

## **ORDINANCE #17, SERIES 2014**

### **AN EMERGENCY ORDINANCE CONCERNING THE MUNICIPAL WATERWORKS SYSTEM OF THE TOWN OF JAMESTOWN AND PROVIDING FOR STANDARDS AND FEES FOR WATER AND RELATED SERVICES**

WHEREAS, the Legislature of the State of Colorado has, in applicable state statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of citizens, and

WHEREAS, the Town of Jamestown waterworks enterprise provides potable water to citizens and households by means of a municipal water treatment facility and distribution system, and

WHEREAS, the Town Board wishes to ensure that the latest technical standards and a comprehensive and fair fee schedule is effected for water service, and

WHEREAS, the Town's primary water service ordinance, No.1, Series 2001 was comprehensively updated by No. 3, Series 2010 and this Ordinance updates the 2010 Ordinance, and

WHEREAS, the Town, by this ordinance, updates and restates its standards and fees for water related services including the imposition of a temporary surcharge that offsets impacts from the September 2013 flood, and

WHEREAS, the Town Board wishes to ensure that a fair fee schedule is effected for water service for low income households,

**THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF JAMESTOWN, COLORADO:**

#### **Article I – Water Connections**

**Section 1. Permit Required:** It shall be unlawful for any person to make any tap or connection with the Town waterworks, distribution system or water lines; or to connect into any approved water tap without first having obtained a (Water Tap) permit therefore from the Town.

**Section 2. Tap Applications:** Any person owning real property within the water service area of the Town and desiring a connection to the waterworks system for the use of water at such property shall make written application to the Town Clerk for a permit to do so. The application shall be on a form provided by the Town and shall state the size and location of the proposed connection, premises on which the water is to be used, the proposed uses of the water, and any other information as may be reasonably required.

- (a) A water tap permit shall be issued for use only on the real property specified in the application and shall not be transferable to other properties. All rights under an approved water tap permit shall be deemed to be conveyed with the title to such real property. Water tap permits may be redeemed by the Town, when requested by the owner, for not more than the original purchase fee.

- (b) A separate water tap application and permit shall be required for each unit of a multi unit dwelling. This provision shall not be applicable to multi unit dwellings utilizing a single approved tap prior to November 7, 1983.
- (c) The water service area of the Town shall be that area within 1000 feet of any existing water main. However, water tap permits shall be issued for use only at properties adjacent to an existing water main unless arrangements are made to extend the existing water main in accordance with Section 9 of this Ordinance. In all instances the exact location of any water tap, service line and water main to be tapped shall be specified by the Town.

**Section 3. Tap Permits and Fees:** A tap (connection) fee shall be assessed and paid for all permits for connection to the waterworks system. The applicant must be the owner of the property for which a water tap is desired and must complete and submit an application on a form specified by the Town. The application shall be accompanied by a deposit of not less than ten (10) percent of the tap fee. Except where an agreement is made under Section 5 (c) of this ordinance, the balance of the water tap fee shall be paid within 45 days of approval of permit by the Town Board or prior to commencement of construction for the tap, whichever is soonest. Failure by the applicant to complete payment under the applicable provisions of this ordinance shall void the approval of the permit and there shall be no refund of any deposits or payments made prior to default.

Taps must be placed in service within six months of approval by the Board and water service use fees shall be assessed in accordance with Section 21 of this ordinance. Applicants may request an extension to the six month in service requirement provided circumstances unforeseen at time of permit approval are demonstrated. All extensions granted by the Board shall be in writing and shall be limited to a single extension not to exceed six months.

If the Board denies the application, the deposit shall be returned to the applicant, less any costs incurred by the Town in association with the processing of the application.

**Section 4. Taps:** It shall be unlawful for any person other than a duly authorized employee of the Town to tap any pipeline or water main forming a part of the waterworks system and no such tap or connection shall be made unless a permit is obtained as provided in this article.

**Section 5. Schedule of Connection and Tap Fees:** The schedule of connection fees for permits issued after January 1, 2007 shall be based on this Ordinance, with fees updated annually by a Fee Resolution adopted concurrent with approval of the following year's Budget.

- (a) **New water service:** Connections of any size up to ¾ inch, from main to curb shall be a minimum of \$16,000, which fee shall be set by Resolution. Applications for connections larger than ¾ inch shall be subject to Section 7 of this ordinance.
- (b) **Connection and Water Tap fees collected after July 1, 1996:** shall not be used for the operation of the water system, but shall be deposited in a special account reserved for expansion and improvements to the Jamestown Water System, unless the Town Board deems it necessary to spend the fees for an emergency situation.

- (c) **Provision for Installment Payment:** The Board may approve the use of reasonable installment plans at interest rates not exceeding those permitted by law. Where this provision is employed it shall be subject to the following requirements:
- A written agreement shall be executed between the Town and tap applicant.
  - The agreement shall specify tap in service dates, and initial water use fee payment, interest rate, payment amount, frequency and any other terms and conditions.
  - Interest rate charges shall be equal to the bank prime rate, plus two (percentage) points, as published in a Denver Colorado daily newspaper on the Friday prior to permit approval.
  - Term of payment shall not exceed twelve months. The number of payments shall not exceed twelve.
- (d) **Installation Costs:** Costs for the portion of the water service between the main and the curb box, including the cost of the curb box, will be paid by the Town. All other installation costs including all labor and materials shall be paid by the applicant. All service connections from the water main to the curb box, including the curb box, are the property of the Town.

**Section 6. Installation and Maintenance of Service Lines:** All service lines beyond the curb box shall be installed, repaired and maintained by the property owner. All private water service facilities shall be of materials and workmanship approved by the Town. Exploratory excavation, for purpose of determining leak location shall be billed to the property owner if such leak is determined to be beyond the curb box. The Town is not obligated to conduct exploratory excavation.

**Section 7. Size of Connection:** Tap connections shall not exceed  $\frac{3}{4}$  inch unless approved by the Town Board. For tap fees larger than  $\frac{3}{4}$  inches, the tap fee and other terms and conditions of the issuance of the tap shall be established by written agreement with the Town.

**Section 8. Payment of Delinquent Fees:** The Town Board shall not approve the application of any person who is delinquent in payment to the Town for water or any other fees, services or taxes.

**Section 9. Extending the Town's Water Mains:** If an extension of the Town water mains is necessary to serve an applicant or group of applicants, the Town, upon request in accordance with Section 2 of this ordinance, may authorize for the necessary extension subject to the following conditions:

- (a) The capacity of the water system must be sufficient to provide the service applied for.
- (b) At the option of the Town the extension shall continue through the full extent of the area to be served, to the farthest boundary, or the farthest frontage corner of the last parcel(s) to be served by the extension.
- (c) The applicant(s) shall pay all service connection charges and service improvement fees, and in addition, shall pay the actual cost of the main extension; including labor, materials, engineering costs and inspections necessary to complete the extension of the water main.
- (d) At the option of the Town, the applicant may be authorized to perform or subcontract for the work to specifications in accordance with Article III of this ordinance. Any such applicant or subcontractor shall execute an agreement with the Town concerning the performance of the work, and shall provide for reasonable levels of insurance posted by the applicant(s). The Town may require a letter of credit to secure completion of the work. All such work shall be performed

to the satisfaction of the Town designated engineer and the applicant shall provide the Town with certified copies of all invoices, bills and expenses associated with the extension.

- (e) The cost of inspections shall be the actual cost billed by the Town designated engineer. Copies of invoices shall be provided to the applicants. Applicants shall ensure that payment is received by the Town within 15 days of receipt of invoice.
- (f) All extensions shall be constructed in accordance with Article III of this ordinance.
- (g) All subsequent applicants for connections to the extended main following the installation and extension shall be required to pay to the Town a pro-rata share of the original installation cost based on the number of potential taps (building lots) served by the extension. Potential taps shall be identified by the Town upon initial construction of the extension and shall be limited to lots that are capable of being serviced by the improvement. The Town shall in turn rebate this amount to the original applicant(s) who paid for the extension. The Town shall use its best efforts to obtain such pro-rata payments, but shall not be liable for any reimbursement to the original applicant(s).

**Section 10. Interpretation and Claims:** The Town reserves the right, on reasonable notice, to shut off its mains for maintenance and extension and, without notice as necessary for emergency repairs. No claim shall be made on account of such interruptions or on account of breaking of service lines or failure of supply.

## **Article II – Use of Water**

### **Section 11. Subscriber Requirements:**

- (a) It shall be unlawful for any person to use the water from the municipal waterworks for any premises without first obtaining a water tap as required in Article I of this ordinance. The billing list of subscriber properties maintained by the Town Clerk shall be deemed evidence of compliance with this section.
- (b) No person shall sell or permit the unauthorized use of water by permitting the transfer of water from one residence to another by use of hoses or unauthorized service lines. No person shall sell or permit the taking or transport of water in quantities greater than 20 gallons for use in properties not having an approved water tap. Violation of this provision shall result in a daily minimum surcharge of \$100 as updated annually by Resolution, for each day of violation in addition to penalties described in Article IV, Section 34 of this ordinance. The Town may discontinue service and “Tag Out” the curb box at its discretion.
- (c) All external faucets shall be equipped with a backflow prevention device designed to prevent the contamination of the potable water distribution system. All connections to the waterworks system deemed to risk contamination of the water distribution system by the Town Water Distribution Operator shall be modified with an approved backflow prevention device. Any violation of the Town’s Cross Connection Plan shall be deemed a violation of this ordinance subject to penalties described in Article IV, Section 34 of this ordinance.

**Section 12. Water Use Initial Billing for New Subscribers:** Unless otherwise provided under Section 5(c) of this ordinance, water service to new subscribers shall become effective and billable as of the date of initial tap installation or 45 days after approval of the tap application by the Town Board, whichever first occurs. Initial billing shall be prorated.

**Section 13. Water Use Fees for Change of Subscriber:** If a property is sold or if there is a change in renters requiring a change in the person(s) responsible for payment of water bills, the Town Clerk shall collect an administrative fee of a minimum of \$65.00 as updated annually by Resolution, for costs related to change of billing and Town records. The fee shall be paid prior to turning on of water for use by new owner or renter. The Town Clerk shall not authorize water services for any new subscriber unless all back payments for fees and services have been collected.

**Section 14. Turn on and Shut Off by Authorized Personnel:** It shall be unlawful for any person other than a duly authorized employee or agent of the Town to turn on or shut off water at the curb box for any premises, and no water shall be turned on or shut off unless duly authorized. In the event that services is shut off due to payment delinquency, restoration of water service prior to settlement of the delinquency by any person shall result in a minimum daily surcharge of \$100 as updated annually by Resolution, in addition to penalties described in Article IV, Section 34 of this ordinance and any applicable charges, interest and late fees. The Town may "Tag Out" the curb box at its discretion. This provision does not apply to the emergency shut off of water for the purpose of mitigating a leak.

**Section 15. Turn On and Shut Off Application:** Subscribers who request turn on of shut off of water service shall make written application to the Town Clerk for such service and pay fees as described in Section 17.

**Section 16. Turn on and Shut Off Fees:** A turn on or shut off fee shall be assessed and collected upon all applications for this service. In addition, turn on and shut off fees shall be assessed whenever water service is terminated due to lack of payment.

**Section 17. Schedule of Turn on and Shut Off Fees:**

- (a) The fee for shutting off service shall be a minimum of \$75.00 as updated annually by Resolution.
- (b) The fee for turning on service shall be a minimum of \$75.00 as updated annually by Resolution.
- (c) There shall be no fee for emergency turn off or turn on service due to leaks between the curb box and the owners shut off valve.

**Section 18. Payment of Fees for Use of Water:** Fees for the continued use of water shall be assessed to the owner of the real property where the water is used, quarterly, in advance for each calendar quarter year, and the charges so assessed shall become a lien on the real property served. Fees for the use of water shall become due and payable to the Town Clerk, quarterly, in advance, on January 1, April 1, July 1, and October 1 of each year or monthly, if approved under Section 18 (b), in advance, on the first day of each month of each year. If any account remains unpaid for a period of thirty (30) days from the date of billing, the account shall be assessed a late charge. The late charge shall be a minimum of \$10.00, or 5% per month of the amount owed, whichever is greater, which late charge may be updated annually by Resolution. The late charge shall also be assessed for each subsequent 30 day period for which the

account remains unpaid; however, total late charges shall not exceed 25% of the amount owed. Upon application for a shut off permit, without discontinuance of the use of water, the quarterly charge will continue to be assessed. No credit for the pro-rata share of the current quarterly fees shall be given in case of the discontinuance of the use of water. Accounts due for the use of water not paid within 60 days after due shall be ordered shut off by the Town Clerk.

- (a) Property owners may request water bills be mailed to third parties. The Town may honor such requests, however; the owner of the real property shall remain liable for all amounts due.
- (b) Upon request to and approval by the Town Clerk, subscribers may pay one third of the quarterly fee per month over a three month period.

**Section 19 Unauthorized Use of Water Connections:** Any unauthorized use of water, unauthorized tapping of the waterworks system, provision of bulk water to others for use off premises, or resale of water or water taps without approval of the Town is prohibited. It is also prohibited for any subscriber to cross connect Town water service with any other water supply. Violations shall be subject to the penalties under Section 34 of this ordinance.

**Section 20. Conservation of Water:** All subscribers shall keep service lines in good repair and shall avoid the waste of water. Where hoses are connected to the system, they shall have nozzles or sprinklers attached. Watering or sprinkling bans shall be observed as posted by the Town, Water Plant Operator or other authorized personnel. Failure by a subscriber to observe such bans or the unnecessary waste water shall be subject to shut off of service as directed by the Board. Restoration of service shall be subject to both shut off and turn on fees as prescribed in Section 17.

**Section 21. Flat Rate Schedule of Fees for Use of Water:** Effective for billing period commencing July 1, 2010 the schedule of quarterly fees for the use of water from the waterworks system shall include the use of water from the municipal irrigation ditch for the same premises and shall be as follows:

- (a) There shall be no charge made to the Town for fire hydrants maintained within the Town, the Town Hall, Water Plant and facilities or the Town Firehouse.
- (b) Single family residence or apartment, water closet and bath or shower included; a minimum of \$145.00 as updated annually by Resolution.
- (c) Single family residence or apartment, water closet, bath or shower with one additional bathroom, shower room or half bath; a minimum of \$179.00 as updated annually by Resolution.

Single family residence or apartment, water closet, bath or shower with two additional bathrooms shower rooms or half bath; a minimum of \$211.00 as updated annually by Resolution.

Single family residence or apartment, water closet, bath or shower with three additional bathrooms, shower rooms or half baths; a minimum of \$233.00 as updated annually by Resolution.

Single family residence or apartment, water closet, bath or shower with four additional bathrooms, shower rooms or half baths; a minimum of \$240.00 as updated annually by Resolution.

The charge for more than four additional bathrooms shall be a minimum of \$7.00 per quarter for each additional bathroom, which fee may be updated annually by Resolution.

Rates are not subject to reduction in the event service pipes or fixtures are frozen or not in working order.

- (d) **2013 Flood Recovery Surcharge:** Due to extraordinary conditions created by the September 2013 Flood, the Town is imposing a Flood Recovery surcharge on all water users for improvements to the Town's water system. The surcharge shall be a minimum of \$27.00 per quarter per water account as updated annually by Resolution. It is the Town Board's intent that this surcharge only be in place through 2016, and it reserves the right to extend and amend the surcharge as needed in accordance with a Resolution adopted by the Board.

**Section 21B. Relief for Approved Multiple Family Rental Units During Long periods of Non-Occupancy:**

Owners of residences with approved rental apartments or duplexes may obtain relief from water fees for unoccupied, un-rented rental units under the following conditions:

- (a) The apartment or duplex must be within or attached to the residence and have been in existence as a rental unit prior to November 7, 1983 or otherwise be approved by the Town Board in writing.
- (b) The residence must otherwise be owner occupied and must be the owner's primary residence.
- (c) The rental unit must have been un-rented and unoccupied for a period of at least six months prior to the water fee period for which relief is sought.
- (d) The owner must certify in writing that the rental unit has been un-rented and unoccupied for the prescribed period. The term "unoccupied" shall be defined as meaning that the rental unit has not been dedicated to a person or group of persons for the purpose of using it as living space, (for example, a relative or friend of the resident owner), for a period greater than 29 days during any of the preceding six month period. The term "un-rented" shall be defined as meaning that no funds for rental or use of the unit is agreed upon or collected for any period during the preceding six month period.
- (e) For the period(s) of water fee relief, the number of bathrooms in the rental unit shall be added to the resident owner's fee for the purpose of calculating the quarterly water fee bill(s).
- (f) Relief from the fee shall be applied to no more than one rental unit per approved multiple family residence at any one time.
- (g) Upon rental and/or occupancy of the rental unit the quarterly water fees shall again be calculated as if multiple taps were in use and may be prorated for partial fee periods.

**Section 21C. Reduced Quarterly Fees for Low Income Households:** The quarterly water use fee for households with an annual gross income of \$20,000 or less, may be reduced by 20%, subject to approval by the Town's Water Committee. In order to qualify for the reduction, the subscriber must submit to the Town Clerk, proof of income for the previous year in the form of a copy of a Federal Tax return, notarized affidavit or other substantial documentation. Such documentation shall not be copied and shall be

returned to the subscriber within 7 days with confirmation or denial of qualification for the reduction. Qualification shall be for a period of 12 months.

Rates are not subject to reduction in the event service pipes or fixtures are frozen or not in working order.

**Section 22. Delinquency Remedies:** Every charge relating to the waterworks system shall be a lien on the property served from the time the charge is due, until paid. If any such charge is not paid by the date due the Town may avail itself of one or more of the following remedies, or any other lawful available remedies.

- (a) If the outstanding amount owed by any single account is greater than nine times the standard flat fee rate described above as updated annually by Resolution, the Town may foreclose the lien.
- (b) The Town may maintain an action in any court of competent jurisdiction for the amount of the charge due and any interest, costs, and attorney fees as allowed by law.
- (c) The Town may certify the amount of the charge due to the Boulder County Clerk and Treasurer, together with an assessment fee of a minimum of \$150.00 plus 10% of the aggregate total past due amount and assessment fee as updated annually by Resolution, to become an assessment upon the property served and to be collected and paid over to the Town in the same manner as taxes.
- (d) The procedure for discontinuing water service pursuant to Section 18 of this ordinance shall be as follows:
  - (1.) The Town Clerk shall send a written discontinuation notice to the owner of the property served, and, if applicable, to the occupant at the address of the property served, stating that water service will be discontinued on a specified date, which date shall be no sooner than ten (10) days after the date the notice is mailed.
  - (2.) The form and content of the written notice provided in paragraph (1.) of this subsection (d) shall be determined by the Town Clerk, but the notice shall state at a minimum, that there is a right to appeal to the Town Clerk the decision to discontinue water service if the appeal is requested in writing by the owner of the property served and if the request is received by the Town Clerk before the close of business, pursuant to office hours as established from time to time, at least two days prior to the date specified for discontinuation.
  - (3.) The appeal in paragraph (2.) of this subsection (d) to a determination by the Town Clerk whether the delinquency in fact exists, and if so, the amount of the delinquency.
  - (4.) If water service is discontinued pursuant to this subsection (d), water service shall not be reinstated until the owner of the property served has paid the amount of the delinquency, a discontinuation fee of a minimum of \$75.00 and any other charge as updated annually by Resolution, including applicable fees or late charges in Sections 17 and 18 of this ordinance.
  - (5.) If water service is discontinued pursuant to this subsection (d), any costs for damages to pipes, lines, shut off valves, boxes or other property which may occur during shut off or turn on of water service shall be paid by the subscriber.



**Section 22A Optional Payment Contract:** Subscribers past due, a portion of which is past due over 120 days, and subject to one or more of the remedies described in Section 22 may elect to enter into a contract with the Town prescribing a formal payment plan to eliminate the delinquency. The subscriber, who must be the owner of the property, may enter into such agreement by paying at least 1/7<sup>th</sup> of the unpaid balance and contracting to make up to six additional equal payments, one per month, by the 15<sup>th</sup> of each month. Terms of the contract are prescribed in Attachment A to this ordinance. Selection of this option shall have no effect upon current billing or payments and failure to make payment in accordance to the contract or current or subsequent bills shall cause all unpaid amounts to become immediately due and payable.

### **ARTICLE III**

#### **Specifications for Water Lines and Water Mains, Excavation and Trenching.**

**Section 23. Application.** The provisions of this article shall apply to all persons constructing any water main in the Town, including any individual, firm, company, organization, agency, association or other organization or entity. All proposals for construction of new water mains shall be reviewed and approved by the Town Engineer.

**Section 24. Size for Water Mains.** All newly constructed mains on which fire hydrants are to be located shall be a minimum of six inches in diameter. Mains which will not include fire hydrants shall be sized according to anticipated water usage but shall be a minimum of four inches in diameter. If the Town determines that mains that will dead end, with no fire hydrants, then the Town may authorize the main to be 1 ½ or two inches in diameter. Service lines shall be not less than 1/2 inch in diameter.

**Section 25. Materials.** Water mains shall be constructed of ductile iron pipe, meeting AWWA standards for potable water lines. Minimum size for new water mains shall be six inches in diameter. Service lines shall be constructed of Class K copper. All materials used in the waterworks system shall be certified as meeting NSF 61 and/or AWWA standards as appropriate.

**Section 26. Depth of Water Lines.** New water lines shall be buried at a depth of not less than seven feet. The Town Engineer may approve the use of equivalent frost shielding in areas where burial at required depth is impractical. Repairs to existing lines shall maintain existing depth.

**Section 27. Service Line Length.** Service lines to households shall not exceed 60 feet in length without approval of the Town Board.

**Section 28. Excavation and Trenching - General Requirements.** Backfilling and construction of fills shall not be permitted during freezing weather except with the approval of the Town Engineer. No backfill, fill, or embankment material shall be installed on frozen surfaces, nor shall frozen materials, snow or ice be placed in any backfill or fill. Each excavation shall be kept dry during sub-grade preparation and continually thereafter until pipe is installed as necessary to assure that no damage from hydrostatic pressure, flotation or other cause will result.

#### **Section 29. Trench Excavation.**

- (a) Trenches shall be excavated so that pipes can be laid straight at uniform grade, without dips or humps, between terminal elevations. Minimum cover shall be as required in Section 28.

Trenches shall be excavated to a width which will provide adequate working space and sidewall clearances. Minimum trench width shall be the pipe diameter plus 24 inches. Cutting trench banks on slopes to reduce earth load to prevent sliding and caving shall be done only in areas where increased trench width will not interfere with surface features.

- (b) Except where otherwise required or permitted by the Town Engineer, trenches shall be excavated below the underside of the pipe to provide for installation of granular embedment. No part of any bell or coupling shall be in contact with the trench bottom, walls or granular embedment when the pipe is jointed.

### **Section 30. Pipe Embedment.**

- (a) Where ductile iron or copper pipe is used, granular embedment shall be crushed rock or pea gravel with not less than 95% passing a 0.5 inch sieve and not less than 95% retained on a #4 sieve, to be placed in not more than six inch layers and compacted by slicing with a shovel or vibrating. Granular embedment shall be used with all pipe sizes unless otherwise specified or permitted by the Town Engineer.
- (b) Where PVC pressure pipe is used, granular embedment shall be 3/4 inch crushed rock.
- (c) Granular embedment shall be spread and surface graded as required to provide a uniform and continuous support beneath the pipe. After each pipe has been graded, aligned, placed in final position and shoved home, sufficient embedment material, but not less than six inches, shall be deposited above the top of the pipe and compacted to 95 degrees of ASTM Standard Proctor or 85 degrees of relative density to hold the pipe in proper position. Embedment material shall be compacted to the top of the pipe in all areas.

**Section 31. Trench Backfill.** Compacted backfill shall be required for the full depth of the trench above the embedment. Compacted backfill may be granular material, graded gravel or other dry non organic material as approved or required by the Town Engineer. All work areas shall be brought to grade at the indicated elevations, slopes and contours. Surface material shall be of a quality equal to existing topsoil, gravel, road base or pavement in adjacent areas. Finished surface must match the existing in nature and thickness. All surfaces shall be graded to ensure effective drainage. All natural and man made waterways and drainage ditches shall be restored to ensure adequate drainage and original flow capacities.

**Section 32. Excess Materials.** All excess excavated materials shall be disposed of or graded as required by the Town Engineer. All debris, stumps, roots and other unsuitable materials shall be removed from the work area.

**Section 33. As-Built.** The applicant shall provide the Town with accurate information concerning the “as built” of service lines and appurtenances. As built drawings of main extensions shall be provided to the Town at the completion of the work, at the expense of the owners served and in a form acceptable to the Town.

## **ARTICLE IV**

### **Penalty, Repeal, Severability and Safety**

**Section 34. Penalty.** It shall be a violation of this ordinance for any person to do any act or omission which declared to be unlawful in this ordinance, or to comply any terms and conditions hereof. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this ordinance is committed, continued or permitted. Upon conviction thereof, such person shall be punishable by a fine of not more than one thousand dollars, by imprisonment for not more than one year, or by both such fine and imprisonment.

The Town may seek such remedies as contained in Section 22 this ordinance for violations of parts of this ordinance associated with payment, non payment or late payment of monies due the Town, and may seek any remedies available at law or in equity, including injunctive relief for violations hereof.

**Section 35. Repeal.** All ordinances or parts of ordinances, of the Town of Jamestown, Colorado in conflict herewith are hereby repealed, and specifically:

Ordinance #1, Series 2001

Ordinance #3, Series 2006

Ordinance #1, Series 2007

Ordinance #1, Series 2010

Ordinance #3, Series 2010

are hereby repealed in their entirety. The repeal of any ordinance by this ordinance shall not affect or prevent any proceedings against or the prosecution or punishment of any person for any act done or committed in violation of any ordinance herein repealed prior to the effective date of this ordinance.

**Section 36. Severability.** If any provision of this Ordinance, or application thereof to any person or circumstances, be held invalid, such invalidity shall not affect other sections or provisions of this ordinance which can be given effect without the invalid sections of this ordinance, are declared severable.

**Section 37. Temporary Relief Granted from Specific Provisions of this Ordinance.** In September 2013, the Town experienced significant flooding, which prompted formal declarations of disaster and emergency by local, state and federal government officials in Boulder County, Colorado, and as a result of such flooding, the Town's water distribution system was severely damaged with half of the distribution system destroyed, resulting in the water system being shut down. The Board of Trustees wishes to grant temporary relief from creation provisions of this Ordinance in order to facilitate the reconstruction and rebuilding of the Town's water distribution system (the "Project") and to facilitate residential recovery as follows:

- (a) Relief is granted from the following provision in Section 6 of this Ordinance: "All service lines beyond the curb box shall be installed, repaired and maintained by the property owner," subject to the following obligations and limitations:
  - 1. This Section 37(a) is intended to provide temporary relief from the provision cited above in order to allow the Town to install private water service lines, including additional segments downstream from the curb box, water taps, and related facilities for water service connection to certain properties. The temporary relief described in this subsection shall apply only if the owners of said properties have executed a Right-of-Way Agreement in a form acceptable to the Town. No other relief is granted from any effective ordinance or provision therein except those listed herein. This ordinance does not constitute an obligation upon the Town or any governmental entity to perform Project,

Plan, if a flood damaged property is deemed unsuitable, the owner may transfer the water tap permit for that property to another property. The property owner shall notify the Town Clerk in writing of intent to transfer a water tap permit under this provision and the Town Clerk shall record the change in the water tap records. This subsection (b) is subject to the following obligations and limitations:

1. This Section 37(b) apply to the following properties (identified by property address and Boulder County Assessor Parcel No.): \_\_\_\_\_.
  2. This Section 37(b) shall expire 48 months after adoption by the Board of Trustees unless sooner repealed.
- (c) The provisions of Article III, Section 28 relating to prohibitions for water main construction during freezing weather are suspended, subject to the following obligations and limitations:
1. This Section 37(c) shall expire 48 months after adoption by the Board of Trustees unless sooner repealed.

**Section 38. Safety Clause and Emergency Effective Date.** The Board of Trustees herewith finds, determines and declares that this ordinance is necessary to the immediate preservation of the public health and safety in order to timely provide for safety of citizens and preservation of property to ensure the ordinance is effective before full reactivation of the Town's water service system. This ordinance shall be effective upon adoption and signature of the Mayor if approved by three-fourths of the members of the Board of Trustees.

**INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN FULL THIS 20<sup>th</sup> DAY OF OCTOBER, 2014**

**TOWN OF JAMESTOWN, COLORADO**

  
Tara Schoedinger, Mayor

**Attest:**

  
Mary Ellen Burch, Town Clerk

**Past Due Water Bill Payment Agreement**  
**Jamestown Municipal Waterworks**

1. This agreement is made between The Town of Jamestown (Town), a municipal corporation and \_\_\_\_\_ (Subscriber) residing at \_\_\_\_\_ to resolve the issue of unpaid water charges and fees for property located at \_\_\_\_\_, Jamestown, CO, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
2. Both parties acknowledge the amount of unpaid water charges and fees to be exactly \$\_\_\_\_\_; a portion of which is past due more than 120 days.
3. Subscriber agrees to make an initial payment of \$\_\_\_\_\_ which is not less than 1/7 (one seventh) of the amount due and \_\_\_\_\_ (not more than six) monthly payments of \$\_\_\_\_\_ each to be due in cash, money order or check not later than the 15<sup>th</sup> of each month starting with \_\_\_\_\_, 20\_\_\_\_ and due monthly until \_\_\_\_\_, 20\_\_\_\_.
4. No interest or service charge will accrue so long as payments are made on time and no grace period shall be permitted.
5. Subscriber certifies that he/she is the legal owner of the property described in Item 1. If the subscriber sells or otherwise conveys the property during the period of this agreement, the subscriber acknowledges that the entire unpaid balance shall become due and payable immediately and that the Town may make use of methods of collection in accordance with Section 22 of Ordinance 3, Series 2010.
6. In the event that Subscriber fails to make payments by the 15<sup>th</sup> of the month as due, or in the event that the subscriber fails to pay current water charges as billed by the last day of the first month of the quarterly billing period the entire unpaid balance shall become due and payable immediately and that the Town may make use of methods of collection in accordance with Section 22 of Ordinance 3, Series 2010.
7. A subscriber who has entered into a previous payment agreement and defaulted shall be ineligible to enter into future payment agreements.

For the Town:

Subscriber:

\_\_\_\_\_  
Signature Mayor

\_\_\_\_\_  
Signature Property Owner