

**Ordinance First Reading
Notice for Publication and Posting**

NOTICE OF PUBLIC HEARING

TOWN OF GYPSUM

P.O. Box 130
50 Lundgren Boulevard
Gypsum, CO 81637

This is to give notice that at a public meeting on April 25th, 2023, the following Ordinance was introduced, read by title, approved on first reading, and ordered posted and published by title only, by the Gypsum Town Council. A public hearing for final approval, rejection, or other action as may be taken by vote of Town Council on second reading is scheduled on May 9th, 2023, at 7:00 p.m. in the Town Council Chambers at Gypsum Town Hall, 50 Lundgren Boulevard, Gypsum Co 81637.

ORDINANCE NO. 03 (SERIES 2023) AN ORDINANCE An Ordinance Providing for the Repeal and Readoption of Title 13 of the Gypsum Municipal Code.

The text of this Ordinance is available for public inspection at the office of the Town Clerk, 50 Lundgren Blvd., Gypsum, Colorado, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. and on the Town's website at <https://townofgypsum.com>.
/ss: Becky Close, Town Clerk

TOWN OF GYPSUM, COLORADO

**ORDINANCE NO. 03
SERIES 2023**

**AN ORDINANCE PROVIDING FOR THE REPEAL AND READOPTION OF
TITLE 13 OF THE GYPSUM MUNICIPAL CODE**

WHEREAS, the Town of Gypsum (“Town”) is a home rule municipality duly organized and existing under Articles XX of the Colorado Constitution and the Town’s Home Rule Charter effective October 21, 1982; and

WHEREAS, by Ordinance No. 1, Series 1985, and pursuant to the provisions of Section 31-16-201 through 31-16-208 of the Colorado Revised Statutes, as amended, the Town Council adopted the Gypsum Municipal Code (“Code) consisting of a codification of the Town’s ordinances of a general and permanent nature; and

WHEREAS, several titles, chapters, sections and subsections of the Code have been amended and/or repealed and readopted since 1985; and

WHEREAS, in order to reduce liability risks to the Town, add clarity and consistency, and ensure the Code incorporates current legislation and case law, the Town Council has undertaken a comprehensive review of the Code to ensure the Code is adequately serving the community’s needs as the Town grows; and

WHEREAS, the Town Council finds and determines that Title 13 (Public Services) should be repealed and its content readopted and codified, as amended, and that the same is necessary and designed for the purposes of updating Title 13 to comply with changes in the Colorado Revised Statutes, and promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants and visitors of the Town;

NOW, THEREFORE, be it ordained by the Town Council of the Town of Gypsum, Colorado that:

Section 1. Repeal and Readoption of Title 13 (Public Services). Title 13 of the Gypsum Municipal Code is hereby repealed and readopted in its entirety, as attached hereto and incorporated herein.

Section 2. Public Inspection. Copies of this ordinance and the Gypsum Municipal Code are available for public inspection at the office of the Gypsum Town Clerk.

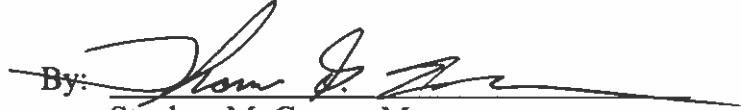
Section 3 Public Hearing: A public hearing on this Ordinance shall be held on the 9th day of May, 2023, at 7:00 p.m. at the Town of Gypsum Town Hall, 50 Lundgren Boulevard, Gypsum, Colorado.

Section 4. Effective Date. This Ordinance shall become effective as a permanent Ordinance five (5) days after publication, following final adoption after a public hearing held on the 9th day of May, 2023, at 7:00 p.m., at the Town of Gypsum Town Hall, 50 Lundgren Blvd., Gypsum, Colorado.


Section 5. Severability. If any portion of this Ordinance, or the Gypsum Municipal Code amended hereby, is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

INTRODUCED, READ AND ORDERED PUBLISHED BY THE TOWN COUNCIL OF THE TOWN OF GYPSUM, COLORADO, UPON A MOTION DULY MADE AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF GYPSUM ON THE 25TH DAY OF APRIL, 2023.

TOWN OF GYPSUM

By: 
~~Stephen M. Carver, Mayor~~
Tom Edwards, Mayor Pro Tem

Attest:


Becky Close, Town Clerk



INTRODUCED ON SECOND READING, READ, CONSIDERED AT A PUBLIC HEARING AND FINALLY ADOPTED, PASSED AND APPROVED WITH AMENDMENTS, IF ANY, AND ORDERED POSTED AND PUBLISHED, BY THE TOWN COUNCIL OF THE TOWN OF GYPSUM, COLORADO, UPON A MOTION DULY MADE AND PASSED AT ITS MEETING HELD ON THE 9TH DAY OF MAY, 2023, BY A VOTE OF _____ IN FAVOR AND _____ AGAINST.

TOWN OF GYPSUM

By: _____
Stephen M. Carver, Mayor

Attest:

Becky Close, Town Clerk

(S E A L)

**TITLE 13 -
PUBLIC SERVICES**

Chapter 13.01 - WATER SERVICE REGULATIONS

13.01.010 - Public Works Department Created.

There is created and established a Public Works Department for the Town of Gypsum for the purpose of management, maintenance and operation of a waterworks system and plant for supplying the Town.

13.01.020 - Public Works Director and Personnel.

The property and personnel under the control of the Town shall be referred to generally as the Public Works Department. The Town Manager shall designate a person as Director of the Public Works Department. The Public Works Director shall cause the Town Council's policies and orders to be executed and shall bring matters to the Town Manager's attention which are appropriate for action. The person being appointed Public Works Director shall have responsibility for and control of the Town's System and shall perform all acts which may be necessary for the prudent and efficient approval of the Town Manager. The Town Manager shall have the power to prescribe such other and further rules and regulations governing the powers and duties of the Public Works Department and its personnel.

13.01.030 - Water Fund.

There is hereby created a water fund into which shall be placed all revenues received from the operation of the waterworks system and plant together with all monies coming into said fund from other sources. All revenues of the water fund shall be turned over to the Finance Director of the Town, who shall open and keep a separate account for said water fund and shall faithfully account for all monies received and disbursed on account thereof. Money shall be paid out of the water fund only upon the authority of the Town Council.

13.01.040 - Conditions of Water Service.

The right to take and use water distributed through the facilities of the Public Works Department exists and shall exist only through license, and no physical connection may be made or modified to any such facilities or to any extension thereof for any purpose unless a license shall have first been obtained. Neither the issuance of a license nor the use of water thereunder shall constitute or be deemed a relinquishment of title to any water, water right or successive use of water by the Town. A license shall not transfer ownership or title of the water delivered. A licensee shall have the right to use water only on the licensed

premises and for the purposes specified in the license. Licenses attach to the licensed premises only. No water user in or upon any premises to which water is supplied under a license for such premises, shall supply or permit water to be supplied for use on any other premises. A license is required for each and every premises using water regardless of whether it receives service inside the Town or outside the Town, pursuant to a license agreement.

13.01.050 - Eligibility for Water Service.

(1) *Inside the Town.* All properties situated inside the corporate boundaries of the Town, as the same may exist from time to time, shall be eligible to receive water service from the Public Works Department upon compliance with these rules and payment of such fees and charges as may be applicable and necessary to extend the Town's System to the property concerned. The timing and method for extending such service shall be at the sole discretion of the Town Council.

(2) *Outside the Town.* Only those properties which are outside of the Town but which are included within the boundaries of an area which the Public Works Department has agreed to serve by virtue of an agreement, contract or license shall be eligible for service from the Public Works Department. Eligibility for service in such areas shall be conditioned on approval by the Town Council and compliance with all rules and regulations, fees and charges of the Public Works Department.

13.01.060 - Application for a Water Service License.

A license to take and use water distributed through the Town's System is issued only upon the condition that the applicant submit a signed, written application for service on a form supplied by the Community Development Department containing but not limited to the following:

(1) A legal description of the premises to be served, containing a designation of lot and block, address, or other description to define the area to be served. The land upon which the water service tap will be used must be identified at the time of purchase on the application for a water service license and the tap cannot be moved or severed from this specifically identified land, or sold, leased or traded to another person, entity, or property location without approval of the Town Council. However, a pre-purchased tap can be assigned, for no additional consideration, to a subsequent purchaser of the property for which the tap was purchased.

(2) A statement of the purpose(s) for which the water is to be used, including calculation of peak day and peak month water service requirements.

(3) An acknowledgment and agreement by the licensee that use under the license must be as limited and defined by applicable law and the rules and regulations of the Public Works Department.

(4) The name of the licensed Contractor who will install the service line.

(5) An agreement on the part of the applicant to pay a system development charge, and such other rates, fees and charges then in existence.

13.01.070 - Schedule of Water Rates.

The Town Council shall set rates for which water will be delivered through the Town’s System and at such a level as may be required to pay for the operation and administration, maintenance, debt service, reserves, rehabilitation of facilities, additions and extensions, improvements, and capital project requirements of the Public Works Department. Except as provided by written agreement entered into under special or qualifying conditions, all water delivered shall be metered and the following rates shall apply:

(1) *Metered uses—Inside and outside the Town:* The Town encourages the use of privately owned nonpotable (raw water) irrigation systems approved by the Town for the irrigation of lawns, gardens and greenbelt areas. In pursuit thereof, a credit for the use of privately owned nonpotable (raw water) irrigation systems, for which there is no outside use, is contained in Sections 13.02.050 and 13.02.200.

The monthly charge includes a service fee per service connection ("service fee") and a per gallon of use charge ("usage charge"), which is based on the total number of gallons above the amount included in the base service fee which are used within the billing period. In addition, while phase II, III, or IV water use restrictions are in effect, as provided in Section 13.01.350, customers shall also incur charges ("drought surcharge") for water usage exceeding the number of gallons per EQR included in the service fee. Drought surcharges will be billed in addition to the service fee and usage charge. The per gallon rates will be applied per EQR designated for the use per EQR assigned in the Town's discretion. The amount included in the base service fee is described below:

(2) *Monthly Commercial, Industrial and Nonresidential Rates.*

Use Type	Service Fee Per Service Connection	Single EQR Surcharge Rate, applied when usage is over gallon per EQR, per 1,000 gallons	Multiple EQR Surcharge Rate applied when usage is over gallon limit per EQR, per 1,000 gallons
All Commercial and Industrial Uses In-Town (15,000 gallons/EQR)	\$35.85 Fixed Fee	<ul style="list-style-type: none"> • First 15,000 gallons included in Service Fee • \$3.00/1,000 gallons for each 1,000 gallons 	<ul style="list-style-type: none"> • \$2.39/1,000 gallons for the next 15,000 gallons for each additional EQR; • \$3.00/1,000 gallons for

		<p>used over 15,000 up to 20,000 for each EQR</p> <ul style="list-style-type: none"> • \$4.00/1,000 gallons for each 1,000 gallons used over 20,000 up to 25,000 for each EQR • \$5.50/1,000 gallons for each 1,000 gallons used over 25,000 for each EQR • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 15,000 gallons per EQR 	<p>each 1,000 gallons used over 15,000 up to 20,000 gallons for each EQR;</p> <ul style="list-style-type: none"> • \$4.00/1,000 gallons for each 1,000 gallons used over 20,000 gallons up to 25,000 gallons for each EQR • \$5.50/1,000 gallons for each 1,000 gallons used over 25,000 gallons for each EQR • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 15,000 gallons per EQR
<p>All Commercial and Industrial Uses Out-of-Town (15,000 gallons/EQR)</p>	<p>\$53.80 Fixed Fee</p>	<ul style="list-style-type: none"> • First 15,000 gallons included in Service Fee • \$4.50/1,000 gallons for each 1,000 gallons used over 15,000 up to 20,000 for each EQR • \$6.00/1,000 gallons for each 1,000 gallons used over 20,000 up to 25,000 for each EQR • \$8.25/1,000 gallons for each 1,000 gallons used over 25,000 for each EQR • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 15,000 gallons per EQR 	<ul style="list-style-type: none"> • \$3.60/1,000 gallons for the next 15,000 gallons for each additional EQR; • \$4.50/1,000 gallons for each 1,000 gallons used over 15,000 up to 20,000 gallons for each EQR; • \$6.00/1,000 gallons for each 1,000 gallons used over 20,000 gallons up to 25,000 gallons for each EQR • \$8.25/1,000 gallons for each 1,000 gallons used over 25,000 for each EQR • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 15,000 gallons per EQR
<p>Irrigation - City Potable Water (5,000 gallons/irrigation EQR), In-Town</p>	<p>\$12.00 Multiple of EQRs</p>	<ul style="list-style-type: none"> • First 5,000 per EQR included in Service Fee • \$3.00/1,000 gallons for each 1,000 gallons used over 5000 gallons up to 10,000 gallons for 	<ul style="list-style-type: none"> • First 5,000 per EQR included in Service Fee • \$3.00/1,000 gallons for each 1,000 gallons used over 5000 gallons up to 10,000 gallons for each

		<p>each EQR</p> <ul style="list-style-type: none"> • \$5.50/1,000 gallons for each 1,000 gallons used over 10,000 gallons for each EQR • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 5,000 gallons per EQR 	<p>EQR</p> <ul style="list-style-type: none"> • \$5.50/1,000 gallons for each 1,000 gallons used over 10,000 gallons for each EQR • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 5,000 gallons per EQR
Irrigation - City Raw Water, In-Town, only on as available basis	\$5.00	<ul style="list-style-type: none"> • \$0.32/1,000 gallons for each 1,000 gallons, delivery subject to availability and in Town's sole discretion • Drought Surcharge: 20% of the per 1,000 gallon rate 	<ul style="list-style-type: none"> • \$0.32/1,000 gallons for each 1,000 gallons, dependent on availability, delivery subject to availability and in Town's sole discretion • Drought Surcharge: 20% of the per 1,000 gallon rate
Water Troughs, Out of Town	\$0.00	<ul style="list-style-type: none"> • \$2.45/1,000 gallons, per agreement • Drought Surcharge: 20% of the per 1,000 gallon rate 	
Water Permit Temporary Potable (maximum duration of permit is 180 days) (10,000 gallons)	\$50.00 (10,000 gallons)	<ul style="list-style-type: none"> • \$ 5.00/1,000 gallons for the first 10,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate 	<ul style="list-style-type: none"> • \$5.00/1,000 gallons for each gallon used over 10,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate
Water Permit Temporary Raw (maximum duration of permit is 180 days) (10,000 gallons)	\$25.00 (10,000 gallons)	<ul style="list-style-type: none"> • \$2.50/1,000 gallons for the first 10,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate 	<ul style="list-style-type: none"> • \$2.50/1,000 gallons for each gallon used over 10,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate

All Churches and Nonprofit uses In-Town (50,000 gallons/EQR) (excluding residential units) exclude tenants; reference church definition 18.02.175	\$10.00	<ul style="list-style-type: none"> First 50,000 gallons included in Service Fee \$3.50/thousand gallons for each 1,000 gallons used over 50,000 	<ul style="list-style-type: none"> \$2.50/1,000 gallons for the next 50,000 gallons for each additional EQR \$3.50/1,000 gallons for each 1,000 gallons used over 50,000
All Churches and Nonprofit Uses Out-of-Town (50,000 gallons/EQR)	\$15.00	<ul style="list-style-type: none"> First 50,000 gallons included in Service Fee \$5.25/thousand gallons for each 1,000 gallons used over 50,000 	
Irrigation – City Raw Water, In-Town, only on as available basis power, pumping, augmentation/contract water by the town			

(3) *Monthly Residential Rates.*

Use Type	Service Fee Per Service Connection	Single EQR Surcharge Rate, applied when usage is over gallon per EQR, per 1,000 gallons	Multiple EQR Surcharge Rate applied when usage is over gallon limit per EQR, per 1,000 gallons
Single Family Dwelling or Multi Family Dwelling (per unit), In-Town, for which outside use is not allowed (10,000 gallons/EQR)	\$25.00 Fixed Fee	<ul style="list-style-type: none"> First 10,000 gallons included in Service Fee \$3.00/1,000 gallons for each 1,000 gallons used over 10,000 gallons \$3.50/1,000 gallons for each 1,000 gallons used over 50,000 gallons Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 10,000 gallons per EQR 	<ul style="list-style-type: none"> First 10,000 gallons per EQR included in Service Fee \$3.00/1,000 gallons for each 1,000 gallons used over 10,000 gallons \$3.50/1,000 gallons for each 1,000 gallons used over 50,000 gallons Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 10,000 gallons per EQR
Single Family Dwelling or Multi Family Dwelling (per unit), In-	\$25.00 Fixed Fee	<ul style="list-style-type: none"> First 20,000 gallons included in Service Fee \$1.65/1,000 gallons for each 1,000 gallons used 	<ul style="list-style-type: none"> First 20,000 gallons per EQR included in Service Fee \$1.65/1,000 gallons for each 1,000 gallons used

Town, for which outside use is allowed (20,000 gallons/EQR)		<ul style="list-style-type: none"> over 20,000 gallons • \$3.50/1,000 gallons for each 1,000 gallons used over 50,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 20,000 gallons per EQR 	<ul style="list-style-type: none"> over 20,000 gallons • \$3.50/1,000 gallons for each 1,000 gallons used over 50,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 20,000 gallons per EQR
Single Family Dwelling or Multi Family Dwelling (per unit), Out-of-Town, for which outside use is not allowed (10,000 gallons/EQR)	\$37.50 Fixed Fee	<ul style="list-style-type: none"> • First 10,000 gallons included in Service Fee • \$4.00/1,000 gallons for each 1,000 gallons used over 10,000 gallons • \$4.50/1,000 gallons for each 1,000 gallons used over 50,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 10,000 gallons per EQR 	<ul style="list-style-type: none"> • First 10,000 gallons per EQR included in Service Fee • \$4.00/1,000 gallons for each 1,000 gallons used over 10,000 gallons • \$4.50/1,000 gallons for each 1,000 gallons used over 50,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 10,000 gallons per EQR
Single Family Dwelling or Multi Family Dwelling (per unit), Out-of-Town, for which outside use is allowed (20,000 gallons/EQR)	\$37.50 Fixed Fee	<ul style="list-style-type: none"> • First 20,000: gallons included in Service Fee • \$2.45/1,000 gallons for each 1,000 gallons used over 20,000 gallons • \$3.50/1,000 gallons for each 1,000 gallons used over 50,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 20,000 gallons per EQR 	<ul style="list-style-type: none"> • First 20,000 gallons per EQR included in Service Fee • \$2.45/1,000 gallons for each 1,000 gallons used over 20,000 gallons • \$3.50/1,000 gallons for each 1,000 gallons used over 50,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 20,000 gallons per EQR
Single Family Dwelling with Accessory Dwelling Unit. In-Town, for which outside use is not allowed (10,000 gallons/EQR)	\$31.25 Fixed Fee	<ul style="list-style-type: none"> • First 10,000 gallons included in Service Fee • \$3.00/1,000 gallons for each 1,000 gallons used over 10,000 gallons • \$3.50/1,000 gallons for each 1,000 gallons used over 50,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate 	<ul style="list-style-type: none"> • First 10,000 gallons included in Service Fee • \$3.00/1,000 gallons for each 1,000 gallons used over 10,000 gallons • \$3.50/1,000 gallons for each 1,000 gallons used over 50,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate

		for usage exceeding the first 10,000 gallons per EQR	for usage exceeding the first 10,000 gallons per EQR
Single Family Dwelling with Accessory Dwelling Unit, In-Town, for which outside use is allowed (20,000 gallons/EQR)	\$31.25 Fixed Fee	<ul style="list-style-type: none"> • First 20,000 gallons included in Service Fee • \$1.65/1,000 gallons for each 1,000 gallons used over 20,000 gallons • \$3.50/1,000 gallons for each 1,000 gallons used over 50,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 20,000 gallons per EQR 	<ul style="list-style-type: none"> • First 20,000 gallons included in Service Fee • \$1.65/1,000 gallons for each 1,000 gallons used over 20,000 gallons • \$3.50/1,000 gallons for each 1,000 gallons used over 50,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 20,000 gallons per EQR
Single Family Dwelling with Accessory Dwelling Unit, Out-of-Town, for which outside use is not allowed (10,000 gallons/EQR)	\$46.85	<ul style="list-style-type: none"> • First 10,000 gallons included in Service Fee • \$4.50/1,000 gallons for each 1,000 gallons used over 10,000 gallons • \$4.75/1,000 gallons for each 1,000 gallons used over 50,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 10,000 gallons per EQR 	<ul style="list-style-type: none"> • First 10,000 gallons included in Service Fee • \$4.50/1,000 gallons for each 1,000 gallons used over 10,000 gallons • \$4.75/1,000 gallons for each 1,000 gallons used over 50,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 10,000 gallons per EQR
Single Family Dwelling with Accessory Dwelling Unit, Out-of-Town, for which outside use is allowed (20,000 gallons/EQR)	\$46.85	<ul style="list-style-type: none"> • First 20,000 gallons included in Service Fee • \$2.48/1,000 gallons for each 1,000 gallons used over 20,000 gallons • \$4.75/1,000 gallons for each 1,000 gallons used over 50,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 20,000 gallons per EQR 	<ul style="list-style-type: none"> • First 20,000 gallons included in Service Fee • \$2.48/1,000 gallons for each 1,000 gallons used over 20,000 gallons • \$4.75/1,000 gallons for each 1,000 gallons used over 50,000 gallons • Drought Surcharge: 20% of the per 1,000 gallon rate for usage exceeding the first 20,000 gallons per EQR
Penalty for using Town water supply without permit for any type of use	\$2,650.00, or such other maximum fine	Per offense	Per offense

	amount established by Section 2.01.090(6), G.M.C., whichever is higher.		
Penalty for using the Town potable water supply for irrigation on residential or commercial property which is required to be supplied by a separate nonpotable supply source	\$2,650.00, or such other maximum fine amount established by Section 2.01.090(6), G.M.C., whichever is higher.	Per offense (each day is a separate offense)	Per offense (each day is a separate offense)

(4) *Mixed Uses.* If a customer's property contains both commercial and residential uses measured on one meter, the applicable commercial rate shall be charged as stated above. The customer has the option of installing a separate meter at the customer's sole cost to separately meter residential use for billing at the residential rates.

(5) *Other Agreements.* The Town reserves the right to charge a different rate by contract or agreement between the parties at the Town's sole discretion.

13.01.080 - System Development Charges.

No license for water service shall be issued by the Community Development Department without prior payment of an appropriate system development charge and a guarantee by the applicant that all costs, materials, labor and fees required to connect licensee's premises to the water main will be borne by the applicant. Tap fees shall be paid at building permit issuance. An adjustment to the most current tap fee shall be made if a TCO or CO is not issued within 365 days from building permit issuance. Prior to connection to the Town's System and/or at the time of issuance of the building permit(s), whichever first occurs, the tap fees as specified below shall be paid in full.

(1) *Inside the Town.* Any applicant shall pay to the Community Development Department a system development charge of \$8,000.00 for each equivalent residential unit (EQR) of demand necessary to serve the peak water service requirements of the premises as computed in accordance with the provisions of Section 13.02.050; provided however,

no reduction shall be made to the EQR demand hereunder if a raw water irrigation system is used under Section 13.02.050. This fee includes the labor, a proportionate cost of existing municipal facilities and cost of installing the corporation stop necessary or accessing the Public Works Department's water main. The cost of the excavation, backfill, service line, stop box, meter pit, meter corporation stop and tap saddle are further responsibility of the applicant. The Town may require in all annexation or subdivision improvement agreements, that the applicant pay additional fees for infrastructure specified by the Town necessary to support new annexed tap connections, and/or pay \$2,400.00 per EQR of the tap fee at final plat approval to pay the Town for its investment already existing and for upsizing that may be required with additional growth. Such annexation infrastructure or fee determination shall be at the Town's sole discretion.

(2) *Special Service Area.* The applicant shall pay an additional system development surcharge for each EQR of demand in any special service areas that may be designated by the Town, and such fee shall be determined in the Town's discretion and due at building permit.

(3) *Outside the Town.* The applicant shall pay to the Community Development Department a system development charge of \$16,000.00 for each equivalent residential (EQR) of demand necessary to serve the peak water service requirements of the premises as computed in accordance with the provisions of Section 13.02.050. This fee includes the labor, a proportionate cost of existing municipal facilities and cost of installing the corporation stop necessary or accessing the Water Department's water main. The cost of the excavation, backfill, service line, stop box, meter pit, meter corporation stop and tap saddle are further responsibility of the applicant. The Town may require the applicant pay additional fees for infrastructure specified by the Town necessary to support new annexed tap connections, and/or pay \$4,800.00 per EQR of the tap fee at final plat approval to pay the Town for its investment already existing and for upsizing that may be required with additional growth. Any infrastructure necessary or fee determination shall be at the Town's sole discretion.

(4) Accessory dwelling units shall not be subject to water tap fees, but are subject to monthly service fees per Section 13.01.070.

13.01.090 - Special Permits and Fees.

The Public Works Department shall have the authority to issue temporary permits and licenses for the use of water from the waterworks system. Such uses, permits and licenses are subject to fees and charges as set by the Town Council and as specified in Section 13.01.070 and include but are not limited hydrant permits and fees, as follows:

(1) A permit authorizing the temporary use of a Public Works Department hydrant is available upon approval by the Public Works Director or Designee and pursuant to the fees set by the Code in Section 13.01.070. Permits shall be valid only during the

dates specified therein and shall not be issued without prior payment of all hydrant permit fees. No permit shall be valid for longer than 180 days from the date of issuance.

(2) Permits for filling tank trucks shall be issued for each truck and shall remain in such truck at all times during the life of the permit.

(3) Charges for water used under such permits shall be calculated as set forth in Section 13.01.070 above, on a per 1,000 gallon basis, and further shall include such special administrative costs as are deemed appropriate.

(4) In addition to the per 1,000 gallon charge specified in Section 13.01.070, the hydrant permit fee shall be \$100.00 per hydrant tap per user.

(5) Failure to comply with permitting shall result in the penalty as set forth in Section 13.01.070 and any damages resulting from the illegal use.

(6) Permit holder shall be responsible for all and any damages caused to any hydrant or portion of the Town's system which occurs due to the use of the hydrant.

(7) Permit holders must use a meter for all use of any hydrant, which shall be provided by the Town on an as-available basis, which is covered in part by the permit fee.

13.01.100 - Payment of Water Charges; Delinquencies; Liens.

All charges associated with providing water service or facilities, including but not limited to monthly service fees, surcharges, system development charges, special permits fees, line extension costs, system enhancement costs, water dedication charges, and delinquent penalties or charges, will be billed monthly and must be paid to the Town on the 24th day of the month of the billing. Payments not received by the Town by the due date are delinquent and subject to late charges in the amount of one percent (1%) per month of the unpaid balance, may result in a notice of lien being filed against the property, and may result in disconnection of water service to the property. Until paid, charges associated with providing water service or facilities shall constitute a priority perpetual lien on and against the property served, and any such lien may be foreclosed in the same manner as provided by the laws of Colorado for the foreclosure of mechanics' liens. The Town may, but is not required, to document such lien by filing a notice of lien in the real property records of the Eagle County Clerk and Recorder.

13.01.110 - Responsibility for Payment.

The responsibility for payment of charges associated with providing water service or facilities shall rest with the owner of the property served. The Town may, in its sole discretion and with or without agreement of the property owner, accept payment from persons other than the property owner, including a tenant, lessee, or resident of the property, and may require a written agreement acknowledging that the Town may send

duplicate bills to and receive payments from persons other than the property owner. Failure of such other persons to pay any amount shall not absolve the property owner of his or her primary responsibility for such payment.

13.01.120 - Disconnection of Water Service

The Town may disconnect water service to any property for which payment of any charges associated with providing water service or facilities remains delinquent for thirty (30) days. At least seven (7) days prior to disconnecting service, the Town shall post on the property served and mail a written notice, deposited in the U.S. Mail, postage prepaid, to the property owner. The notice shall state that if the delinquent payment or a request for a hearing is not received by the end of the day prior to the disconnection date, water service will be disconnected. If a timely request for a hearing on the delinquency is received, a hearing before the Gypsum Public Works Director or his or her appointee (“hearing officer”) will be scheduled no sooner than ten (10) business following the request. The date for the hearing may be extended by written agreement by the Town and the property owner, tenant, lessee, or resident requesting the hearing. At the hearing the property owner, tenant, lessee, or resident shall show cause why the property should not be disconnected. The hearing officer may establish rules regarding the procedures for conducting hearings. At the conclusion of the hearing, the hearing officer may issue verbal findings and an order. Written findings and an order shall be mailed to the property owner and posted on the property and if so ordered, service to the property shall be disconnected no earlier than five (5) days following mailing and posting of the written findings and order. If water service is disconnected, no person except personnel of the Town shall turn water services back on, even after payment has been made. Such tampering with water services will result in the issuance of a fine of \$3,093.83 or such other maximum fine amount established by section 2.01.100(6), G.M.C., whichever is higher.

13.01.130 - Certification of Delinquent Charges and Fees.

In the event charges associated with providing water service or facilities are not paid when due, the Town may certify such charges to the Eagle County Treasurer to be collected, together with the costs of collection, against the property served in the same manner as though they were part of the taxes assessed against property. Prior to certifying such delinquent charges, the Town shall mail a written notice, deposited in the U.S. Mail, postage prepaid, to the property owner. The notice shall inform the property owner that if the property owner fails to appear for a hearing before the Town Council and shall show cause why the delinquency should not be certified for collection with taxes or if the delinquent payment is not received by the date of the Town Council hearing, the delinquent charges shall be certified to the County Treasurer for collection with taxes. The Town council may appoint a hearing officer in its place. The hearing shall be scheduled no sooner than ten (10) business days following the mailing of the notice. The Town Council or

hearing officer may establish rules regarding the procedures for conducting hearings. If the delinquency is certified to the County Treasurer for collection with taxes, a copy of the certification shall be mailed to the property owner at the time it is transmitted to the County Treasurer.

13.01.140 - Late Charges, Interest Charges and Fees.

Payments are considered late after the 24th day of the month of the billing. Late charges will be added at the rate of one percent of the unpaid balance at the time of the next billing. The Town shall mail a written notice, deposited in the U.S. Mail, postage prepaid, to the customer of its intent to disconnect service, at least seven days prior to the disconnect date. If the delinquent portion of the bill is not paid by the date on the written notice, water service will be discontinued. Property owners or tenants are prohibited from turning water services back on even once payment has been made. Tampering with services will result in the issuance of a fine of \$3,093.83 or such other maximum fine amount established by Section 2.01.100(6), G.M.C., whichever is higher. Only the Public Works Department is authorized to turn water services on or off.

13.01.150 - Standards and Installation of Plumbing and Plumbing Fixtures.

All plumbing and plumbing fixtures installed to deliver or receive water from the Public Works Department shall comply with the most current standards and specifications of the Public Works Department. All plumbing installed within the service area of the Public Works Department shall be lead-free completed by a licensed plumber who shall be responsible for complying with all permit requirements for new construction and shall be responsible for notifying the Public Works Director of any code violations discovered in the course of his or her work. Failure to do so shall constitute cause for suspension or revocation of the plumber's license.

13.01.160 - Expanded Water Service.

Should the owner or occupant of the property desire expanded or additional water service or to apply the water to a purpose not stated at the time of the original application, the owner or occupant with consent of the owner shall submit a written application for service on a form supplied by the Community Development Department pursuant to Section 13.01.060. Such additional or expended water service shall not occur until approved by the Community Development Department, who shall consult with the Public Works Department.

13.01.170 - Decrease or Discontinuance of Service.

Any customer who desires to decrease or discontinue water service to a property must notify the Public Works Director of such desire in writing before any reduction in water rates will be made. A decrease or discontinuance in water service must be preceded by a similar reduction in demand by removal of fixtures or disconnection from the waterworks system.

13.01.180 - Right to Water Shut Off by Town

The Town reserves the right to shut off its main for the purpose of maintenance, repairs, extensions or for any other purpose, and no claim shall be made against the Town for any damage caused by the shut off. In all cases of routine maintenance the Water Department will make every reasonable attempt to notify the customer in advance of the shut off, giving an estimate of the time the waterworks system will be out of service.

13.01.190 - Separate Connections Required.

Separate premises must each have their own water tap and two or more premises cannot be supplied from one tap. For purposes of this Section, separate premises are those that do not share a common foundation or roofline. Exemptions would include detached Accessory Dwelling Units, garage structures, or other accessory uses to a premises under the same ownership.

13.01.200 - Service Pipe Regulations.

The service pipe and fittings through which a licensee receives water service from the facilities of the waterworks system shall be owned and installed at the expense of the licensee and must lie entirely within a public right-of-way or the licensee's property. The service pipe shall not be allowed to cross adjoining properties without a private easement from the adjacent property owner.

13.01.210 - Cross-connection and Interconnection.

The backflow of nonpotable water or foreign materials into the Town's water system is prohibited. All devices which have an effect on interconnection or cross-connection control shall be approved by the Public Works Department.

13.01.220 - Water Service Outside Town Corporate Limits.

The Town Council shall have the authority to lease water and water rights for use outside the corporate boundaries of the Town, but such leases shall provide for limitations of delivery of water to whatever extent may be necessary to enable the Public Works Department to provide an adequate supply of water to the people within the boundaries of the Town and provided, further, that every such lease shall contain terms to secure the

payment into the waterworks fund of sufficient money to fully reimburse the Town of the cost of furnishing the water or water rights which is the subject of such a lease.

13.01.230 - Water Service Curtailment Outside Town Corporate Limits.

Use of water outside the corporate limits of the Town is subject to the paramount rights of the users within the Town and in periods of water shortage or scarcity, the Town Council may reduce, curtail or shut off the supply to users outside the corporate limits of the Town in compliance with Section 13.01.350 herein.

13.01.240 - Tap Activation.

Any license for water service issued must be activated within 365 days from the date of the license on the property identified in the application for tap. If such activation is not made within 365 days from the date of the license, then any new or expanded use of water requiring a tap connection shall be the subject of a new tap fee at the then prevailing rates of the Town; provided however, a credit in the amount paid for the pre-purchased tap shall be given equal to the amount actually paid for the pre-purchased tap, without interest. Activation shall be deemed to have occurred when the following conditions have been met:

- (1) All charges and fees have been paid,
- (2) Connection to the water main has been made,
- (3) The service line has been installed and the meter has been set,
- (4) Water service has commenced.

In the event these conditions have not been met within the prescribed period of time the water service license shall automatically terminate. In the event of termination, the applicant shall have the right to apply for a one-year extension to the water service license. Such application must be accompanied by all appropriate increases in tap fees and system development charges plus an administrative fee and must receive the written approval of the Community Development Director prior to issuance of a license by the Town.

13.01.250 - Tap Size.

The minimum size tap allowed to be installed within the Town's water service area shall have an inside diameter set by the Public Works Director or Designee and which shall be considered sufficient to supply one equivalent residential unit (EQR) of demand.

13.01.260 - Water Meter Requirements.

All new taps to the Town waterworks system shall require the installation and utilization of a water meter as approved by the Public Works Department. The cost of purchase and installation shall be the responsibility of the licensee; however, ownership and maintenance responsibility of the meter shall immediately pass to the Public Works Department.

13.01.270 - Access to Water Meters.

The owner of the property served, grants and permits the Public Works Department and any of its employees or agents to enter upon the premises for the purposes of reading, repairing, servicing or otherwise maintaining the Public Works Department's meter or turning on or off water services at the property owner's curb stop.

13.01.280 - Metered Uses.

In addition to the metered uses detailed in Section 13.01.070, the Town requires the metering of all water used to service stock watering tanks and all temporary uses of water from the waterworks system.

13.01.290 - Water Facility Ownership.

Unless an agreement provides otherwise, all water mains and fire hydrants located within the Public Works Department's service area are owned by the Town. The dividing point between Town-owned facilities and licensee-owned facilities shall be defined as the connection point of the licensee's service line to the corporation stop tapped into the Public Works Department's water main.

13.01.300 - Extension of Mains or Water Facilities.

Mains or water facilities may be extended or expanded only with the specific permission of the Public Works Department and at the sole expense of the applicant for extension. Procedures for the extension of any main shall be established by the Public Works Department and may be modified from time to time as required.

The applicant or their contractor will ordinarily install all mains in compliance with the Gypsum Public Works Manual. Such installation of mains and appurtenant facilities will require that the applicant:

- (1) Submit plans, specifications, easement documents, surveys and construction cost estimates prepared by a registered professional engineer for the proposed installation, which plans, specifications and easements must be approved in writing by the Community Development Department prior to award of contract and commencement of installation.

(2) Pay all costs of plan review and inspection of the installation by the Town or its agents as determined by the Community Development Department .

(3) Dedicate all installed facilities, provide three-year warranty, easements, rights-of-way, plans, specifications, as-built drawings, surveys and construction documents to the Town upon completion.

13.01.310 - Facility Extension Cost Recovery.

For every new service connection that is made to a facility which has been constructed, extended or expanded by any entity other than the Town, there will be charged in addition to the normal system development charge, a further charge that will be determined by the Town Council that will allow for proportionate cost recovery to the original dedicating entity. Charges for the repayment of such installation costs shall endure for a period of fifteen years or until complete repayment of the amount authorized by the Town Council, whichever shall occur first.

13.01.320 - Water Waste or Pollution.

(1) *Waste.* All connections to the Town waterworks system shall prevent unnecessary waste of water and keep all water delivery appurtenances closed when not in actual use. In addition to any other penalty provided in this Chapter, violation of this Title 13 may result in the discontinuance of water service and penalties of \$50.00 for the first occurrence, \$200.00 for the second occurrence, and \$1,000.00 for each additional violation. Any such penalty may be added to the monthly charges and, if not paid, shall constitute a lien and perpetual charge against property which may be certified to the County Treasurer for collection pursuant to Section 13.01.120 herein.

(2) *Pollution.* No person within the Town and five miles above the Town's water supply sources shall permit any act whatsoever which pollutes any of the water supply of the Town whether by any filth, sewage, carrion, garbage, mineral, clays, rock or earth of any kind, or otherwise.

13.01.330 - Water Use During Fire Emergencies.

During all emergencies of fire, the use of hoses and all outlets where a constant flow is required or maintained is strictly prohibited.

13.01.340 - Fire Protection Service.

(1) All connections to the waterworks system for public or private fire protection shall be made under license for fire protection. The only use for which water may be taken from fire protection facilities without a special permit is for extinguishing fires. Public fire

hydrants are placed at locations designated by either the Public Works Department or fire chief. Such hydrants are maintained and owned by the Public Works Department.

(2) Any use of a fire hydrant or fire sprinkler system, not made for extinguishing fires, or pursuant to a permit granted by the Public Works Department is strictly prohibited. Unauthorized use shall be paid for at special charges for the actual or estimated amount of water used, together with a base charge of not less than \$500.00 and such additional amount as is necessary to cover any damage, injury or costs relative to the unauthorized use.

13.01.350 - Water Conservation.

(1) All new commercial, industrial, institutional and other nonresidential construction or remodel or renovation of such uses which involve the installation of new or additional plumbing fixtures shall require the installation of water-saving or water-conserving devices such as low-volume toilets using not more than three gallons per tank fill or flush and low-volume shower heads, faucets, spigots and other fixtures as determined by the Town and which comply with Section 13.01.140 herein.

(2) Water shall be used only for beneficial purposes and shall never be wasted. Any low-flow or low-volume water fixture that requires replacement shall be replaced by an "equal or better" water fixture only. Replacement of low-flow/volume fixtures with fixtures requiring or utilizing a higher flow or volume of delivery is not permitted.

(3) Water for irrigation of lawns and other outside uses shall be by sprinkler or drip irrigation methods.

(4) Any unauthorized use of said water shall be paid for at the same rate as if that use had been authorized together with the costs incurred by the Public Works Department in discovering and collecting for the unauthorized use. Such payments shall not in any way affect the right of the Public Works Department to suspend or revoke a license for unauthorized use or charge additional penalties or pursue such other remedies as may be authorized by law, nor shall it affect any criminal liability which may have attached by reason of such unauthorized use.

13.01.360 - Water Use Restrictions.

In case of water shortage or scarcity, the Town Council may, upon proclamation, place any restrictions which they deem necessary upon the use of water in accordance with the following staged water restriction program. It shall be the responsibility of the property owner to check the Town website after 9:00 a.m. every second and fourth Wednesday of every month, between April 1 and October 31, to determine what phase of watering restrictions may be in place.

(1) Phase I: Voluntary Restrictions on Water Use

(a) Property owners and managers are not permitted to irrigate lawns that are serviced by the Town potable water supply more frequently than every other day and shall not apply more than one inch of water.

(b) Property owners and managers are advised to irrigate lawns between 6:00 p.m. and 9:00 a.m.

(c) Vehicle owners shall limit the use of water to wash motor vehicles and/or off-road vehicles and equipment to once per week.

(d) Property owners and managers should refrain from using water for cleaning driveways, parking lots, streets, etc.

(e) Restrictions (a) - (c) are mandatory for the Town except where restriction (c) would substantially degrade air quality. Uses by the Town will be restricted by administrative order to set example and also to effect water savings. Areas in which the Town should restrict its own use of water include:

(i) Irrigation of Town lawns, open space and parks.

(ii) Washing of Town vehicles, equipment, etc.

(iii) Street general maintenance.

(iv) Hydrant testing and sewer line cleaning other than what is required to meet state health standards.

(f) Residential/industrial/commercial consider in-house steps to encourage water efficiency.

(2) Phase II: Mandatory Limited Restrictions on Water Use

(a) Restriction on lawn watering to every other day (odd/even schedule). Homes with odd-numbered addresses may only water on odd-numbered calendar days and homes with even-numbered addresses may only water on even-numbered calendar days.

(b) Watering shall only take place during 6:00 p.m. and 9:00 a.m.

(c) Extensions may be permitted for brand new lawns.

(d) Restrictions on motor vehicle and/or off-road vehicle/equipment washing to once per week.

(e) Moratorium on hydrant use permits for all nonessential uses.

(f) Moratorium on the issuance of new irrigation taps.

(g) Institute fines and penalties for water use.

(h) Private swimming pools and spas are limited to only adding water to the pool to make up for evaporation and splash, but may not empty the pool for cleaning and replacement of water. Private pools not already filled by the time this phase is implemented by the Town may not be filled.

(i) Restrictions on Town uses. To be accomplished by administrative order.

(i) Limit water main flushing, hydraulic sewer cleaning, and hydrant flow testing to minimum required to meet state health standards.

(ii) Town water use for general maintenance limited to essential levels.

(j) Drought surcharges on customer water use will be billed to each customer class based on the usage and amounts specified in Section 13.01.070. Drought surcharges are billed in addition to the customer's applicable monthly service fee and usage charge.

(3) Phase III: Mandatory Restrictions on Water Use

(4) Moratorium on lawn irrigation.

(5) Moratorium on car/motor vehicle and/or off-road vehicle/equipment washing.

(6) Moratorium on sale of new water taps.

(7) Moratorium on evaporative cooling of commercial buildings.

(8) Moratorium on use of any water for private swimming pools and spas.

(9) Voluntary in-house restrictions. Encourage water efficiency.

(10) Voluntary industrial/commercial restrictions. Goal is no water waste.

(11) Institute fines and penalties for water use violations.

(12) Drought surcharges on customer water use will be billed to each customer class based on usage and amounts specified in Section 13.01.070. Drought surcharges are billed in addition to the customer's applicable monthly service fee and usage charge.

(13) Phase IV: Curtailment of Nonessential Water Use

(a) Restriction of all water supplies to inside domestic, commercial, and sanitary use.

(b) Moratorium on delivery of water to users outside the boundaries of the Town.

(c) Drought surcharges on customer water use will be billed to each customer class based on usage and amounts specified in Section 13.01.070. Drought surcharges are billed in addition to the customer's applicable monthly service fee and usage charge.

13.01.370 - Definition.

(1) A *raw water irrigation system* or *nonpotable irrigation system* shall be defined as a privately or publicly owned irrigation system that is not connected to the Town's nonpotable water supply system and is used to irrigate lands owned by the user. The system must comply with the dedication requirement of Section 13.02.050.

Chapter 13.02 - WATER RIGHTS DEDICATION

13.02.010 - Title.

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

13.02.020 - Intent and Purpose.

(1) It is the intent and purpose of this Chapter to require the dedication of water rights prior to the extension of treated or raw water service to new customers or to existing customers with inadequate and stable supply of water to the Town service area; to prevent the abandonment of water rights to the detriment of the Town; to ensure the financial stability of the Town water utility; and to promote the general welfare of the public.

(2) This Chapter, in part, provides a supplemental requirement for annexation as provided by state statutes and also supplemental requirements to the subdivision requirements of the Town; and does not eliminate, modify, or replace any requirements set forth in other statutes or ordinances.

13.02.030 - Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(1) *Annexation* means the act of attaching, adding, joining, or uniting a parcel of land to the legal entity known as the Town of Gypsum, Colorado.

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

(3) *Conveyance of water rights* means the legal process by which legal title to the water rights to be dedicated is transferred to the Town by appropriate deed, stock assignment, or both.

(4) *Council or Town Council* means the Town Council of the Town of Gypsum, Colorado.

(5) *Dedication* means an appropriation of an interest in land or water to some public use, made by the owner, and accepted for such use by or on behalf of the public.

(6) *Equivalent residential unit* or *EQR*, as used in this Chapter, means a number related to the volume of water consumptively used by a single-family residence housing a statistical average of three and one-half persons and having not more than 2,500 square feet of irrigated lawn or garden. The demand for water represented by 1.0 EQR assumes that none of the following limits are exceeded:

(a) An average annual requirement of 0.54 acre feet;

(b) A peak monthly water demand of 15,000 gallons; and

(c) A peak daily demand of 900 gallons. The consumptive use, for water uses not associated with use at a single-family residence, is considered to be equal to a volume of water, expressed in EQR units, as determined by the Town with guidance by the schedule provided in the table of EQRs under Section 13.02.050. The Town shall have sole and exclusive discretion in determining whether the basic dedication requirement should be increased or decreased, on a case-by-case basis, after consideration of the place, method, efficiency and operation of wastewater treatment for the use served. Provided however, for residential uses it is not the intent hereof for the Town to reassess the dedication requirement should such limits be exceeded. Residential units shall only be reassessed upon the addition of fixtures, habitable space or a substantial enlargement of lawn size.

(7) *Extensions of service* means any extension of the municipal water utility for which a tapping charge is assessed.

(8) *Historical use affidavit* means a document which sets forth the following information concerning the water rights proposed for dedication:

(a) The name(s) and addresses of the owner(s) of all water rights owned by the party seeking extension of service;

(b) A legal description of the land to be annexed or provided with municipal water services;

(c) The total number of acres to be annexed or provided with municipal water service;

(d) The total number of acres presently being irrigated and/or intended to remain in irrigation;

(e) A copy of all decrees concerning all water rights appurtenant to the property and all other rights owned or controlled by the party seeking extensions of service;

(f) A copy of any legal decree or judgment which affects the title of those water rights entered since the owner received title to the water rights appurtenant to the property and/or proposed for dedication;

(g) A copy of the documents by which the owner received title to the water rights appurtenant to the property and/or proposed for dedication;

(h) A copy of all diversion records of the water rights proposed for dedication;

(i) The owner's statement as to the historic use of the water rights appurtenant to the property and/or proposed for dedication.

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

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

(11) *Plat* is an accurately surveyed map or chart of a piece of land subdivided into lots, parcels, or tracts with easement, streets, alleys, roads, and other such avenues of transportation delineated thereon and drawn to a scale.

(12) *Replat* means to make a change in the original plat.

(13) *Subdivide* means to separate into small divisions a tract of land into two or more lots, tracts, parcels, sites, separate interests in common, condominium interest or other division for the purpose, whether immediate or future, or transfer of ownership, or

for building or other development, or for street use by reference to such subdivision or a recorded plat thereof.

(14) *Sufficient legal priority* means that the water rights proposed for dedication may reasonably be expected to provide a dependable water supply throughout the season of use in the amount for which they are decreed. In making this determination, factors to be considered shall include, but not by way of limitation, the adjudication date and appropriation date of the water rights, the decreed use(s), the historic use of the water under the decree, the physical flow available, and the administration practices of the office of the state engineer.

(15) *Town* means the Town of Gypsum, Colorado.

(16) *Town Manager* means the Town Manager of Gypsum, Colorado.

(17) *Transfer of water rights* means the conveyance of legal title to water rights of the Town in addition to referring to all actions required under the laws of the State of Colorado to be brought in the water court, Water Division No. 5, to ensure that the dedication requirement is fulfilled. Such action may include, but not by way of limitation, extend to a change in the type, place, or time of use, a change in the point of diversion, a change from a fixed point of diversion to alternate or supplemental points of diversion to a fixed point of diversion, a change in the means of diversion, change in the place of storage, a change from direct application to storage and subsequent application, a change from storage and subsequent application to direct application, a change from a fixed place of storage to alternate places of storage, a change from alternate places of storage, or any combination of such changes. Transfer of water rights includes transfer of conditional as well as absolute water rights.

(18) *Water rights* means a decreed right to use in accordance with its priority a certain portion of the waters of the state by reason of the appropriation of the same.

13.02.040 - Dedication Requirement—Generally.

A dedication or transfer of direct flow and/or storage water rights to the Town shall be required prior to the Town committing to provide any new or enlarged water service as follows:

(1) *Residential uses.* For any new or enlarged residential use of water, an estimate of water demands based on the dedication requirements stated in Section 13.02.050 shall be submitted to the Town prior to any extension of water utilities, expansion of water use from an existing connection, or approval of any annexation, subdivision or zoning request. Such estimate shall also include a detailed list of all water rights and water resources owned or controlled by the applicant or otherwise associated, in

any way, with the property to be supplied water. The residential dedication requirement shall be made as follows:

(a) Water rights to be considered for dedication shall be approved prior to annexation by the Town, and conveyed to the Town by final plat.

(b) If in-lieu-of fees are required, the Town may require that the applicant deposit \$3,600.00 for each equivalent residential unit (EQR) for every lot assessed by the Town, due at annexation.

(c) The remaining water right dedication fees, at the fee then existing, shall be paid at final plat, or at building permit, whichever occurs first.

(d) The table of equivalent residential units is specified in Section 13.02.050.

(e) At such time that actual building plans and/or a request for a tap are submitted to the Town for any property to be served, the dedication requirement shall be verified and modified (if necessary) to reflect the actual nature of the facilities to be served under Section 13.02.050.

(2) *Nonresidential uses.* For all other new or enlarged water uses, including but not limited to commercial, industrial, transportation facility, irrigation, recreational, office, retail, schools, churches or lodging uses, applicant shall provide a good faith EQR estimate of water based on the dedication requirements stated in Section 13.02.050 to the Town prior to any extension of water utilities, expansion of use from an existing connection, or approval of any annexation, subdivision or zoning request. Such estimate shall also include a detailed list of all water rights and water resources owned or controlled by the applicant or otherwise associated, in any way, with the property to be supplied water. An applicant shall be entitled to provide the Town actual historic water usage reports and records for similar businesses, structures or uses which an applicant owns, controls or is affiliated with. In the event the Town determines such historic usage reports or records will accurately forecast the anticipated water use by the applicant, the Town, in its discretion, shall be entitled to base the EQR estimate on such reports or records. The non-residential use dedication requirement shall be made as follows:

(a) Water rights to be considered for dedication shall be approved prior to annexation by the Town, and conveyed to the Town at annexation or approval of final plat, as determined by the Town.

(b) If in-lieu-of fees are required, the Town may require, that the applicant pay water right dedication fees as follows, in the Town's discretion:

(i) For the estimated EQRs, but not less than at a rate of one EQR per non-residential lot; and

(ii) Applicant shall pay \$3,600.00 per EQR of the estimated water right dedication at annexation. The remaining water right dedication, at the fee then existing, shall be paid at final plat or at building permit, whichever occurs first.

(c) The Town may, in its sole discretion, determine other terms or conditions by which applicant may satisfy the non-residential water right dedication, in compliance with this Chapter.

(3) *Reinspection and recalculation.* As a condition of continued water delivery by the Town and to ensure compliance with the intent of this Chapter, the Town shall have the right to reassess, reinspect and recalculate an existing connection's use, where it is demonstrated to the reasonable discretion of the Town that the dedication requirement originally established for a connection was either in error or where demands from the connection exceed the anticipated or represented demands for that connection. Nothing herein shall be construed to grant a right to any owner or user of a connection to compel the Town to recalculate the demand and no reconveyance, refund or rebate of water rights or cash in lieu of water rights shall be made by the Town.

13.02.050 - Dedication Requirement—Table.

The basic water rights dedication requirement shall be 1.0 acre foot of historic consumptive use per year, over the course of a full calendar year, for a water right, or water rights, of sufficient legal priority and season of use to service each equivalent residential unit (EQR) of demand as calculated under the Table of EQRs below, as determined by the Town in its sole discretion. The actual annual demand of 0.54 acre feet of consumptive use water assumes actual diversions, without transit losses, throughout the year; it is assumed that the 1.0 acre foot of historic consumptive use water is necessary to satisfy said demand after reasonable transfer and transit losses. The determination of suitability of a water right for transfer or the cash-in-lieu of water right dedication shall be determined in the Town's reasonable discretion. Consistent with Section 13.02.060, such dedicated amount shall not be less than the total amount of water, expressed in EQRs, necessary to meet the total water demand requirement of the new or expanded water use(s). Payment in lieu of water right dedication will be at the sole discretion of the Town and at a rate of payment consistent with the provisions of Section 13.02.100(1).

TABLE OF EQRs

Nature of Facility to Be Served		EQR
1.	Residential with Potable Irrigation	
	A. Residential unit up to 550 square feet consisting of a studio or one-bedroom/sleeping area with up to 1,000 square feet of irrigated lawn and garden watered by sprinkler or drip irrigation.	0.50

	B. Residential unit between 551 and 1,000 square feet consisting of up to two-bedrooms/sleeping area with up to 1,000 square feet of irrigated lawn and garden watered by sprinkler or drip irrigation.	0.70
	C. Residential unit between 1,001 and 3,000 square feet consisting of up to four-bedrooms/sleeping area with up to 2,500 square feet of irrigated lawn and garden watered by sprinkler or drip irrigation.	1.0
	D. Residences over 3,000 square feet: Each additional 100 square feet of living space.	0.0175
	E. Each additional 100 square feet of irrigated lawn and garden by sprinkler or drip irrigation.	0.03
2.	Residential with Non-potable Irrigation	
	A. Residential unit up to 550 square feet consisting of a studio or one-bedroom/sleeping area.	0.25
	B. Residential unit between 551 and 1,000 square feet consisting of up to two-bedrooms/sleeping area.	0.35
	C. Residential unit between 1,001 and 3,000 square feet consisting of up to four-bedrooms/sleeping area.	.50
	D. Each additional 100 square feet of living space.	0.0175
3.	Generally	
	A. Each additional bedroom over four bedrooms.	0.15
	B. An annual average water demand equal to 0.54 acre-feet.	1.0
	C. An average monthly peak water demand equal to 15,000 gallons.	1.0
	D. A peak daily demand of 900 gallons.	1.0
	E. Each coin-operated washing machine up to 12 lbs. capacity.	0.35
	F. Common area irrigation and amenities such as swimming pools, club houses and laundry facilities to be assessed on a case-by-case basis, at the Town's sole discretion, in addition to the EQR values expressed above.	
4.	There shall be no partial EQR credit granted for irrigation area less than the limit in the above table. Any uses described in subparagraph 1 of this table, above, which do not utilize municipal water for any irrigation shall be:	
	A. Entitled to a reduction in EQR rating of 0.5 EQR per 2,500 square feet of lawn or landscaping which is irrigated with non-potable water from a non-municipal system. The maximum credit which can be obtained for residential uses is 50 percent of the total EQR dedication requirement due from the project (however, if credit for any percentage of total EQR is obtained under this Code provision, by irrigation from non-potable	

	water from a non-municipal system, then the Town shall proportionately reduce the water delivered for the residential use);	
	B. Prohibited from having more than one outside hose bib which shall be placed on the front of the residence and shall not be used for any watering of lawns and gardens; and	
	C. Subject to an irrigation plan disclosure statement as described in Section 13.02.200.	
5.	Transient rental units, hotels, motels or rental units within residences:	
	A. Manager's unit for long-term live-in staff: Uses single family or multi-family classification as applicable.	0.60
	B. Each additional room without cooking or kitchen facilities.	0.30
	C. Each additional room with cooking or kitchen facilities.	0.35
	D. Coin-operated washing machine 12-pound capacity or less.	0.30
6.	Dormitories (per each rental bed space) without laundry or kitchen facilities.	0.10
7.	Recreational vehicle parks:	
	A. For each camping or vehicle space without sewer hook-up.	0.35
	B. For each camping or vehicle space with sewer hook-up.	0.40
	C. For common facilities, pump-out and water filling stations, and related facilities, the Town will assess demand based on anticipated volume.	
8.	Bars and restaurants (above fixture EQR's):	
	A. For businesses with less than 25 seats.	1.50
	B. For each additional seat.	0.04
9.	Churches and nonprofit organizations with no residence or regular eating facilities.	1.00
10.	Commercial retail stores and offices with no process water, no residences, and no eating facilities including two restrooms which have a total of two lavatories and two toilets (one each per restroom):	1.00
	A. For each additional toilet or urinal with manual flush.	0.30
	B. For each additional toilet or urinal with continuous flow.	1.00
	C. For each additional lavatory.	0.15
	D. For each shower or bath or combination.	0.30
	E. For each manual operated drinking fountain.	0.10
	F. For each continuous flow drinking fountain.	1.00
11.	Industrial, including warehouses which include two restrooms which have a total of two lavatories and two toilets (one each per restroom):	1.00

	A. For every 350 gallons/day of process water with not more than 15 percent consumptive use. Process water includes manufacturing use of water that bottle, consumes, uses, or exports, in any way, water delivered which does not return to the Town's wastewater system.	1.00
	B. For each additional toilet or urinal with manual flush.	0.30
	C. For each additional toilet or urinal with continuous flow.	1.00
	D. For each additional lavatory.	0.15
	E. For each shower or bath or combination.	0.10
	F. For each mop sink.	0.10
	G. For each manually operated drinking fountain.	0.10
	H. For each continuous flow drinking fountain.	1.00
12.	Schools including principal's administrative office and school staff but not including cafeteria, gymnasium or athletic field facilities:	
	A. Up to 50 students.	1.00
	B. Each additional student.	0.02
	C. Cafeteria, gymnasium and athletic requirements determined on a case-by-case basis at the Town's sole discretion. The foregoing shall be based on the projected maximum usage of the school facilities and shall be subject to a periodic audit as required by Section 13.02.200.	
13.	Swimming pools up to 25,000 gallon capacity:	
	A. Year-round operation	1.00
	B. Summer only (less than six months).	0.50
	C. For each additional 500 gallons of capacity.	0.02
14.	Fire protection sprinkler systems.	0.00
15.	Irrigation by sprinkler or drip system:	
	A. Residential per 100 square feet.	0.03
	B. Commercial per 100 square feet.	0.03
	C. Commercial or residential irrigation of more than 5,000 square feet of lawn or landscaping subject to special rates imposed by the Town at the Town's sole discretion.	
16.	Car Washes:	
	A. All car washes will be based on water delivery requirements and consumptive use projections with EQRs to be determined by the Town at the Town's sole discretion.	
17.	Commercial laundromats	
	A. Each washer up to 12-pound capacity.	0.35
	B. For each additional pound of capacity over 12 pounds	0.015

Uses which are connected to the wastewater facilities of the Town will be evaluated by location of the wastewater return point in setting, modifying or determining dedication requirements, in the Town's sole discretion. Additionally, all uses which compute to be more than 3.0 EQR per tap connection are subject to review, calculation and assessment on an ad hoc basis by the Town after consideration of the anticipated water to be used.

13.02.060 - Water Rights Dedication Requirements—Increasing Overall System Yield.

(1) Water rights dedication requirements as determined and set forth in Section 13.02.040 herein must be serviced by water rights capable of increasing the overall yield of the Town's water supply system, as determined by the Town, in its discretion. Sufficient water rights must be dedicated so as to enable the Town to divert a quantity of water, at a point of diversion specified by the Town, equal to the total demand required, and as set forth in Section 13.02.050, to fully serve the applicant's full development water requirements from the Town's water system, taking into account the period of service required for the applicant's uses. In many instances, the yield of (a) dedicated water right(s) may be reduced due to terms and conditions imposed in administrative or judicial proceedings confirming the Town's ability to use said water rights(s). Accordingly, an applicant shall, prior to dedication to the Town, estimate to the Town's satisfaction the amount of yield that is subject to such reduction. The applicant shall consult with the Town's water attorney and/or engineering consultant in making such estimate. The estimated loss in yield shall be accounted for in any water rights dedication requirement, in addition to the rates per EQR, pursuant to Section 13.02.050.

(2) Absent a written agreement between the Town and an applicant providing for immediate service, no water service under Chapter 13.01 shall be extended nor water delivered to any tap until and unless the basic dedication referenced has been satisfied hereunder and until the water rights dedicated or cash in lieu of water rights has been expended, the choice of which shall solely rest in the Town, in a manner whereby administrative or judicial confirmation of the right to divert such additional demands by the Town has been finally accomplished.

13.02.070 - Responsibility for Satisfying the Basic Water Rights Dedication Requirements.

The basic water rights dedication requirement shall be satisfied by the applicant seeking approval of annexation, subdivision, replatting, or the extension of municipally treated water service, whether or not that person will be the ultimate user(s).

13.02.080 - Reimbursement for Future Costs.

In addition to all other requirements which must be met in order to obtain final plat approval, annexation, extensions of water service, or subdivision, the Town shall have the

right to collect from developers, or other parties seeking the aforementioned approvals the actual costs of the eventual legal and engineering fees required to transfer the water rights to the Town's facilities for diversion and use. Where it is known by the Town that a water court or other administrative proceeding will be required to serve an annexation, development or project, the Town shall have the right to require an agreement with the developers or other party seeking the approval for the reimbursement of all costs incurred by the Town in securing such proceedings. The agreement shall be entered into or the fee shall be paid at the time of final approval by the Town, and no municipal water service shall be extended to such development until the fees have been fully paid or an agreement acceptable to the Town has been entered into.

13.02.090 - Determination of Service Demands.

In accordance with the basic dedication requirements set forth in Section 13.02.040 and this Chapter, the Town shall determine, after consultation with the person or persons skilled in the knowledge of water rights, whether the water rights proposed for dedication pursuant to the provisions of this Chapter will be of sufficient legal priority under the laws of the state to ensure the Town's ability to meet the service demands of the new user. This determination will be aided by an historic use affidavit and/or engineering report which must be provided by the new user. The determination of the Town shall be final. Provided however, any person aggrieved by such a determination may file a written protest to the Town Council within ten days of the date of such determination and the decision of the Town Council shall be final. The timely filing of a protest hereunder shall be a condition precedent of the bringing of any action challenging such a determination.

13.02.100 - Water Rights Acceptance, Rejection or In-Lieu-Of fees.

(1) The Town shall have the right in its sole discretion, to accept or reject any water rights dedication pursuant to the provisions of this Chapter. Rejection of any water rights will be based on an opinion by the Town's water attorney that the water rights do not have sufficient legal priority or yield, or are not susceptible to transfer for use by the Town at the Town's point of municipal diversion, to be of reliable long-term use to the Town. If the Town determines that the proposed water rights fail to satisfy the basic dedication requirement, the Town shall require the applicant to satisfy the water rights dedication requirements by one of the following alternatives or a combination thereof, which the Town and not the applicant, shall elect:

(2) The applicant, in order to comply with the basic water rights dedication requirement, at the Town's request, will pay the Town a fee equal to \$12,000.00, or a fraction thereof, for each equivalent residential unit (EQR) of demand required to satisfy the total water demand or water right needs of the applicant, as determined by the Town. Water right dedication fees may be paid between annexation and issuance of final plat, at the current water right dedication fee then existing. Of said water right dedication fee, \$3,600.00 per equivalent residential unit (EQR), 30 percent for each equivalent

residential unit (EQR), shall be due to the Town at annexation, as credit toward future water dedication fees determined at the time that the dedication requirement fee is finally paid. The remaining balance of the water right dedication fees at the fee then applicable per equivalent residential unit (EQR) shall be due to the Town prior to recording final plat; or

(3) The Town may require a dedication of water rights and provide to the applicant a partial credit toward full compliance with the dedication requirement and require cash in lieu of water right dedication for the balance. The Town's determination of the extent of the partial credit may be appealed to the Town Council by providing a written protest and appeal within ten days of the notice of the determination of the partial credit. The decision of the Town Council shall be final with respect to the determination. The timely filing of the protest and appeal shall be a condition precedent to any action challenging such a determination; or

(4)

13.02.110 - Water Right's Dedication Procedure.

The applicant shall first determine the total water requirements and capacities necessary to reliably and fully service the proposed development. This shall be done through the submittal of a water service requirement analysis to the Town's Community Development Director. Upon satisfactory acceptance by the Community Development Director, requirements for the new development and a positive determination by the Community Development Director that the development can physically and reasonably be serviced by the Town, water rights meeting the requirements set forth in Sections 13.02.060 and 13.02.100 shall be submitted to the Town for consideration. It is the policy of the Town that no water service shall be extended to an applicant or to applicant's new development until such time as the water rights dedication requirements has been fully satisfied and the dedication of water rights is imminent.

13.02.120 - Costs and Expenses.

All costs and expenses attendant to the review of water demand and water rights as well as conveyance, and transfer of water rights dedicated to the Town, and all costs relating to the enforcement of or compliance with this Chapter shall be borne by the applicant.

13.02.130 - Purchase Option—Time Limit.

Any person required to comply with the basic dedication requirement shall also grant to the Town the option to purchase any and all water rights which are appurtenant to the land to be annexed but which are in excess of the basic dedication requirement. The option may

be exercised by the Town at any time for a period of one year following the date of the grant to the Town with regard to any or all of the water rights subject to the grant.

13.02.140 - Purchase Option—Price.

(1) The option price shall be that price agreed upon by the parties. If the parties do not agree upon an option price within 30 days after notice of the Town's intent to exercise its option is received by the owner, appraisal at the Town's expense will establish the price that reflects the fair market value of the water right(s).

(2) The appraisal shall be conducted by one appraiser appointed by the Town, one appraiser appointed by the owner of the water rights, and a third appraiser who shall be appointed by both parties. The average of the three appraisals shall be the option price.

13.02.150 - Purchase Option—Right of First Refusal.

(1) *Grant of right.* In addition to the grant of the option to purchase by the new user(s), there shall be deemed to have been a grant to the Town by the user(s) of a right of first refusal regarding the water rights subject to the option to purchase. If the Town, for any reason, should choose not to exercise its option to purchase, it shall retain the right of first refusal in the event the water rights are sold independently of the land, for a period of ten years following annexation, final plat approval, subdivision, or extension of water service to a subdivision.

(2) *Notice period.* If the owner of the water rights subject to the right of first refusal wishes to sell the water rights to a third party, he shall give to the Town at least 90 days, notice of his intention to effect a sale of the water rights by delivering to the Town a bona fide written offer to purchase made by a third party.

(3) *Exercise of right.* During the 90-day notice period provided for in this subsection, the Town shall enjoy its right of first refusal entitling it to purchase the water rights proposed for sale. If within 90 days following notice by the owner of his intention to sell his water rights, the Town chooses to exercise its rights to purchase, then the Town shall pay to the owner the fair market price of the water rights prevailing at the time of the offer, which price shall be at least equal to the amount tendered to the owner in the bona fide offer by the third party. In the event that the Town determines not to exercise its right to purchase the water rights offered for sale, the owner shall be free to sell the water rights to a third party; provided, however, that any such sale to a third party shall be for a price which is at least equal to that price which was tendered to and refused by the Town.

13.02.160 - Dedication of Water Rights for Open Space.

The owner of any property proposed to be annexed or subdivided who dedicates property to the Town pursuant to any other ordinance of the Town to be used for open space, park, aesthetic, recreation, or irrigation purposes shall also comply with the provisions of this Chapter.

13.02.170 - Lease of Water Rights for Agricultural or Open Space Property.

If the owner of the property proposed to be annexed or subdivided desires to retain the land, or any portion thereof, in agricultural production or as open space prior to development, he or she shall be permitted to lease back, on an annual basis and for irrigation, aesthetic and recreational purposes only, the water rights transferred pursuant to this Chapter. The terms of the lease shall be negotiated with the Town Council or its designate.

13.02.180 - Exceptions.

(1) The Town may substitute or waive any conditions or requirements deemed necessary to meet the purposes of this Chapter.

(2) This Chapter does not apply to the extension of a new municipal-treated water service or raw water service for which the basic dedication requirement has been previously complied with by any person and where no increase in demand is constituted.

13.02.190 - Raw Water Irrigation.

(1) It is a policy of the Town to encourage the use of nonpotable water for irrigation of lawns, gardens and greenbelt areas. In pursuit thereof, a credit for the use of nonpotable irrigation systems has been made in the table of EQRs contained in Section 13.02.050, above. To receive credit developer shall, prior to preliminary plan approval:

(a) Provide an opinion letter from a qualified attorney, professional engineer or hydrologist which represents that the water rights to be used in a raw water irrigation system are adequate in character, amount and seniority to provide a reliable source of irrigation water for the uses intended;

(b) Demonstrate to the Town's satisfaction that the use of water rights owned by developer will not materially injure the Town's water rights;

(c) Cause covenants and a plat note on the final plat to be recorded which provides notice to lot purchasers that:

(i) Municipal water supplies shall not be used for irrigation use absent further compliance with this Chapter;

(ii) Prohibits cross-connection of potable and irrigation water systems;

(iii) Prohibits more than one hosebib to be located on any structure and that hosebib shall be located on the front of the structure and visible from a public right of way and shall not be used for irrigation purposes; and

(iv) Contains such other terms and conditions which the Town reasonably requires.

(d) Developer shall not realign or modify any existing irrigation ditches in conjunction with the development of a raw water irrigation system without first presenting to the Town evidence that written consent to such activity has been provided by all owners of the ditch or lateral or that a court of competent jurisdiction shall have first issued a declaration that the realignment or modification may be made.

(2) The Developer or its successors that own and control the nonpotable irrigation systems (“Raw Water Responsible Party”) shall have a continuing obligation and responsibility to operate, protect, maintain, repair, and replace all such nonpotable irrigation systems to ensure that an adequate legal and physical raw water irrigation supply is maintained for all uses that have been credited with a reduction of EQR rating under 13.08.060. The Town shall have the right to review such raw water systems on a periodic basis for compliance with these provisions. In the event the Town determines, in its sole and exclusive discretion, that the raw water irrigation system is not adequately being operated, protected, maintained, repaired, and replaced, the Town may:

(a) Require the Raw Water Responsible Party to submit a plan to remedy and insufficiency with adequate security;

(b) Satisfy additional water right dedication requirements under the Code; or

(c) The Town may cure such deficiencies and charge the full costs of such remedial actions back to the Raw Water Responsible Party. In the event the Town elects this option, it shall have the right to levy a surcharge on treated water deliveries to repay these costs and expenses.

13.02.200 - Periodic Audit of Connections/Recalculation of Dedication Requirement.

The Town shall have the right to, upon reasonable notice and at reasonable times, inspect any premises connected to the municipal water system of the Town to verify that connections or water using features or uses are not being made of municipal water for which water right dedication fees or compliance has not been made. In the event new or expanded facilities or uses are being made of Town water for which compliance with this

Chapter has not been made, the Town shall recompute the dedication requirement and bill such to the owner or a charge due and collectible as requirement of continued water service. Schools shall be subject to a review of projected maximum student usage every five years or upon the expansion of school facilities.

Chapter 13.03 - WASTEWATER DEPARTMENT

13.03.010 - Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(1) *Act or Clean Water Act* shall mean the Clean Water Act of 1977 (Pub. L. 95-217), 33 U.S.C. SI251 *et seq.*, as the same is in effect on the date of the ordinance codified in this Chapter or may hereafter be amended.

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

(3) *Connection permit* shall mean the written permission to connect to the sewer main of the Town pursuant to the rules and regulations of the Public Works Department and the provision of this Chapter; and shall be revocable upon a change of use.

(4) *Discharge permit* means a permit to discharge industrial waste into, the sewer system of the Town, as authorized and permitted by this Chapter.

(5) *Equivalent residential unit* or *EQR* means a number related to the volume of water consumptively used by a single-family residential unit as further defined in Sections 13.02.030 and 13.02.050, table of EQRs.

(6) *Industrial discharger* or *discharger* means any nonresidential user who discharges effluent into the Town waste water treatment facilities by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.

(7) *Industrial waste* means solid, liquid or gaseous waste resulting from any industrial manufacturing trade or business process, or from the development recovery or processing of natural resources.

(8) *Main line* shall mean any pipe, piping or system of piping used as a conduit for sewerage in the Town's system and owned by the Town. A sewer main line shall be eight inches or more in diameter.

(9) *Pollutant* means any substance discharge into the Town wastewater treatment facilities or its collection system, which is listed in the National Pretreatment Standards, 40 C.F.R. part 4003, as amended.

(10) *Pretreatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in waste water prior to or in lieu of discharging or otherwise introducing such pollutants into the waste water treatment system of the Town. This reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as otherwise prohibited. Appropriate pretreatment technology includes control equipment such as equalization tanks or facilities for the protection against surges or slug loadings that might interfere with or otherwise be incompatible with the wastewater treatment facilities of the Town.

(11) *Public sewer* means a sewer line, appurtenances, accessories or a portion thereof owned and maintained by the Town, that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of groundwater, stormwater, and surface water that are not admitted intentionally.

(12) *Public Works Director* shall mean that person who supervises the operation and maintenance of Town's facilities.

(13) *Runoff waters* means any water from storm or surface runoff, including by way of example but not by limitation, ground waters, or storm and surface runoff from building foundations or roof drains, or any other collected or uncollected water from natural sources.

(14) *Sanitary sewage* or *sewage* means the water-carried human waste or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground surface storm or other waters as may be present.

(15) *Service line* shall mean any pipe, line or conduit used to provide sewer service from the main line to a building. A service line is not the property of the Town, and the Town shall have no liability whatsoever in respect thereto from the point of, and including, the tap onto the main line. *lug* means any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for 15 minutes or longer, more than five times the average 24-hour concentration of flows from

such user during normal operation and which adversely affects the Town's sewer system or performance of its wastewater works.

(16) *Tap or connection* shall mean the connecting of the service line from the structure which it is to serve to the public sewer system, either directly to a public main line or indirectly through a private main line.

(17) *Tap fee* shall mean the payment to the Town of a fee for the privilege of connecting to the sewer system a particular use. The "tap fee" may also be known as a "use fee" and is dependent upon the projected demand at the time of the application and not upon physical tapping.

(18) *Town's System* shall mean the waterworks system, plant, and all infrastructure and easements necessary to treat and deliver water owned by the Town.

(19) *Wastewater* means industrial waste or sewage or any other waste, including that which may be combined with any ground water, surface water, or storm water that may be discharged into the waste water treatment facilities of the Town.

(20) Any other term not defined herein shall be defined as presented in the "Glossary - Water & Sewage Control Engineering" A.P.H.A., A.W.W.A., A.S.C.E. and F.U.S.A., latest editions.

13.03.020 - Wastewater Department Created.

There is created and established a Wastewater Department for the Town for the purpose of management, maintenance, care and operation of the sewage collection system and treatment works.

13.03.030 - Public Works Director Appointment and Duties.

The Town Manager shall designate a Public Works Director of the Wastewater Department. The person, party or entity appointed shall be qualified to manage the wastewater system and shall have the immediate control and management of all things pertaining to the wastewater system, and shall perform all things pertaining to the wastewater system, and shall perform all acts which may be necessary for the prudent, efficient and economical management and protection of the wastewater system, subject to the approval of the Town. The Town shall have the power to prescribe such other and further rules and regulations governing the powers and duties of the Public Works Director and such other rates, rules and regulations as are now contained in this Chapter.

13.03.040 - Ownership.

(1) All existing and future mains and treatment works connected with and forming an integral part of the wastewater system shall become and is the property of the

Town. This ownership will remain valid whether the mains and treatment works are constructed, financed, paid for, or otherwise acquired by the Town, or by other persons.

(2) That portion of all existing and future service lines extending from the main to each unit or building for each customer, connected with and forming an integral part of the Town's system, shall become and is the property of the customer. This ownership shall remain valid whether the service lines are constructed, financed, paid for, or otherwise acquired by the Town, or by other persons.

13.03.050 - Town Responsibility.

(1) The Town shall be responsible for the repair and maintenance of all main sewer lines. The property owner shall be responsible for any service line from and including the tap onto the main line, and for the expense of maintaining, repairing and replacing such service line.

(2) It is expressly stipulated that no claim for damage shall be made against the Town by reason of the following: blockage in the system causing the backup of effluent; damage caused by "smoking" of lines to determine drainage connections to Town lines; breakage of service main by Town personnel; for interruption of service and the conditions resulting therefrom; breaking of any service or supply line, or pipe, by any employee of the Town; the making of connections or extensions; burst service pipes or other facilities not owned by the Town; or for doing anything to the system of the Town deemed necessary by the Town or its agent. The Town shall have no responsibility for notification to customers of any of the foregoing conditions.

13.03.060 - Privies and Septic Tanks Prohibited.

Except as otherwise expressly provided, no person shall maintain within the Town any privy, privy vault, septic tank, evapotranspirative system, cesspool or other facility intended for use for the disposal of sewage. Pump out facilities and tanks used to store or dispose of waste from recreational vehicles and boats shall not be allowed except by express approval of the Public Works Department.

13.03.070 - Connection to Sewer Required.

The Town Council deems it necessary for the protection of the public health that the owners of all houses, buildings, or properties used or property being developed for human occupancy, employment, recreation, or other purposes, situated within the Town, to install at the owner's expense suitable toilet facilities therein, and connect such facilities directly with the proper public sewer in accordance with the provisions of this Chapter. Such connection with the public sewer system shall be made within 30 days after date of written

notice given by certified or registered mail to such owners notifying them to connect their premises with the sewer.

13.03.080 - Powers and Authority of Agents.

(1) The Public Works Director, and other duly authorized employees of the Town bearing proper credentials and identification, shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Chapter.

(2) The Town Manager or the Public Works Director acting on instructions of the Town shall have the sole authority to waive, suspend or modify these rules, and any such waiver, suspension or modification must be in writing, signed by the Town Manager or the Public Works Director.

13.03.090 - Classification of Sewage Wastes.

(1) *Categories.* The Public Works Department shall classify wastes into three main categories, termed "normal sewage," "special sewage," and "prohibited sewage," which are generally defined herein. The classification of wastes shall be the responsibility of the Public Works Director and shall follow recommended procedures of the state board of health, and, subject to approval of the Town, shall be final and binding.

(a) *Normal sewage.* Normal sewage shall mean sewage which can be treated at the Town's sewage treatment works without pretreatment and within normal operating procedures, and which, when analyzed, shows by weight a daily average of not more than the following concentrations:

Total Dissolved Solids (TDS) 500 mg/L

Total Suspended Solids (TSS) 220 mg/L

Biochemical Oxygen Demand (BOD) 220 mg/L

Nitrogen (total as N) 40 mg/L

Phosphorus (total as P) 8 mg/L

(b) *Special sewage.* Special sewage shall mean any sewage which does not conform to the definition for normal sewage, but which can be treated by the Town after pretreatment by the user or by utilization of special operating procedures by the Town at the sewage treatment works.

(c) *Prohibited sewage.* Prohibited sewage shall mean any sewage which may reasonably be anticipated to have a deleterious effect upon the sanitary sewer system, or any person or property, and, therefore, in the opinion of the Town, cannot be serviced by the Town. Prohibited sewage shall include clear water injected into the sewage system by means of a drainage collection system.

13.03.100 - Analysis of Sewage.

The Public Works Director shall be responsible for all sampling, testing, analysis and classifying of sewage. Testing and analysis shall be determined in accordance with "Standard Methods for the Examination of Water and Wastewater" latest edition. Results of tests shall be made available to the user at the Town's office.

13.03.110 - Responsibilities of the Customer.

(1) No unauthorized person shall uncover, make any connection with, or opening into, use, alter, or disturb any sewer main or appurtenance without first obtaining a written permit from the Town. All taps, connections and stub-outs shall be inspected by the Public Works Director prior to backfilling.

(2) Sewage system. Each customer shall be responsible for maintaining the entire length of the service line serving customer's property. Leaks or breaks in the service line shall be repaired by the property owner within 72 hours, the Public Works Director shall shut off the service until the leaks or breaks have been repaired; in addition, the Town shall have the right to effect the repair and collect the cost therefor from the customer, and shall be entitled to place a lien against the property of such customer, securing payment of such cost.

(3) No person shall discharge, or cause to be discharged, any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process waters to any sanitary sewer. No public or private swimming pool shall be connected with the sanitary sewer system without first obtaining a special permit therefor from the Town, which permit shall define and specify the time during which water may be discharged from such pools into the sanitary sewer system and prescribe the fees and charges therefor, if any.

(4) No person shall discharge, or cause to be discharged, to any sewer main, any special or prohibited sewage or any harmful waters or wastes, whether liquid, solid, or gas, capable of causing obstruction to the flow in sewers, damage or hazard to structures, equipment and personnel of the sewage works, or other interference with the proper operation of the sewage works.

(5) The admission into the public sewers of any special sewage shall be subject to the review and approval of the Town, which may prescribe limits on the strength and

character of such sewage. Where necessary, in the opinion of the Town, the owner shall provide, at the owner's expense, such pretreatment facilities as may be necessary to treat such special sewage prior to discharge to the sewer main, plans, specifications, and any other pertinent information relating to proposed pretreatment facilities shall be submitted for the approval of the Town and of the state board of health, and no construction of such facilities shall be commenced until such approval is obtained in writing. Where pretreatment facilities are provided for any special sewage, they shall be maintained continuously in satisfactory and effective operation by the owner, at the owner's expense.

(6) In the discretion of the Town and/or the Public Works Director, the owner of any property served by a service line carrying normal, special or prohibited sewage shall install and maintain, at the owner's expense, a suitable control manhole in the service line to facilitate measurements, tests, and analysis of the wastes. All measurements, tests, and analysis of the characteristics of waters and wastes shall be determined in accordance with "Standard Methods for the Examination of Water and Sewage," and shall be determined at the control manhole, or upon suitable samples taken at the control manhole. A similar requirement can be imposed by the Public Works Director to any residential property served by a service line found carrying special or prohibited sewage.

(7) In the event that no special manhole has been required, the control manhole shall be considered to be the nearest down-stream manhole in the sewer main to the point at which the service line is connected. Grease, oil and sand interceptors of a design recommended by the International Plumbing Code shall be provided when, in the opinion of the Public Works Director, they are necessary for the proper handling of special sewage or liquid wastes containing grease in an excessive amount, or any flammable wastes, and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. Where installed, they shall be maintained by the owner, at the owner's expense, in continuously effective operation at all times.

13.03.120 - Requests for Disconnection or Connection.

The Town may authorize disconnection of a use from the sewer system at the request of a customer. A fee of \$25.00, plus actual costs of disconnecting the service, shall be charged to the customer. Connection or reconnection to the system shall also cost \$25.00, plus actual expenses of connection.

13.03.130 - Service Inside Municipal Limits of Town.

(1) *Inside Gypsum.* Tap fees shall be assessed based on the table of EQRs set forth in Section 13.02.050 and the tap fee shall be \$12,000.00 per EQR.

(2) *Outside Gypsum.* Tap fees shall be assessed based on the table of EQRs set forth in Section 13.02.050 and the tap fee shall be set as determined by the Town, but shall not be less than \$18,000.00 per EQR.

(3) *Tap fee expiration.* Tap fees paid at building permit issuance, whether for inside or outside of Gypsum's municipal boundaries, are good for one and one-half years from building permit issuance. The Town may require in all annexation agreements, subdivision improvement agreements, or out-of-town sewer service agreements, that the applicant pay additional fees either for infrastructure specified by the Town necessary to support new tap connections, and/or pay \$3,600.00 per EQR of the tap fee at final plat approval to pay the Town for its investment already existing and for upsizing that may be required with additional growth. Such infrastructure or fee determination shall be at the Town's sole discretion.

(4) *Surcharge fees.* The applicant shall pay any additional tap fee surcharge for each EQR of demand as required by the applicant's subdivision improvement agreement. The additional tap fee surcharge shall be due at building permit, unless otherwise provided in the subdivision improvement agreement.

13.03.140 - Service Outside the Town.

(1) No service shall ever be provided to property outside of the Town, except upon the express written consent of the Town Council. The Town Council will take out-of-town sewer taps under consideration where water quality is of greater concern near waterways such as Gypsum Creek and the Eagle River, or other water quality concerns are present, at the Town's discretion. Generally, the Town will not grant consent for out-of-town sewer service unless the subject property is also served by the Town's potable water works. In cases where the property is not connected to Town water service, and if the Town determines it will allow out-of-town sewer service, then provisions of such sewer service shall meet all requirements of county, state and federal law, including, but not limited to separation requirements from any non-town water supply. To preserve water quality in local water bodies, the Town may, at its discretion, consider providing wastewater service to any property where the structure perimeter is within a reasonable distance as determined by the town to a spring, well, suction line, potable water supply line, potable water supply cistern, dwelling occupied buildings, piped or lined irrigation ditch, subsoil drains, intermittent irrigation laterals, lakes, water courses, streams, irrigation ditches, dry gulches or septic tanks. Similarly, if any out-of-town property is proposing to serve a discharge of more than 2,000 gallons per day, then the Town may consider providing wastewater service to such out-of-town property. In weighing any decision to allow an out-of-town connection to the Town's wastewater service, the Town may also consider other variables related to water quality in addition to the distance specified in this Section.

(a) The Town, in its sole discretion, may provide an exemption from this requirement to afford an applicant for service from the Town's wastewater collection system and treatment works reasonable time to connect to the Town's potable water system.

(b) Charges for furnishing sewer service outside of the Town shall be at the discretion of the Town and as outlined under Section 13.03.310. Monthly fee for sewer service outside of the Town shall be as outlined under Section 13.03.320.

(c) In every case where the Town furnishes service to properties outside the Town, the Town reserves the right to discontinue the service when, in the judgment of the Town, it is in the best interest of the Town to do so, and such license shall be considered a revocable license.

(d) If an out-of-town wastewater service is approved for a property, it in no way obligates the Town to provide additional sewer services or taps to the property, for water or for sewer, if requested.

(e) Any grant of out-of-town wastewater service by the Town is conditioned upon the recipient being subject to comply with all Town Code provisions regarding wastewater service, as such requirements may be amended from time to time.

13.03.150 - Application for Service.

(1) Application for service must be filed with the Town on forms provided by the Town and accompanied by appropriate fees prior to any action to connect to the system. Only upon authorized approval of the application and a receipt therefor, may a connection to the system be made.

(2) No taps will be permitted or made between November 1 and April 15, without specific, formal approval of the Public Works Director or their designee. All information requested on the tap application form must be completed.

(3) The land on which the tap will be used must be identified at the time of the purchase on the application for service form and tap payment. A tap cannot be moved or severed from the land identified by the approved application without written consent of the Town.

13.03.160 - Cancellation of Application.

(1) The Town reserves the right to revoke any application previously granted, before service has been provided.

(2) An approved application shall be retained, along with fees paid, by the Town, for a period of 12 months. If the applicant has not then requested service, the Town, at its

discretion, may cancel the application and retain the fees paid, or may begin assessment of minimum service charges.

13.03.170 - Denial of Application.

The Town reserves the exclusive right to deny an application for service, when, in the opinion of the Town, the service applied for would create an excessive seasonal, or other, demand on the facilities. Denial may also be based upon an unresolved obligation between the Town and the applicant, inadequate documentation of easements for main lines serving the property, or other valid reasons.

13.03.180 - Change in Customer's Equipment or Service.

No change in the customer's equipment or service shall be made without the prior approval of the Town. Any change in a customer's equipment or service which increases the service provided by the Town, shall require a redetermination of the tap fees, monthly service charge and payment of any additional tap fee and service charge so determined. The redetermined tap fee shall allow a credit for previously paid tap fees. Changes in a customer's equipment or service which result in a decrease in the service provided by the Town, shall not result in a reduction or refund of tap fees or service charges unless approved by the Town Manager. When buildings are moved or destroyed resulting in non-use of the tap for a period in excess of one year, the tap authorization is terminated and no credit will be permitted for new uses or construction on the subject property.

13.03.190 - Unauthorized Connection Fees.

In addition to all other remedies described in this Chapter, including disconnection, the Town may assess an unauthorized connection fee equal to twice the normal tap fee payable by persons tapping onto the Town's lines without prior payment of connection fees, approval of application, or adequate inspection of lines.

13.03.200 - Construction of Service Lines.

(1) Construction of all service lines shall be done in accordance with the International Plumbing Code, in accordance with this Chapter and in accordance with any rules and regulations adopted by the Public Works Department.

(2) A separate and independent service line shall be provided for every building, and except as otherwise provided herein, shall be installed at the expense of the property owner.

(3) The applicant for the connection permit shall notify the Public Works Department when the service line is ready for inspection and connection to the public main.

(4) Existing service lines may be used in connection with new buildings only when found, on examination by the Public Works Director, to meet all specifications and requirements of this Chapter.

(5) All contractors, plumbers and others doing work on any main, service lines, or structures in the Town shall comply with Eagle County, state highway department, or local regulations on excavation, backfill, compaction and restoration of surfacing.

(6) All permits, fees and licenses shall be paid for by the contractor, plumber, or others doing work in the Town prior to the start of construction.

(7) All excavations for service installation shall be adequately guarded with barricades and lights to protect the public from hazard. Streets, sidewalks, parkways, and other public or private property disturbed in the course of the work shall be restored in a manner satisfactory to the Public Works Director.

(8) All inspection fees on sewer construction required by the Town, County of Eagle or the state shall be paid by the plumber, contractor, or others doing work for the Town.

(9) The violation of any provision of this Section or the Town's installation specifications, shall constitute sufficient grounds for termination of service and the imposition of a fine as set forth in Section 13.03.390 of this Chapter. Whenever it appears a violation has been committed, the installer and owner shall be sent a written notice.

13.03.210 - Inspection and Tapping Charges.

All taps must be made or inspected by the Town, and all service lines must be inspected. Constructors of service lines shall call the Public Works Department for the scheduling of an open ditch inspection of all service lines. There shall be no charge for the initial inspection; however, if an additional inspection is required, there shall be an inspection charge as set by the Town Council. Stub-outs must be inspected, capped and permanently marked at grade but there shall be no charge for the initial inspection.

13.03.220 - Main Extensions.

(1) The requirements set forth in the rules and regulations are also applicable to this Section.

(2) It shall be unlawful for any person to construct a main within the Town without having first made formal application to the Town for approval and having complied with the provisions of this Chapter.

(3) All main extensions within the Town must have the prior approval of the Town. Plans for such extensions shall be submitted to the Town Engineer, along with the

application for a line extension. The Town Engineer shall then review and submit the plans, with appropriate documentation and recommendations, to the Town Council for final approval. The plans shall be reviewed for compliance with the Town's specifications set forth in the rules and regulations, and with other specifications and requirements appropriate to the situation, and the engineering and administrative fees for reviewing and studying such compliance shall be at the owner's expense.

13.03.230 - Processing of Sewer Extensions with the State of Colorado.

The Town assumes no responsibility for the processing of, or decision not to process, an application for main line extension before the Colorado Department of Public Health and Environment or any other agency. The decision to process or not to process such an application rests solely with the developer or constructor of the main line, and the Town assumes no responsibility or liability for that decision.

13.03.240 - Locations of main extensions and additions.

Mains shall be installed in roads or streets which the county, state highway department, or other public agency has accepted for maintenance as a public right-of-way, as well as in easements granted to the Town.

13.03.250 - Procedure for Main Extension Construction.

(1) The landowner, developer or subdivider shall provide detailed engineering plans and specifications to the Town pursuant to this Chapter describing the proposed main and service connections being requested. Subject to the Town's review, recommendations and approval of such plans as provided for in this Chapter, the landowner, developer or subdivider shall obtain bona fide design and cost estimates for the work which shall serve as guidance for the parties to enter into a standard line extension contract with the Town, covering standard regulations on line extensions and rebates for transmission overseeing lines. The Town may at its option require the landowner, developer or subdivider to either:

(a) Deposit in advance with the Town an amount in cash, certified funds or other payment and security acceptable to the Town, equal to the cost of the contract to be let, including engineering and inspection expenses, so that the Town can construct the line extension with its own forces, or

(b) Furnish the Town with a performance and surety bond guaranteeing the performance of the work of a contractor, holding the Town harmless for the payment to the contractor, and three year's warranty at fifteen percent of actual cost to construct in cash, certified funds or other payment and security acceptable to the Town.

(2) If subsection (1)(a) above is elected and the cost of the work shall increase through change order, the landowner, subdivider, or developer shall be so notified, and no change order shall be approved until an amount equal to the deficiency is added to the deposit. Upon completion of the work, the final cost shall be certified by the Town Engineer and any overage refunded, or deficiency made up, by the landowner, subdivider or developer.

(3) A performance and maintenance bond equal to 100 percent of contract (or construction cost) shall be furnished to the Town on all sewer main construction contracted for by the Town.

(4) All inspection fees on sewer mains required by the Town, County of Eagle, or the state highway department, shall be paid by the plumber, contractor or others doing work in the Town.

(5) Special structures such as lift stations, pumping stations, pressure reduction valves (P.R.V.), meter vaults, and similar devices, required to ensure proper operation of the extensions, shall be constructed from designs of the Town Engineer or such other engineers as may be approved by the Town.

(6) The constructor shall be responsible for "overseeing" main line extensions as required by the Town.

13.03.260 - Requirements for Acceptance of Lines.

(1) Landowners, subdividers, or developers who have completed construction of mains shall, before the lines are accepted by the Town for taps, convey the lines and appurtenances to the Town, free and clear of all liens and encumbrances, and the bond furnished shall warrant said improvements to be free from defects and shall cover all maintenance for one year from the date of acceptance of the lines and other improvements by the Town. The method and form of conveyance shall be determined by the Town in its sole discretion.

(2) Prior to the acceptance of the lines by the Town, all easements necessarily accompanying the lines shall be duly recorded and provided. The scope, width and form of the easements shall be determined in the Town's sole discretion.

(3) Prior to the Town's acceptance of the lines, the Town shall be provided with "as built" drawings of all lines and facilities stamped by a Colorado registered professional engineer in a format requested by the Town. The Town shall further be provided with certification by a Colorado professional engineer that all lines and facilities installed have been designed and constructed in accordance with plans and specifications approved by the Town.

(4) Each landowner, subdivider, or developer who desires service, will in consultation with and the approval of the Town, plat and grant to the Town easements and rights-of-way in form, width and scope acceptable to the Town in which to construct the same, where such facilities are required to cross land not being subdivided, or under the subdivider's control for granting of public rights-of-way.

(5) The Town may, in its discretion, extend mains under such conditions as the Town deems appropriate.

13.03.270 - Main Sizes.

The size of the main required to serve any area of the Town shall be determined by the Town Engineer.

13.03.280 - Reimbursement.

No reimbursement or recovery costs shall be permitted for main line extensions except as provided by existing contracts. The Town may in its sole discretion contract to require overseeing of mains and permit rebates as it deems necessary and proper.

13.03.290 - Rates and Charges.

The rates, charges, and other information shown herein shall apply only to customers inside the Town and shall in no way obligate the Town to provide service outside the Town under any of the conditions contained in this Section.

13.03.300 - Classification of Customers for Tap Fees and Service Fees.

Customers shall be classified according to the "table of EQRs" set forth in Section 13.02.050; notwithstanding the foregoing, paragraph numbers 3, 4, 20(a) and 20(b) of the table of EQRs, which are EQR assessments for irrigation purposes shall not be considered in the computation of the wastewater tap fee and service charges.

13.03.310 - Tap Fee.

(1) *Inside Gypsum.* Tap fees shall be assessed based on the table of EQRs set forth in Section 13.02.050 and the tap fee shall be \$12,000 per EQR.

(2) *Outside Gypsum.* Tap fees shall be assessed based on the table of EQRs set forth in Section 13.02.050 and the tap fee shall be set as determined by the Town, but shall not be less than \$18,000.00 per EQR.

(3) *Tap fee expiration.* Tap fees paid at building permit issuance, whether for inside or outside of the Town's municipal boundaries, are good for one and one-half years

from building permit issuance. The Town may require in all annexation agreements or out-of-town sewer service agreements, that the applicant pay additional fees for either for infrastructure specified by the Town necessary to support new annexed tap connections, and/or pay \$3,600.00 per EQR of the tap fee at final plat approval to pay the Town for its investment already existing and for upsizing that may be required with additional growth. Such annexation infrastructure or fee determination shall be at the Town's sole discretion.

(4) *Surcharge fees.* The applicant shall pay any additional tap fee surcharge for each EQR of demand as required by the applicant's subdivision improvement agreement. The additional tap fee surcharge shall be due at building permit, unless otherwise provided in the subdivision improvement agreement.

(5) *Accessory dwelling units (ADUs).* EQR calculations for ADUs shall not be subject to tap fees, but are subject to monthly service fees per Section 13.12.330.

13.03.320 - Tap Activation.

(1) Any water service issued pursuant to the application process described in Section 13.03.150 must be activated within one and one-half years from the date of the license. on the property identified in the application for tap. If such activation is not made within one and one-half years from the date of the license, then any new or expanded wastewater service requiring a tap connection shall be the subject of a new tap fee at the then prevailing rates of the Town; provided however, a credit in the amount paid for the pre-purchased tap shall be given equal to the amount actually paid for the pre-purchased tap, without interest.

(2) A pre-purchased tap shall not be sold, leased or traded to another person or property; however, they can be assigned, for no additional consideration, to a subsequent purchaser of the property for which the tap was purchased.

13.03.330 - Monthly Service Charge.

(1) The monthly service charges shall be assessed for commercial occupancies on an EQR basis as is specified in Section 13.02.050, as assigned by the building permit for the occupancy or if no EQR was assigned, and subject to a flow limitation and rate structure as assigned in the Town's discretion.

(a) Wastewater charges will be set by the Town Council and are based upon the typical BOD, TSS and pH levels for specific occupancies. To the extent such BOD, TSS and pH levels are exceeded, as is specified in Section 13.03.090, the Town, in

its sole discretion, may sample wastewater discharge, and assess any penalties as provided for in Section 13.03.390.

(b) If a commercial or industrial consumer can furnish to the Town Manager factual information demonstrating the consumption rate of water delivered to the consumer, during the winter period, due to the consumer's operations or processes, is at least 20 percent of the water delivered through a properly functioning water meter showing such consumed water deliveries are not returned to the public wastewater system, the Town Manager shall then determine if the user's wastewater contribution percentage is to be changed (reduced) and shall notify the user thereof. In the event the user's wastewater contribution percentage is reduced, the Town Manager may then determine if the consumptive water demands represented as being associated with the consumer's tap are accurate or require a corresponding adjustment requiring additional compliance with Sections 13.01.070, 13.01.080, and 13.02.050.

(2) The monthly service charges to be assessed for residential will be set and periodically updated by the Town Council.

13.03.340 - Tap Fees for Unclassified Uses.

In those situations where a prospective user applies for a permit for service to a structure or use not defined in the preceding section; or where, in the Town's opinion, the structure represents a classification not contemplated in the establishment of the previously defined tap fees, the Town shall, in its sole discretion establish a fair, reasonable, and equitable tap fee for the structure.

13.03.350 - Amended Monthly Service Charges.

In those situations where in the Town's sole discretion, the monthly service charges shown in this Chapter do not represent a fair, reasonable, and equitable charge for the intended use, the Town, in its sole discretion, may adjust the rates.

13.03.360 - Payment of Monthly Service Charges.

(1) It shall be the policy of the Town to bill all service charges in advance. All service charges provided for in this Chapter must be paid to the Town Clerk either monthly, in three equal payments paid on the tenth day of each month of the billing cycle, or quarterly, on the tenth day of the second month of each billing cycle. If such charges are not paid, the Town Clerk or Finance Director, on the date due, they shall become delinquent, and late charges shall be assessed, a lien may be imposed upon the property, and service may be terminated.

(2) Late charges shall be assessed to delinquent accounts as follows:

(a) One percent per month on the outstanding balance;

(b) Payments are considered delinquent on accounts payable monthly if the payment is received after the 24th day of the current month of the billing cycle. (review water language for consistency)

13.03.370 - Lien for Failure to Pay Rate and Charges.

(1) At any time the customer is 90 days in arrears or more in payment of any charges due to the Town, the Town shall have the right, in addition to all other remedies which it may have, in its sole discretion, to terminate service to the customer. The customer shall be given ten days' notice of intent to disconnect service, mailed postage prepaid. The cost of disconnection and reconnection shall be charged to the customer.

(2) The Town shall have the right to assess to any customer who is in arrears in payment of the account, all legal, engineering, court, and other costs necessary to or incidental to the collection of the account.

13.03.380 - Certification of Delinquent Charges and Fees.

All delinquent fees, rates, tolls, penalties or charges associated with providing sewer service or facilities to provide such service, including costs of extending lines and system enhancement costs, shall constitute a lien upon any lots, land, buildings or premises provided service or to be provided service by such facilities. In the event said charges are not paid when due, the Town Clerk or Finance Director may certify such charges and fees to the County Treasurer of Eagle County, Colorado to be collected, together with the costs of collection, against the property served in the same manner as though they were part of the taxes assessed against the property.

13.03.390 - Penalties.

(1) No person, entity or business licensee shall maliciously, willfully or negligently, break, damage, destroy, uncover, deface or tamper with any portion of the Town's System. Nor shall any person, entity or business licensee discharge any special or prohibited sewage to the Town's System as specified in Section 13.03.110(4) above.

(2) Any person, entity or business licensee who shall violate the provisions of this Chapter shall be penalized as follows:

(a) For the first violation, any person, entity or business licensee who violates the provisions of this Chapter shall be charged with a misdemeanor, and upon conviction thereof, shall be fined in an amount no less than \$500.00, and up to \$1,000.00, to be paid to the Town;

(b) For the second violation, any person, entity or business licensee who violates the provisions of this Chapter shall be charged with a misdemeanor, and upon conviction thereof, shall be fined in an amount no less than \$1,000.00 up to \$10,000.00; and

(c) For the third violation, any person, entity or business licensee who violates the provisions of this Chapter shall be charged with a misdemeanor, and upon conviction thereof, shall be fined in an amount of actual costs to the Town to remedy the injury caused by the violation(s) or \$10,000.00, whichever is greater.

(3) Any person, entity or business licensee violating any of the provisions of this Chapter shall become liable to the Town for any expense, loss or damage occasioned by reason of such violation.

Chapter 13.04 - ENTERPRISE ACTIVITIES

13.04.010 - Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(1) *Grant* means a cash payment of public funds made directly to an enterprise by the state or a local governmental entity or a district, which cash payment is not required to be repaid. "Grant" does not include public funds paid or advanced to an enterprise by the state or a local governmental entity or a district in exchange for an agreement by an enterprise to provide services including the provision of water, the capacity of project works, materials, or other water or sewer activities, nor does "grant" include refunds made in the current or next fiscal year, gifts, any payments directly or indirectly from federal funds or earnings on federal funds, collections for another government, pension fund earnings, reserve transfers or expenditures, damage awards or property sales.

(2) *Sewer activity enterprise* means the functions and services of the Town established and maintained to provide sewer activities including, but not limited to, the collection, treatment, use, reuse, augmentation, exchange, or discharge of wastewater, including the provision of wholesale or retail wastewater or stormwater services, and all services and facilities related thereto.

(3) *Water activity enterprise* means the functions and the services of the Town established and maintained to provide water activities including, but not limited to, the acquisition diversion, storage, carriage, delivery, distribution, treatment, use, reuse, augmentation, exchange, or discharge of water, including the provision of wholesale or retail water services and the acquisition of water or water rights, and all services and facilities related thereto.

13.04.020 - Water Activity Enterprise Operations and Facilities.

The water activity enterprise shall manage, operate, maintain, and conduct all water activities, services, and facilities of the Town. The enterprise is authorized to utilize, improve, extend, enlarge, repair, replace, acquire, dispose of, encumber, contract with respect to, and otherwise control and supervise all water activity facilities and property of the Town. The water activity enterprise shall be wholly owned by the Town. All facilities, property and assets which are utilized by the enterprise or form part of the water activity enterprise shall be the property of the Town.

13.04.030 - Sewer Activity Enterprise Operations and Facilities.

The sewer activity enterprise shall manage, operate, maintain, and conduct all sewer activities, services, and facilities of the Town. The enterprise is authorized to utilize, improve, extend, enlarge, repair, replace, acquire, dispose of, encumber, contract with respect to, and otherwise control and supervise all sewer activity facilities and property of the Town. The sewer activity enterprise shall be wholly owned by the Town. All facilities, property, and assets which are utilized by the enterprise or form part of the sewer activity enterprise shall be the property of the Town.

13.04.040 - Multiple Enterprises.

The water activity enterprise may conduct or continue to conduct one or more water activities, and the sewer activity enterprise may conduct or continue to conduct one or more sewer activities, including contracting with governmental entities, enterprises, or nongovernmental entities or persons. The Town Council may, from time to time, by resolution establish or restructure any activity within the water activity enterprise or the sewer activity enterprise as a separate enterprise. The Town Council may establish separate enterprises for any other appropriate activity or function conducted by the Town. Failure to designate other enterprises in the Gypsum Municipal Code shall not exclude such other enterprises from the provisions of Section 20, Article X of the State Constitution.

13.04.050 - Governing Board.

The Town Council shall be the governing board of each enterprise. The governing board shall conduct the business of the enterprise in the same manner and follow the same procedures as the Town Council. All official business of the governing board may be combined with and shall be conducted only during regular or special meetings of the Town Council at which a quorum is present. The record of proceedings of the governing board may be incorporated into the minutes of the Town Council. No oaths, bonds, or other qualifications shall be required of the governing board. All actions of the governing board shall be considered as the actions and business of the Town undertaken by the Town Council acting as the governing board of the enterprise. All business and actions of the

governing board shall be governed by and made subject to all requirements, privileges, immunities, protections, limitations, and other provisions of law.

13.04.060 - Powers.

The governing body of each enterprise may, without limitation, exercise the Town's legal authority relating to activity conducted by the enterprise, except as expressly provided herein. Such authority shall include, but not be limited to, all powers set forth in Article 45.1, Title 37, C.R.S. ("Act"), Title 31, C.R.S., Article XX, Section 6 of the Colorado Constitution and the Gypsum Home Rule Charter. Enterprises are authorized to issue or reissue bonds, notes, or other obligations payable from revenues or other available funds of the enterprise pursuant to law. The powers and authorities specifically conferred herein shall not modify, limit, or affect the powers conferred by any other law directly or indirectly, except as expressly provided herein.

13.04.070 - Taxes.

Enterprises shall not levy or assess any tax which is subject to the provisions of Section 20, Article X of the State Constitution.

13.04.080 - Grants.

Enterprises shall not accept or receive any revenues in grants from the state or local government, unless expressly authorized by the Town Council.

13.04.090 - Contracts.

All contracts related to activities or functions conducted by the enterprises shall be approved by the governing board and executed by Town Officers with the Town as the contracting party. Any preexisting contract relating to activity or functions conducted by any enterprise shall be considered as having been approved by the governing board. All contracts relating to an activity or function of an enterprise shall be implemented and discharged by the enterprise, unless otherwise provided by the Town Council.

13.04.100 - Revenue.

All revenue for services and facilities provided by an enterprise, including rates, fees, tolls, charges, and all other income of the enterprise shall be collected, used, and expended for activities and purposes for which the enterprise was established as determined by the governing board in accordance with and as set forth in the fiscal budget for the enterprise adopted by the Town Council pursuant to law. Rates for services and facilities provided by an enterprise shall be established by the governing board and collected and enforced by the

Town. No revenue of an enterprise or spending thereof shall be subject to the provisions of Article X, Section 20 of the Colorado Constitution.

13.04.110 - Enterprise fund.

Enterprise funds have been established by the Town Council for enterprise accounting and budgetary purposes and will be maintained to account for revenue and expenditures of the water activity enterprise and the sewer activity enterprise. All budgets, reports, audits, and financial operations of an enterprise shall conform to and be prepared in accordance with generally accepted accounting principles applicable to governmental (enterprise) units and other requirements of state law.

13.04.120 - Enterprise Disqualification.

Any enterprise established or recognized pursuant to this Chapter shall remain in effect, whether or not it is qualified or disqualified as an enterprise pursuant to the provisions of Section 20, Article X of the State Constitution, until modified or repealed by the Town Council.

13.04.130 - Miscellaneous.

Nothing set forth in this Chapter shall be construed to limit the authority to the governing board or an enterprise to utilize other policies or procedures for operating or continuing the enterprise, except as otherwise expressly provided herein. It is the intent of the Town Council to reestablish the water activity enterprise and the sewer activity enterprise in conformance with the provisions of the Act, the provisions of Article X, Section 20 of the Colorado Constitution, and the Gypsum Home Rule Charter according to its most reasonable interpretations thereof. The application and effect of this Chapter with respect to the water activity enterprise and the sewer activity enterprise shall be both prospective and retrospective to the effective date of the provisions of Article X, Section 20 of the Colorado Constitution.

Chapter 13.05 - REVENUE COLLECTION

13.05.010 - Revenue Collection.

All unpaid rates, fees, charges, taxes, fines and penalties authorized under this Code, together with any amounts owing to the Town pursuant to any judgment, order or decree issued by a court of competent jurisdiction and any other amounts owing to the Town by law, shall constitute a lien upon any lots, land, building, or property served by the Town and may be certified to the County Treasurer of Eagle County, Colorado to be collected, together with the costs of collection against the property served, in the same manner as though they were part of the taxes assessed against the property. Such certification and collection shall be in addition to other remedies and methods of collection provided in this Code.