightly closing shutoff valves on each side of the check valves, plus properly located test cocks for the testing of each check valve. The entire assembly shall meet the design and performance specifications and approval of a recognized and agency-approved testing establishment for backflow prevention devices. To be approved, these devices must be readily accessible for in-line maintenance and testing.

*EQR* means equivalent residential unit; that amount of capacity necessary to serve an average single-family residence (three-bedroom, three-bathroom), or its equivalent.

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

*Hazard, degree of* means derived from an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

*Hazard, health* means any condition, device or practice in the water supply system and its operation which could create or, in the judgment of the Town Manager, may create a danger to the health and well-being of the water consumer. An example of a *health hazard* is a structural defect, including cross-connections, in a water supply system.

*Hazard, plumbing* means a plumbing-type cross-connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air-gap separation or backflow prevention device. Unprotected plumbing-type cross-connections are considered to be a health hazard.

*Hazard, pollutional* means an actual or potential threat to the physical properties of the water system or to the potability of the public or the consumer's potable water system, but which would constitute a nuisance or be aesthetically objectionable or could cause damage to the system or its appurtenances, but would not be dangerous to health.

*Hazard, system* means an actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system or of a pollution or contamination which would have a protracted affect on the quality of the potable water in the system.

*Industrial fluids system* means any system containing a fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollutional or plumbing hazard if introduced into an approved water supply. This may include, but not be limited to: polluted or contaminated waters; all types

of process waters and used waters originating from the public potable water system, which may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalis; circulated cooling waters connected to an open cooling tower and/or cooling tower that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters, such as from wells, springs, streams, rivers, bays, harbors, seas, irrigation canals or systems, etc.; oils, gases, glycerine, paraffins, caustic and acid solutions and other liquid and gaseous fluids used in industrial or other purposes or for fire-fighting purposes.

*Nonpotable water* means water that is not safe for human consumption or that is of questionable potability.

*Owner* means the person owning the real property served by water service.

*Permit* means written permission of the Town Council to connect to a public water main of the Town and pursuant to the fees and regulations of the Town.

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

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

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

*Stub-in* means that part of the service line lying within the public right-of-way.

*Submerged inlet* means a water pipe or extension thereto from a public water supply terminating in a tank, vessel, fixture or appliance which may contain water of questionable quality, waste or other contaminant and which is unprotected against backflow.

*Tap or connection* means the connecting of the service line to the water main.

*User* means any person to whom water service is supplied.

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

*Vacuum breaker, atmospheric-type* means a vacuum which has a moving element inside which during flow prevents water from spilling from the device and during cessation of flow drops down to provide a vent opening. The atmosphere vacuum breaker cannot be installed where there can be back pressure, only where there can be backsiphonage. This device should not remain under pressure for long durations [more than twelve (12) hours in any twenty-four-hour period] and it cannot have any shutoff valve downstream of it.

*Vacuum breaker, pressure-type* means a vacuum breaker that cannot be installed where there can be back pressure, only where there can be backsiphonage. The pressure vacuum breaker can have shutoff valves downstream of the device.

*Water main* means a Town-owned water pipeline carrying potable water only and shall be installed in a public street or right-of-way.

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

*Water service line* means the privately owned water line extending from the water main to the customer's building, and shall include the tap on the main, corporation cock, curb valve and box and meter installation, but not the meter itself.

(b) Any other term not herein defined shall be defined as presented in the "Glossary - Water and Sewage Control Engineering," APHA, ASCE and WPCF, latest edition. (Prior code 187-2, 187-30; Ord. 1995-1 §1; Ord. 2006-20)

### **Sec. 3-4-3. Conditions for use; permit required.**

(a) Water service may be furnished only to persons whose property is included within the Town, except as otherwise provided herein, or as approved by the Town Council.

(b) No person shall connect to and/or use the Town's water system without obtaining a written permit from the Town and unless he or she complies with these fees and regulations. No water service may be obtained until customer's deposits are made at the office of the Town. No water service will be available until all back charges are paid.

(c) Water and sewer service shall be taken only as a unit for those persons any part of whose property is located only in the Town limits, unless both such services are not reasonably available. (Prior code 187-3; Ord. 1995-1 §1)

**Sec. 3-4-4. Responsibility for installation and maintenance.**

Each owner shall be responsible for installing and maintaining the entire length of his or her water service lines. Leaks or breaks in the service lines shall be repaired by the owner within seventy-two (72) hours after said owner has been given notification of such condition by the Town. If satisfactory progress toward repairing the said leak has not been made by the time specified, the Town shall have the authority to repair, or have repaired, the line at the cost of the owner, or to shut off water service to the property. (Prior code 187-4; Ord. 1995-1 §1)

**Sec. 3-4-5. Damage to structures or equipment.**

No unauthorized 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 waterworks. (Prior code 187-5)

**Sec. 3-4-6. Use for industrial purposes.**

The Town's water system has been planned and constructed to provide potable water for conventional domestic and commercial uses and fire protection. Persons wanting to use the water system for an industrial water supply, which could be expected to require large quantities of water or unusual demand rates, shall be required to submit plans for the industry's water use before a permit will be issued; said permit may contain use limitations, as determined necessary by the Town. (Prior code 187-6; Ord. 1995-1 §1)

**Sec. 3-4-7. Metering of services.**

The Town requires the metering of water services both inside and outside the Town to distribute water service charges equitably in accordance with use and to promote the conservation of water in order to maximize its beneficial use for the present and future use of the citizens of the Town. (Prior code 187-7)

**Sec. 3-4-8. Customer plumbing.**

No cross-connections between the Town water system and any other water supply or waste line shall be permitted. All customer plumbing shall be in compliance with the State Plumbing Code. The Town's inspector shall have the right to access to the customer's premises for the purpose of inspecting customer plumbing. (Prior code 187-8)

**Sec. 3-4-9. Right of entry for inspections, repairs and installations.**

Whenever necessary to make an inspection to enforce any of the provisions of this Article or to install, remove, inspect, adjust, replace or maintain any meter connection, pipe, line or other device or element of the water service system, the Town, through its authorized representative, shall have the right to enter any land, building or premises at all reasonable times to inspect the same or to install, remove, inspect, adjust, replace or maintain any meter, connection, pipe, line or other device or element of the water service system, provided that if such land, building or premises is occupied, he or she shall first present proper credentials and request entry; and if such land, building or premises is unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the land, building or premises and request entry. If such entry is refused, the

Town and its authorized representative shall have recourse to every remedy provided by law, including but not limited to termination of water services. (Prior code 187-9)

**Sec. 3-4-10. Responsibility for cost.**

(a) All cost and expense of the installation and connection of water service lines shall be borne by the customer, including payment of a fee for connection by the Town or by a contractor for lines larger than one (1) inch in diameter.

(b) Each customer shall own and be responsible for the construction, maintenance and replacement of service lines, with the exception of the water meter. After acceptance of service line construction, ownership of the water meter, as well as its calibration and maintenance responsibilities, shall be assumed by the Town.

(c) All water service provided by the Town shall be metered. After the effective date of this Article, for each new water service tap within or outside the Town, there shall be added to, and payable with, the tap fee an additional charge for a water meter and its installation. The customer shall pay for the water meter charge and shall pay a contractor for its installation. The water meter shall be provided by the Town and shall be and remain the property of the Town. (Prior code 187-10)

**Sec. 3-4-11. Separate lines for each structure.**

(a) Each individual commercial structure hereinafter connected shall pay for an individual water tap and install separate service lines for each commercial structure. Any variance from this requirement must be approved by the Public Works Director.

(b) Each individual residential structure hereinafter connected shall pay for an individual water tap and install separate service lines for each residential structure. Any variance from this requirement must be approved by the Public Works Director.

(c) Only one (1) premises shall be supplied with water through a single-service line connected to the Town distribution system, except in the case of a hotel, motel, lodge, resort, apartment house or other similar place of business under single ownership and reasonably operated as an integrated unit or a condominium in which one (1) person is responsible for payment of water charges.

(d) Common-wall units with separate ownership and no responsible association shall have separate service lines or, by approval of the Town, a common service line with individual curb stops in an obvious and accessible location.

(e) In the event that any premises receiving water from the Town is subsequently divided into separate ownership, each owner shall have a separate water service line connected to the distribution main, and each additional user shall pay the water tap fee and water service charges. Any work in running service lines to the distribution main shall be done under the supervision of the Town.

(f) All multifamily dwelling units and commercial buildings that exceed three (3) separate units shall be required to install a single meter box to facilitate in measuring water consumption for the entire building. Separate, individual meters may be installed beyond the master meter and will be the responsibility of the homeowners association or property management association to apportion the bill between the units within the building. (Prior code 187-11; Ord. 1995-1 §1; Ord. 1999-14 §11)

**Sec. 3-4-12. Approval of materials and installation by Town.**

All materials and installation shall be subject to the Town's approval. Service lines, taps and meter installation shall be inspected and approved by the Town prior to backfill and use. (Prior code 187-12)

**Sec. 3-4-13. Specifications for construction and installation.**

(a) The Town shall from time to time adopt, by resolution or ordinance, standards and specifications for the construction of water service lines and the installation of water meters.

(b) All water meters shall be of a size, type and design approved by the Town.

(c) All water meters, including remote reading assemblies and meter pits, covers and meter risers, if any, shall be installed by or under the supervision of the Town in a manner and location determined by the Town at the property owner's expense. All water meters shall be installed with a stopcock on each side of the water meter.

(d) Each water meter shall be inspected by the Town and shall be properly adjusted before installation. A record shall be made and preserved of each water meter installed, giving the size, location and serial number of the water meter.

(e) All water meters shall be maintained by the Town. Water meters may be inspected by the Town at any reasonable time.

(f) The water meter shall be installed inside the building with a remote reading device connected to allow reading from outside the building. Where the Town determines that the standard residential installation would be impossible, impractical or unreasonable, the water meter may be installed in a frost proof meter pit at a location specified by the Town.

(g) All excavations required for the installation of a service line shall be open-trench work, unless otherwise approved by the Town.

(h) Water service lines shall be soft copper, K grade, with flare joints, with minimum cover of eight (8) feet. Maximum size allowed for copper service lines is one (1) inch. (Prior code 187-13; Ord. 1995-1 §1)

**Sec. 3-4-14. Service taps.**

The applicant shall obtain from the Town an application for tapping by the Town. The applicant shall fill out the application and deliver it to the Town, which will set the date of tapping the mains. Taps shall only be made by the Town. It is the customer's responsibility to expose the mains and provide sufficient excavated area for tapping. Pipes shall be cleared all around for tapping. Taps over one (1) inch must be contracted by the customer and performed under the supervision of Town personnel. (Prior code 187-14)

**Sec. 3-4-15. Water tap fees and unmetered water service charges.**

Water tap fees and unmetered water service charges shall be based on an equivalent residential unit (EQR) flat-rate basis, as set forth in Section 3-2-1 of this Chapter. When a customer has a multiuse

building, the rate schedule for the primary use is first applied, then subsequent and secondary uses are rated per square footage of occupancy classification. As to secondary uses, the first or highest graduation of that particular use rate shall not be charged. (Prior code 187-18; Ord. 1995-1 §1; Ord. 1999-14 §12)

**Sec. 3-4-16. System development fees and connection charges.**

System development fees, inspection and connection fees for water shall be computed as follows:

(1) There shall be a minimum system development fee for the first equivalent residential unit or portion thereof; additional system development fees shall be paid in an amount equal to the total number of equivalent residential units greater than one (1) multiplied by the minimum system development fee.

(2) System development fee. There shall be a minimum system development (tap) fee payable to the Town in the amount set forth in Appendix A to this Code. The fees shall be paid at the time of building permit issuance.

(3) Water service to property for which system development fees have been paid must be connected within one (1) year of the date of payment of such system development fees. Failure to make such connection within a one-year period will require payment of any increase in system development fees before such connection can be made.

(4) Any property to which any additional use is to be or has been added, including, but not limited to, residential apartments as defined by Section 4-6-53 of this Code, shall be assessed an additional system development fee prior to the issuance of a certificate of occupancy or use of the expanded facility or premises. Failure to pay the additional fee shall result in the termination of water service to the primary as well as the secondary residence if both are owned by the same person or persons. The additional fee is to be in the amount obtained by multiplying the number of additional equivalent residential units by the basic unit system development fee then in effect. If, however, a building permit was obtained before the additional use was added to the property, or written permission for such addition was granted by the Town, then the system development fee to be paid shall be that in effect at the time the building permit was issued or such permission was granted.

(5) Reduced use. In the event the water use of a property is to be permanently reduced below current levels, the owner of such property may either:

a. Continue to pay service charges at the current rate and remain entitled to the EQR at that level; or

b. Propose to sell back to the Town the excess EQR at one-half ( $\frac{1}{2}$ ) the current system development fee rate or sell back a portion of the excess EQR at one-half ( $\frac{1}{2}$ ) the current system development fee and pay the full service charge applicable to the reduced use. The Public Works Director will make the determination on a case-by-case basis whether the Town will accept the proposal.

(6) Connection charge. The system development fee that is described in Subsection (1) above reflects equity values in the Town's system and results in the customer's right to tap and use the

facilities. In addition to this fee, there is hereby established a connection charge in an amount as needed to cover the actual cost of making the physical connection to the Town's system. The connection charge shall include provision of the water tap and the actual tapping of the Town's main by Town personnel and inspection of the water service line by Town personnel.

(7) Any residential apartments for which building permits or certificates of occupancy are neither applied for nor issued shall be charged the full system development fee in effect at the time of the apartment's discovery, plus any service fees which the Town or Municipal Court may determine to be due. Failure to pay such fees upon demand by the Town shall be cause for termination of all water and sewer service to the principal residence as well as the residential apartment.

(8) Water service outside Town limits. Nothing in this Article shall obligate the Town to furnish water service to any property outside the corporate limits of the Town nor otherwise limit or restrict the Town's authority to set conditions on, assess additional charges and fees for and, in all other regards, regulate use of the Town's water system. (Prior code 187-19; Ord. 1995-1 §1; Ord. 1995-8 §8; Ord. 1998-5 §1; Ord. 1999-14 §13)

#### **Sec. 3-4-17. Rates and charges.**

(a) The rates and charges for water service shall be as set forth in Appendix A to this Code.

(b) The senior citizen rate for metered water for a building set forth in Appendix A shall be available only upon presentation of evidence of age of sixty-five (65) years or more and proof of primary residence within the Town. The senior citizen rate is limited to one (1) residence within the corporate limits of the Town which must be the primary place of residence of the person receiving the rate. (Ord. 1995-1 §1)

#### **Sec. 3-4-18. Tampering with or pollution of system; penalties.**

(a) Trespassing upon water system. It shall be unlawful for any person to trespass upon, injure, tamper, meddle or interfere in any way with any of the works, lakes, reservoirs, dams, streams, ditches, trenches, pipes, drains, filters, valves, water meters, gauges, devices, grounds, enclosures, buildings, structures, water treatment or testing facilities, boats or other equipment, properties or works of the water system owned, controlled or managed by the Town.

(b) Pollution of water or facilities. It shall be unlawful for any person, directly or indirectly, to defile, pollute or contaminate, or to cause, authorize or permit to be defiled, polluted or contaminated, any waters, streams, waterways, watercourses, watersheds, places, tributaries, properties or equipment whereby the water system of the Town shall or may become impure, unwholesome, unfit or dangerous for human use or consumption or to pollute or contaminate any of the waters in or of said water system at any place in or along the same, or within five (5) miles above any point from which such waters are taken. (Prior code 187-28; Ord. 1995-1 §1)

#### **Sec. 3-4-19. Powers and duties of Public Works Director.**

(a) System maintenance and permit issuance. The Public Works Director shall have charge of all facilities of the public water system, and it shall be his or her duty to supervise the system and maintain and control the same as provided by this Chapter. In addition to his or her other duties, the

Public Works Director shall issue permits to make connections with the sewers, and all connections shall be made under his or her supervision.

(b) Supervision of connections; maintenance of Town apparatus. The Public Works Director shall have control of the laying of all sewer lines. The Public Works Director shall have the general supervision of the installation of all taps and service pipes or other connections with the Town-owned water mains. He or she shall also have charge of and be responsible for all tools, machinery, pipes, meters, fixtures, plumbing material and all other apparatus and appliances owned by the Town or used by it in the maintenance and operation of the water system and shall keep account of all such material and the manner in which the same is used, kept or disposed of.

(c) Power and authority to make inspections.

(1) The Public Works Director shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to the water system and supply in accordance with the provisions of this Chapter.

(2) The Public Works Director is authorized to obtain information concerning industrial processes which have a direct bearing on the kinds and sources of discharge to the public sewer. The industry may withhold information considered confidential, but the industry must establish that the revelation to the public of the information in question might result in an advantage to competitors. (See Subsection (d) below.)

(3) While performing any of the work on private properties referred to in Subsection (1) above, the Public Works Director shall observe all safety rules established by the owner of the premises.

(4) The Public Works Director 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 said easement.

(d) Power to require information. The Public Works Director may require a user of sewer services to provide information needed to determine compliance with this Chapter.

(e) Water conservation and restrictions upon use. The Public Works Director shall have power and authority to promulgate and impose voluntary and/or mandatory water conservation measures and water use restrictions upon any and all classes of water service. Such restrictions may include administrative penalties for violation, to be imposed and collected in the manner provided by Section 3-2-6. The Public Works Director may impose such measures or restrictions in time of drought or other shortage in supply, as the Director shall reasonably determine. Such measures or restrictions may be of any duration and kind as the Public Works Director shall choose, provided, however, that the Public Works Director shall advise the Council of the imposition of such measures and restrictions. (Ord. 1999-14 §14; Ord. 2002-7 §1)

**Secs. 3-4-20--3-4-30. Reserved.**

*Division 2*  
*Cross-Connection and Backflow Control*

**Sec. 3-4-31. Policy and purpose.**

The policy and purpose of this Article is:

(1) To protect the public water systems from the possibility of contamination or pollution by isolating within its customers' internal distribution systems or its customers' private water systems such contaminants or pollutants which could backflow or backsiphon into the public water systems.

(2) To promote the elimination or control of existing cross-connections, actual or potential, between its customers' in-plant potable water systems and nonpotable water systems, plumbing fixtures and industrial piping systems.

(3) To provide for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of the potable water system. (Prior code 187-29)

**Sec. 3-4-32. Control requirements.**

(a) Water system.

(1) The water system shall be considered as made up of two (2) parts: the Town system and the customer system.

(2) The Town system shall consist of the source facilities and the distribution system and shall include all those facilities of the water system under the complete control of the Town, up to the point where the customer's system begins.

(3) The source shall include all components of the facilities utilized in the production, treatment, storage and delivery of water to the distribution system.

(4) The distribution system shall include the network of conduits used for the delivery of water from the source to the customer's system.

(5) The customer's system shall include those parts of the facilities beyond the termination of the Town distribution system which are utilized in conveying Town-delivered domestic water to points of use.

(b) Policy.

(1) No water service connection shall be installed or maintained by the water purveyor unless the water supply is protected as required by state laws and regulation and this Article. Service of water to any premises shall be discontinued by the Town if a backflow prevention device, required by this Article, is not installed, tested and maintained or if it is found that a backflow prevention

device has been removed, bypassed or if an unprotected cross-connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

(2) The customer's system should be open for inspection at all reasonable times to authorized representatives of the Town to determine whether cross-connections or other structural or sanitary hazards, including violations of these regulations, exist. When such a condition becomes known, the Town Manager shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the conditions in conformance with state and Town statutes relating to plumbing and water supplies and the regulations adopted pursuant thereto.

(3) An approved backflow prevention device shall be installed depending on degree of hazard. Such a device shall be installed at or near the property line or immediately inside the building being served but, in all cases, before the first branch line leading off the service line wherever the following conditions exist:

a. In the case of premises having an auxiliary water supply which is not or may not be of safe bacteriological or chemical quality and which is not acceptable as an additional source by the Town, the public water system shall be protected against backflow from the premises by installing a backflow prevention device in the service line appropriate to the degree of hazard.

b. In the case of premises on which any industrial fluids or any other objectionable substance is handled in such a fashion as to create an actual or potential hazard to the public water system, the public system shall be protected against backflow from the premises by installing a backflow prevention device in the service line appropriate to the degree of hazard. This shall include the handling of process waters and waters originating from the utility system which have been subject to deterioration in quality.

c. In the case of premises having internal cross-connections that cannot be permanently corrected and controlled or intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross-connections exist, the public water system shall be protected against backflow from the premises by installing a backflow prevention device in the service line.

(4) The type of protective device required under Subsection (3)a, b and c above shall depend upon the degree of hazard which exists as follows:

a. In the case of any premises where there is an auxiliary water supply, as stated in Subsection (3)a above, and it is not subject to any of the following rules, the public water system shall be protected by an approved air-gap separation or an approved reduced-pressure principal backflow prevention device.

b. In the case of any premises where there is water or substance that would be objectionable but not hazardous to health if introduced into the public water system, the public water system shall be protected by an approved double check valve assembly.

c. In the case of any premises where there is any material dangerous to health which is handled in such a fashion as to create an actual or potential hazard to the public water system,

the public water system shall be protected by an approved air-gap separation or an approved reduced-pressure principal backflow prevention device. Examples of premises where these conditions will exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants.

d. In the case of any premises where there are uncontrolled cross-connections, either actual or potential, the public water system shall be protected by an approved air-gap separation or an approved reduced-pressure principle backflow prevention device at the service connection.

e. In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-plant cross-connection survey, the public water system shall be protected against backflow or backsiphonage from the premises by the installation of a backflow prevention device in the service line. In this case, maximum protection will be required, that is, an approved air-gap separation or an approved reduced-pressure principal backflow prevention device shall be installed in each service to the premises.

(5) Any backflow prevention device required herein shall be of a model and size approved by the State Health Department. The term *approved backflow prevention device* shall mean a device that has been established by the American Water Works Association, entitled AWWA C506-78, Standards for Reduced Pressure Principal and Double Check Valve Backflow Prevention Devices, and have met completely the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California, established by Specifications of Backflow Prevention Devices, No. 69-2, dated March 1969, or the most current issue. Said American Water Works Association and Foundation for Cross-Connection Control and Hydraulic Research standards and specifications have been adopted by the agency. Final approval shall be evidenced by a certificate of approval issued by an approved testing laboratory certifying full compliance with said American Water Works Association standards and Foundation for Cross-Connection Control and Hydraulic Research specifications. The following testing laboratory has been qualified to test and certify backflow preventers: Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, University Park, Los Angeles, California, 90007. Testing laboratories other than the laboratory listed above will be added to an approved list as they are qualified by the Town Manager. Only approved backflow prevention devices may be used.

(6) It shall be the duty of the customer-user at any premises where backflow devices are installed to have certified inspections and operational tests made at least once per year. In those instances where the Town deems the hazard to be great enough, he or she may require certified inspections at more frequent intervals. These shall be performed by a certified inspector and/or tester. These devices shall be repaired, overhauled or replaced at the expense of the customer-user whenever said devices are found to be defective. Records of such tests, repairs and overhauls shall be kept and made available to the Town Manager. The attached form shall be submitted to the agency within thirty (30) days after the device has been tested and/or inspected.

(7) Installation of new devices. The agency will be informed of all backflow prevention devices that are installed on any premises. Upon installation, the device will be inspected and tested by a certified inspector and/or tester. The agency will be informed in writing of the results of this inspection and test. (Prior code 187-31)

**Sec. 3-4-33. Existing cross-connections.**

Within a reasonable time following the adoption of the regulation, existing cross-connections between a public water system and any secondary water system shall be eliminated or protected by means of an approved backflow preventer. (Prior code 187-32)

**Sec. 3-4-34. Irrigation and fire systems.**

(a) Irrigation systems. The following guidelines relating to backflow prevention devices for irrigation systems shall apply:

(1) Atmospheric vacuum breakers shall be installed after the last control valve of each sprinkler circuit and at a minimum of six (6) inches above the highest irrigation head. The atmospheric vacuum breaker shall be installed only on irrigation circuits with heads that will not return any pressure in the circuit when the circuit control valve is closed.

(2) Pressure vacuum breakers shall be installed at the beginning of each irrigation circuit and at a minimum of twelve (12) inches above the highest irrigation head on the circuit. Individual irrigation circuits, having quick coupling valves or other similar type heads that will permit pressure to be retained in the circuit, shall have a pressure vacuum breaker installed as a minimum requirement for each circuit. Irrigation systems using the subsurface drip method shall have a pressure vacuum breaker on each circuit. A pressure vacuum breaker may not be installed where a double check valve assembly, reduced-pressure principal backflow prevention device or air-gap separation is required.

(3) A double check valve assembly may be installed to serve multiple irrigation circuits in lieu of vacuum breakers on each individual irrigation circuit.

(4) A reduced-pressure principal backflow preventer or air-gap separation shall be required before any piping network in which fertilizers, pesticides and other chemicals or toxic contaminants are injected or siphoned into the irrigation system. A reduced-pressure principal backflow preventer may be installed to serve multiple irrigation circuits in lieu of vacuum breakers on each individual irrigation circuit.

(b) Fire systems.

(1) Water systems for fighting fire, derived from a supply that cannot be approved as safe or potable for human use shall, whenever practicable, be kept wholly separate from drinking water pipelines and equipment. In cases where the domestic water system is used for both drinking and fire-fighting purposes, approved backflow prevention devices shall be installed to protect such individual drinking water lines as are not used for fire-fighting purposes. It is hereby declared that it is the responsibility of the person causing the introduction of said unapproved or unsafe water into the pipelines to see that a procedure be developed and carried out to notify and protect users of this piping system during the emergency and that special precautions be taken to disinfect thoroughly and flush out all pipelines which may have become contaminated before they are again used to furnish drinking water. In the event that the means of protection of water consumers is by disinfection of the auxiliary fire-fighting supply, the installation and its use shall be thoroughly reliable.

(2) When disinfection of the auxiliary supply itself is depended upon to render the water safe, the means of applying the disinfectant under these regulations shall be automatic with operation of the pump or pumps employed with the dangerous water in question. Adequate supplies of chlorine or its compounds must be kept on hand at all times. Chlorine-dosing equipment shall be tested daily and kept in good operating condition.

(3) The public water supply must be protected against backflow from dual domestic fire systems. (Prior code 187-33)

**Sec. 3-4-35. Violations and penalties.**

(a) The Public Works Director shall notify the owner, or authorized agent of the owner, of the building or premises in which there is found a violation of this Article. The Public Works Director shall set a specific time for the owner to have the violation removed or corrected. If the owner fails to correct the violation in the specified time, the Public Works Director may, if in his or her judgment an imminent health hazard exists, request that the water service to the building or premises be terminated. Additional fines or penalties may also be invoked following termination of service.

(b) The owner or authorized agent of the owner responsible for the maintenance of the plumbing system in the building who knowingly permits a violation to remain uncorrected after the specified time set by the Public Works Director shall, upon conviction thereof by the court, be required to pay a fine as set forth in Chapter 1, Article I. (Prior code 187-34; Ord. 1995-1 §1)

**ARTICLE V**

**Overhead Utilities**

**Sec. 3-5-1. Intent.**

The intent of this Article shall be to achieve the undergrounding of all overhead utility or communication lines within the Town over a period of time as the Town is developed. It is desirous for all construction projects involving overhead lines to underground the lines or, at a minimum, reduce the number of overhead lines as reasonably as possible with the exceptions outlined within this Article. (Prior code 182-1)

**Sec. 3-5-2. Definitions.**

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

*Poles, overhead wires and associated structures* means poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances located above ground within the Town and used or useful in supplying overhead electric, communication or similar or associated service. (Prior code 182-2)

**Sec. 3-5-3. Utilities in newly developed areas.**

Whenever any new electric or telephone utility lines, cable television or communication lines are installed by any person to serve newly developed or redeveloped areas, they shall be placed underground. The cost of such undergrounding shall be paid solely by the builder or owner of the developed area and shall be installed subject to the plans, specifications, tariffs and approval of the Public Service Company of Colorado, U.S. West, T.C.I. Cablevision and any other utility designated by the Town. To serve new development in areas where existing overhead lines are present, no new pole-line construction shall be allowed outside the existing alignment, and the service lines shall be placed underground. (Prior code 182-3; Ord. 1995-1 §1; Ord. 1999-14 §15)

**Sec. 3-5-4. Repair and replacement of utility lines.**

Whenever it is feasible to underground utility lines in conjunction with repair or replacement of them, the utility companies will cooperate with the Town to underground the utility lines in accordance with Section 3-5-3 or 3-5-5, whichever is applicable. (Prior code 182-4)

**Sec. 3-5-5. Upgrading and rerouting utility lines.**

Whenever utility lines are proposed to be upgraded or rerouted, the utility companies or communication companies shall notify the Town so the utilities can be undergrounded if the Town wishes to participate in the cost. Costs of the undergrounding will be in accordance with the Public Utilities Commission, approved tariffs or the cost of actual installation for those entities not governed by the Public Utilities Commission. (Prior code 182-5; Ord. 1995-1 §1)

**Sec. 3-5-6. Prohibited acts.**

It shall be unlawful for any person to install any utility above ground when such utility is required to be underground as set forth in Sections 3-5-3, 3-5-4 and 3-5-5 above. (Prior code 182-6)

**Sec. 3-5-7. Violations and penalties.**

Any person violating any provision of this Article shall be fined not more than one thousand dollars (\$1,000.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. For each violation, the violator will be given a written citation on the violation and will have ten (10) days from the date of the postmark to correct the violation or arrive at a solution acceptable to the Town before the fine begins to accrue. Failure to remove or underground the violating poles, overhead wires and associated structures will result in removal or undergrounding by the Town at the sole expense of the person responsible for such failure. Such expense shall be a lien against any property in the State owned by such person and may be foreclosed as provided by law. (Prior code 182-7)

**Sec. 3-5-8. Emergency service.**

Notwithstanding the provisions of this Article, overhead facilities may be installed and maintained for a period not to exceed ten (10) days, without authority of the Director of Public Works, in order to provide emergency service. The Director of Public Works may grant special permission to be reviewed every thirty (30) days, on such terms as he or she may deem appropriate in cases of emergency or unusual circumstances, without discrimination as to any person or utility, to erect,

construct, install, maintain, use or operate poles, overhead wires and associated overhead structures. (Prior code 182-8)

**Sec. 3-5-9. Exceptions.**

This Article shall, unless otherwise provided in such ordinance, not apply to the following types of facilities:

- (1) Any municipal facilities or equipment installed on existing overhead pole lines under the supervision and to the satisfaction of the Director of Public Works.
- (2) Antennas, associated equipment and supporting structures by a utility for furnishing communication services.
- (3) Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, switch boxes and concealed ducts.
- (4) Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects. (Prior code 182-9; Ord. 1995-1 §1)

**ARTICLE VI**

**Design, Construction and Excavation Criteria and Standards**

**Sec. 3-6-1. Authority of Public Works Director.**

Design criteria and construction specifications for water, sewer, streets and drainage systems and encroachment and grading standards may be promulgated, changed or amended from time to time at the sole discretion of the Public Works Director and shall be effective upon approval and authorization of the Public Works Director. The Public Works Director shall have the authority to waive, supercede or alter such standards and/or requirements on a case-by-case basis if he or she determines that there is sufficient and/or practical reason to do so. Such action by the Director may result in standards which are either more or less stringent than those promulgated. (Ord. 1995-1 §1; Ord. 1999-14 §17)

**ARTICLE VII**

**Public Right-of-Way Use – Encroachments, Prohibited Acts and Conditions**

**Sec. 3-7-1. Encroachments, litter prohibited.**

(a) Encroachments prohibited. No encroachment or obstruction, without limitation thereto whatever, including ice, snow, mud, dirt, debris, rubbish, filth, plants, trees, structures, building materials, fences, signs, whether permanent or not, man-made, natural or otherwise, other than provided by law or authorized by the Town, shall be erected, made, placed or allowed to exist in or on the public right-of-way, roads, streets, alleys, sidewalks, curbs, gutters, curbwalks or other public areas or places within the Town. No part of the rights-of-way may be used for the storage or display of goods, wares or merchandise offered for sale or for advertising or for any other purpose.

(b) Notice of removal of encroachments. The Public Works Department and the Community Development Department shall have charge of all sidewalks, curbs, gutters, driveways and parking areas within the Town and to see that the same are properly constructed and kept in repair and, in the case any thereof shall become unsafe or out of repair, to order the same to be repaired at the expense of the property owner as herein provided. Whenever any encroachments or obstructions are made, located, placed, allowed, permitted or maintained contrary to this Chapter, the Public Works Department or the Community Development Department shall give notice by posting a notice of encroachment on the property or on the object causing the encroachment or obstruction, directing that the encroachment or obstruction be removed immediately. In the event that such notice of encroachment shall not be obeyed, the Public Works Department and/or the Community Development Department may order the removal of the encroachment or obstruction or that preventative measures be taken for the protection of the public, and all such costs and expenses thereof shall be assessed against the responsible person or owner or both at the discretion of the Town.

(c) No person shall litter, track, deposit, or cause to be littered, tracked or deposited, sand, gravel, rocks, mud, dirt or any other debris or material upon any public way or any portion thereof.

(d) No person owning or operating trucks and other vehicles shall fail to clean such vehicles to eliminate their tracking or depositing sand, gravel, rocks, mud, dirt or any other debris or material, except snow, upon any public way or any portion thereof.

(e) No person shall plow, shovel or otherwise deposit or cause to be deposited any snow upon any public way or any portion thereof. It is a specific defense to a charge of violating this Subsection that the snow was shoveled or swept directly from a sidewalk in front of a residence in a residential area, and that the snow so deposited did not impair the use of the street by vehicular traffic. The provisions of this Subsection do not apply to persons brushing off snow which has accumulated naturally upon a motor vehicle parked on or driven upon a public way. No owner, manager, agent or occupant of real property within the Town shall allow snow or ice to accumulate on public sidewalks and pedestrian passageways abutting their property, and they shall have joint and several responsibility for the removal of all such snow and ice. (Ord. 1999-14 §18)

### **Sec. 3-7-2. Restrictions on tires and equipment.**

It shall be unlawful for any person to operate or move upon any asphalt surfaced street in the Town any vehicle equipped with metal or solid rubber tires or tires which have any flange, cleat, spike or other protuberances of any material other than rubber, provided that this Section shall not apply to the use of tire chains or cleated or studded snow or passenger tires approved for use upon the highways of Colorado. (Ord. 1999-14 §18)

### **Sec. 3-7-3. Road closures prohibited.**

One-way access is required at all times for construction in Town roadways and rights-of-way unless otherwise approved by the Public Works Director or Town Engineer in writing. A traffic control plan (TCP) may be required by the Public Works Director and/or Town Engineer prior to commencement with any proposed work within the Town right-of-way. All roadways will be opened for two-way traffic at the end of each work day unless otherwise approved and permitted by the Town. In such cases of proposed road closures or lane restrictions, the applicant is responsible for the notification of all emergency dispatch and public transportation agencies. Reopened access ways and

traffic lanes shall be free from construction related and/or other debris and hazards. Road cut transitions shall be tapered so to avoid sharp edges and pavement drop offs. (Ord. 1999-14 §18)

**Sec. 3-7-4. Street monuments.**

(a) The corners of lots, tracts or other parcels of land, and any line points of reference shall, when established by a land survey, be solidly embedded in concrete per details approved by the Town Engineer and shall be in addition to the minimum standards for surveys set forth in the Colorado Revised Statutes.

(b) If any person shall damage, destroy or remove any corner or line point monument of any type without having first made satisfactory arrangement with the Town Engineer for reconstruction of said monument, said person shall be liable for any and all costs of replacement of said monument and in addition is subject to a fine and/or imprisonment as provided by Section 1-1-19 of this Code.

(c) Construction of infrastructure for all new site development, including but not limited to subdivisions, resubdivisions, planned unit developments (PUDs) and conditional uses shall include provisions for installation by the owner of permanent survey monumentation as required by the Town Engineer and consistent with the requirements of state statutes. (Ord. 1999-14 §18)

**Sec. 3-7-5. Violations and penalties.**

(a) Any person found in violation of the provisions hereof or of any regulation adopted pursuant to this Article shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to such penalties as are provided in Chapter 1, Article I.

(b) It is unlawful to erect, construct, reconstruct, alter or use any structure or to use any land in violation of this Article. Each day during which such illegal construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense.

(c) In addition or as an alternative to such fine and/or imprisonment, the Town may seek other remedies provided in law or equity including but not limited to damages, injunction, mandamus or abatement. (Ord. 1999-14 §18)

**ARTICLE VIII**

**Flood Damage Prevention**

**Sec. 3-8-1. Legislative declaration.**

(a) The flood hazard areas of the Town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in

other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from damage also contribute to the flood loss. (Ord. 1999-16 §1)

**Sec. 3-8-2. Statement of purpose.**

It is the purpose of this Article to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditures of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazards; and
- (8) To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions. (Ord. 1999-16 §1)

**Sec. 3-8-3. Methods of reducing flood losses.**

In order to accomplish its purposes, this Article includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 1999-16 §1)

#### **Sec. 3-8-4. Definitions.**

Unless otherwise specifically defined, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application:

*Appeal* means a request for a review of the Floodplain Administrator's interpretation of any provisions of this Article or a request for a variance.

*Area of shallow flooding* means a designated AO zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

*Areas of special flood hazard* means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

*Base flood* means the flood having a one-percent chance of being equaled or exceeded in any given year. Also commonly referred to as the *one-hundred-year flood*.

*Critical feature* means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

*Development* means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the areas of special flood hazard.

*Existing manufactured home park or subdivision* means a manufactured home park for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) are completed before the effective date of the ordinance codified herein.

*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland waters; and/or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood Insurance Rate Map (FIRM)* means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*Flood Insurance Study* means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

*Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

*Levee* means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

*Levee system* means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Article.

*Manufactured home* means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

*Mean sea level* means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

*New construction* means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified herein.

*New manufactured home park or manufactured home subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot (including, at the minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of the ordinance codified herein.

*Program deficiency* means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the NFIP standards in 60.3, 60.4, 60.5 or 60.6.

*Recreational vehicle* means a vehicle which is (1) built on a single chassis; (2) four hundred (400) square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.

*Start of construction* includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or floorings, the installation of piles, the construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

*Structure* means a walled and roofed building or manufactured home that is principally above ground.

*Substantial improvement* means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, *substantial improvement* is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

*Variance* means a grant of relief from the requirements of this Article which permits construction in a manner that would otherwise be prohibited by this Article.

*Violation* means the failure of a structure or other development to be fully compliant with this Article. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in NFIP standards 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) is presumed to be in violation until such time as that documentation is provided.

*Water surface elevation* means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. 1999-16 §1; Ord. 2001-12 §§1-3)

**Sec. 3-8-5. Lands to which this Article applies.**

This Article shall apply to all areas of special flood hazard within the Town. (Ord. 1999-16 §1)

**Sec. 3-8-6. Basis for establishing the areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the Town of Silverthorne," dated August 9, 2001, with an accompanying Flood Insurance Rate Map (FIRM), is hereby adopted by reference and declared to be a part of this Article. The Flood Insurance Study and FIRM are on file at Silverthorne Town Hall, 601 Center Circle, Silverthorne, CO 80498. (Ord. 1999-16 §1; Ord. 2001-12 §4)

**Sec. 3-8-7. Compliance.**

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Article and other applicable regulations. (Ord. 1999-16 §1)

**Sec. 3-8-8. Enforcement and penalties.**

(a) It shall be the duty of the Floodplain Administrator or his or her delegate to administer and enforce the provisions of this Article.

(b) The Floodplain Administrator or his or her authorized representative may serve a written stop work order requiring the correction of any violation of this Article upon the applicant, or other person who commits or assists in any such violation.

(c) In addition, the Town Attorney acting on behalf of the Town Council, may maintain an action for such equitable relief as may be necessary to enforce this Article.

(d) Any person violating any provisions of this Article, upon conviction thereof, shall be fined not more than three hundred dollars (\$300.00). Each day such violation is committed or permitted to continue shall constitute a separate offense.

(e) Permits may be revoked pursuant to Chapter 4 of this Code.

(f) Nothing herein is an exclusive remedy. (Ord. 1999-16 §1)

**Sec. 3-8-9. Abrogation and greater restrictions.**

This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, as a private limitation on private property, any such easement, covenant or deed restriction shall not be construed to be enforced by this Article. In the event of a conflict

between this Article and any other provision of this Code, the more stringent requirement shall prevail. (Ord. 1999-16 §1)

### **Sec. 3-8-10. Interpretation**

In the interpretation and application of this Article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the Town; and
- (3) Deemed neither to limit nor repeal any other powers granted to or held by the Town pursuant to statute or court decision. (Ord. 1999-16 §1)

### **Sec. 3-8-11. Warning and disclaimer of liability.**

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of the Town, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder. (Ord. 1999-16 §1)

### **Sec. 3-8-12. Procedures and administration.**

(a) Establishment of development permit and elevation certificate. A development permit and elevation certificate shall be obtained before construction or development begins within any area of special flood hazard established in Section 3-8-6. Application for a development permit and elevation certificate shall be made on forms furnished by the Town and may include, but shall not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 3-8-18(2); and
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Compliance with standards required. Prior to the issuance of any development permit in a flood hazard area, the Floodplain Administrator shall certify that the proposed project conforms to all standards relating to the specific flood hazard area in which the project is situated. (Ord. 1999-16 §1)

### **Sec. 3-8-13. Designation of the Public Works Director.**

The Public Works Director or his or her designee, acting as the Floodplain Administrator, is hereby appointed to administer and implement this Article by granting or denying development permit applications in accordance with its provisions. (Ord. 1999-16 §1)

### **Sec. 3-8-14. Duties and responsibilities**

The duties of the Floodplain Administrator shall include, but not be limited to:

(1) Permit review.

a. Review all development permits to determine that the permit requirements of this Article have been satisfied.

b. Review all development permits and elevation certificates to determine that all necessary permits have been obtained from federal, state or local governmental agencies from which prior approval is required.

c. Review all development permits and elevation certificates to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 3-8-19(1) are met.

(2) Use of other base flood data. When base flood elevation data has not been provided in accordance with Section 3-8-6, Basis for establishing the areas of special flood hazard, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from any federal, state or other source as criteria for requiring that new construction, substantial improvements or other development in Zone A are administered in accordance with Section 3-8-18, Specific standards.

(3) Information to be obtained and maintained.

a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

b. For all new or substantially improved floodproofed structures:

1. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.

2. Maintain the floodproofing certifications required in Section 3-8-12(a)(3).

c. Maintain for public inspection all records pertaining to the provisions of this Article.

(4) Alteration of watercourses.

a. Notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(5) Interpretation of FIRM boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 3-8-15. (Ord. 1999-16 §1)

**Sec. 3-8-15. Variance procedure.**

(a) Appeal Board.

(1) The Board of Adjustment, as established by Sections 4-1-41 through 4-1-47 of this Code, shall hear and decide appeals and request for variances from the requirements of this Article.

(2) In passing upon such applications, the Board of Adjustment, in addition to the requirements of Section 4-1-44, shall consider:

- a. The danger that materials may be swept onto other lands to the injury of others;
- b. The danger to life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. The compatibility of the proposed use with the existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.

The Floodplain Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

(b) Conditions for variances.

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing items a--k in Section 3-8-15(a)(2) have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justifications required for issuing the variance increases.

(2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this Section.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 3-8-15(a)(2) or conflict with existing local laws or ordinances.

(6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation. (Ord. 1999-16 §1)

### **Sec. 3-8-16. Amendment procedure.**

All amendments to the Flood Boundary-Floodway Map, the Flood Insurance Rate Map, the Flood Insurance Study or the standards and criteria of this Article shall be processed according to the provisions established in Chapters 3 and 4 of this Code. (Ord. 1999-16 §1)

### **Sec. 3-8-17. General standards.**

In all areas of special flood hazards, the following standards are required:

(1) Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.

b. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements may be:

1. Over-the-top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, with manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side.

2. Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points, with manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side;

3. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and

4. Any additions to the manufactured home be similarly anchored.

(2) Construction materials and methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above

grade. Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. The provision applies only to homes constructed with the lowest floor at or above the base flood elevation.

(4) Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

d. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(5) Subdivision and planned unit development proposals.

a. Shall be consistent with the need to minimize flood damage;

b. Shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

c. Shall have adequate drainage provided to reduce exposure to flood damage; and

d. Base flood elevation data shall be provided any development which contains at least four (4) lots or four (4) acres (whichever is less). (Ord. 1999-16 §1; Ord. 2001-12 §5)

**Sec. 3-8-18. Specific standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3-8-6, Basis for establishing the areas of special flood hazard or Section 3-8-14(2), Use of other base flood data, the following provisions are required:

(1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation.

(2) Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section 3-8-14(3)b.

d. Provide that where a nonresidential structure is intended to be made watertight below the base flood level: (i) a registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this Section, and (ii) a record of such certificates shall be made which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed.

(3) Manufactured homes.

a. Manufactured homes shall be anchored in accordance with Section 3-8-17(1)b.

b. All manufactured homes or those to be substantially improved shall conform to the following requirements:

1. Require that manufactured homes that are placed or substantially improved on a site (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

2. Require that manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions that are not subject to the provisions in Paragraph 1 above be elevated so that either (i) the lowest floor of the manufactured home is at or above the base flood elevation, or (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(4) Recreational vehicles. Require that recreational vehicles either (i) be on the site for fewer than one hundred eighty (180) days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and elevation and anchoring requirements for manufactured homes. (Ord. 1999-16 §1; Ord. 2001-12 §6)

**Sec. 3-8-19. Floodways.**

Located within areas of special flood hazard established in Section 3-8-6 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

(1) Prohibit construction of habitable structures within the floodway.

(2) Prohibit encroachments including fill, new construction, substantial improvements and other nonhabitable development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(3) If subsection (2) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 3-8-17 and 3-8-18 which related to non-habitable construction and/or improvements.

(4) Prohibit the placement of any manufactured homes, except in an existing manufactured home park or existing manufactured home subdivision. (Ord. 1999-16 §1; Ord. 2001-12 §7)