



CHAPTER 10: WATER AND SEWER REGULATIONS

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See Ord. #01-2004	Adopted January 12, 2004
See Ord. #06-2004	Adopted June 14, 2004
See Ord. #40-2009	Adopted October 26, 2009
See Ord. #17-2011	Adopted September 26, 2011

CHAPTER 10: WATER AND SEWER REGULATIONS

ARTICLE 3: WATER SUPPLY PROTECTION DISTRICT

10-3-1 Intent of Water Supply Protection District

The purpose for which this Water Supply Protection District is established is the full exercise of the powers of the Town of Grand Lake in maintaining and protecting the Town's waterworks from injury and its water supply from Pollution or from activities that may create a hazard to health and water quality or a danger of Pollution to the water supply of the Town. This Water Supply Protection District is created under the authority granted in Section (C.R.S. 31-15-707(1)(b), 1973, as amended) and other Colorado statutes. Further, this Water Supply Protection District and the following regulations are created for the purpose of protecting the Town's water and waterworks only, and not for the purpose of regulating land use. The regulation of land use within the Water Supply Protection District shall be and remain the responsibility of the respective county or municipality having jurisdiction over the area in question, and nothing herein shall restrict or supersede the respective jurisdiction's land use authority. The Town's authority herein shall be for the purpose of reviewing and restricting any activity within the Water Supply Protection District, which creates a foreseeable risk of damage or injury to the Town's water supply. The Town's review authority within the Water Supply Protection District shall therefore be concurrent to the authority of the Town and any other governmental entity to review and/or require permits for the same or related activities regulated under any other laws or regulations.

10-3-2 Jurisdiction and Map

The jurisdiction of the Water Supply Protection District shall extend over the entire territory occupied by the Town of Grand Lake, the land area and all tributary water sources for five miles around the wells supplying public water systems serving the Town of Grand Lake, and all areas within five miles of the surface waters supplying public water systems serving the Town of Grand Lake, including but not limited to Tonahutu Creek. The Water Supply Protection District is divided into four zones: Water Supply Protection Zones 1, 2, 3 and 4, as defined in Section 10-3-4 Prohibited and Restricted Activities. The Water Supply Protection District Map accompanies this Ordinance and, with all notations, references and other information shown thereon, is incorporated herein as part of this Ordinance. The official Water Supply Protection District Map is located in the office of the Town Clerk.

10-3-3 Definitions

Whenever the following words or phrases are used in this Article, they shall have the following meanings:

(A) "Activity" is conduct secondary to the land use or zoning designation. "Using" within



the context of this Article shall refer to an activity and not a right conferred by the land use or zoning designation.

- (B) "Best management practice" means the most effective means of preventing or reducing harmful effects of certain activities to a level compatible with Town standards.
- (C) "Combustible Liquids" means the following as defined by OSHA as any liquid having a flash point over 100 degrees Fahrenheit (Examples: Diesel Fuel, Mineral Oils).
- (D) "Flammable Liquids" means the following as defined by OSHA as any liquid that gives off readily ignitable vapors and having a flash point below 100 degrees Fahrenheit (Examples - Gasoline, Methyl Alcohol).
- (E) "Foreseeable risk" means the reasonable anticipation that harm or injury may result from acts or omissions.
- (F) "Hazardous Substance" - Refer to the current Building Code which has been adopted by the Town of Grand Lake and as it may be amended from time to time.
- (G) "Person" means a natural person or any individual, partnership, corporation, association, company or other corporate body, including the federal government, and includes any political subdivision agency, instrumentality, or corporation of the state or the United States government. Singular includes plural, males includes female.
- (H) "Permitted Uses" means any of the following activities can be constructed or operated without a Water Supply Protection District Permit being issued:
 - 1. Parks, playgrounds, and open space, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.
 - 2. Non-motorized trails, such as biking, skiing, nature and fitness trails.
 - 3. Sewered residential dwelling units, free of flammable and combustible liquid storage tanks.
 - 4. Sewered commercial and neighborhood businesses, home occupations free of flammable and combustible liquid storage tanks.
- (I) "Pesticide" shall be as defined in Section (C.R.S. 35-9-103).
- (J) "Pollution" means the man-made, man-induced, or natural alteration of the physical, chemical, biological and radiological integrity of water or soil.
- (K) "Pollution-Hazard Activity" means any of the following activities:
 - 1. Constructing a sewage disposal system.
 - 2. Drilling operations including but not limited to wells, private, production, injection or other, excluding private water wells for individual homes.
 - 3. Surface and subsurface mining operations.
 - 4. The storage and application of pesticides (herbicides and/or insecticides) in any manner, except for private residential or business use when used in a manner related



- to management of the subject property in accordance with manufacturers directions. Storage shall be limited to minimum quantity necessary for the management of the property.
5. The storage and application of fertilizers in any manner, except for private residential or business use when used in a manner related to management of the subject property in accordance with manufacturers directions. Storage shall be limited to minimum quantity necessary for the management of the property.
 6. Using, handling, storing, dispensing or transporting toxic or hazardous substances, including, but not limited to radioactive materials.
 7. Using, handling, storing, dispensing or transporting flammable liquids, including petroleum products, except for storage of the following quantities - The maximum amount of flammable liquids in any occupancy or located within any single property shall not exceed thirty (30) gallons provided containers are approved and metal in construction, and stored in approved liquid storage cabinets. Quantities not exceeding 10 gallons may be stored outside of an approved liquid storage cabinet provided they are in approved containers and stored in private garages or other approved locations. Under no circumstances may flammable liquids be stored in basements (IFC, 2000). Materials that can be scientifically shown to be incapable of entering the groundwater, (i.e. aerosol cans or liquefied petroleum) will be allowed in small quantities.
 8. Using, handling, storing, dispensing or transporting combustible liquids expect for storage of the following quantities - The maximum amount of combustible liquids in any occupancy or located within any single property shall not exceed 120 gallons provided containers are approved and are stored in approved liquid storage cabinets. Quantities not exceeding 10 gallons may be stored outside of an approved liquid storage cabinet provided they are in approved containers and stored in private garages or other approved locations (IFC, 2000).
 9. Using, handling, storing, dispensing, or transporting organic nutrients, including phosphorous and nitrates, or engaging in activity that creates the same except for private residential or business use when used in a manner related to management of the subject property in accordance with manufacturers directions. Storage shall be limited to minimum quantity necessary for the management of the property.
 10. Processing of any flammable, explosive, or petroleum products or any other type of processing which could potentially affect the water supply system.
 11. Any other use determined by the Town Zoning Administrator and or Grand Lake Fire Protection District to be similar in nature to the above listed items
- (L) "Public Well" means any well used to supply water to the public water system owned and operated by the Town or to any other public water system operated by a governmental entity that provides domestic water service to businesses or residences within the Town of Grand Lake, whether such well is operated on a continuous, intermittent or temporary basis. The approximate location of existing Public Wells is shown on the Water Supply Protection District Map.
- (M) "Public Surface Water Source" means any stream, river, lake or other source of surface water, as well as all sources tributary thereto, used to supply water to the public water system owned and operated by the Town or any other public water



system by a governmental entity that provides domestic water service to businesses or residences within the Town of Grand Lake, whether such surface water source is operated or diverted from on a continuous, intermittent or temporary basis. The approximate location of existing Public Water Sources is shown on the Water Supply Protection District Map.

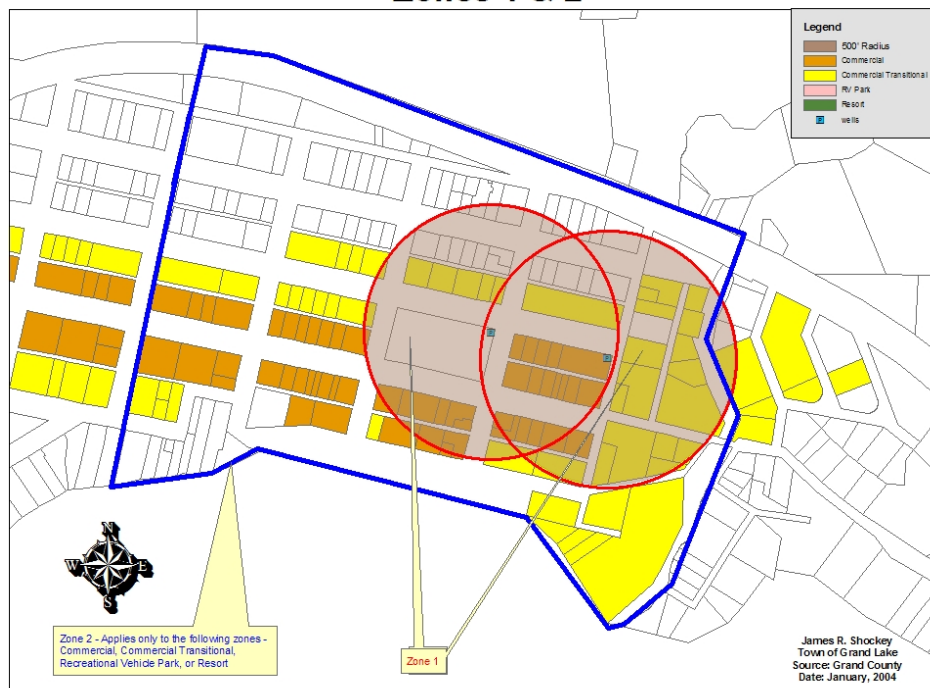
- (N) "Toxic" – is used in the same manner as the term is used in the current Building Code, which has been adopted by the Town of Grand Lake and as it may be amended from time to time.
- (O) "Sewered" means having a functional connection to the sanitary sewer system operated by the Three Lakes Water and Sanitation District.
- (P) Water Supply Protection Zone 1 or “Zone 1” means that area within a five hundred foot (500’) radius of a Public Well or within five hundred feet (500’) of a Public Surface Water Source. The Public Wells are located in an unconfined alluvial aquifer with a water depth of approximately 35 feet making them highly sensitive. The two Public Wells are located at a shallow depth of 88 feet and 102 feet. (CDPHE, 1999)
- (Q) Water Supply Protection Zone 2 or “Zone 2” means that area labeled Zone 2 on the Water Supply Protection District Map and which is:
1. Zoned Commercial, Commercial Transition, Recreational Vehicle Park, Resort, or
 2. any use which engages in any Pollution-Hazard Activity within the five (5) year time of travel developed by the Colorado Department of Public Health and Environment (Transmittal Letter from CDPHE to Town of Grand Lake March 8, 2000).
- (R) Water Supply Protection Zone 3 or “Zone 3” means that part of the Water Supply Protection District outside of Zone 1 or Zone 2 but within the corporate limits of the Town of Grand Lake.
- (S) Water Supply Protection Zone 4 or “Zone 4” means that area within a five mile distance around the Public Wells or the Public Surface Water Sources supplying the public water systems serving the Town of Grand Lake, but outside of the corporate boundaries of the Town.
- (T) "Waterworks" means all Public Wells and Public Surface Water Sources and any and all other components of the public water system or systems providing domestic water service to residences and businesses within the Town of Grand Lake, including, but not limited to, all pumps, filtration facilities, transmission and distribution lines, and storage facilities, regardless of ownership of said facilities.
- (U) "Use" or "land use" is the purpose for which land or a building is designed, arranged, or intended, or the purpose for which land or a building is, or may be, occupied or maintained. "Use" or "land use" is synonymous with zoning categories such as residential, commercial, industrial or agricultural.

10-3-4 Prohibited and Restricted Activities



- (A) It shall unlawful for any person to cause injury or damage to Public Wells or other Waterworks,
- (B) ZONE 1 – It shall be unlawful for any person to engage in any Pollution-Hazard Activity within Water Supply Protection Zone 1 of the Water Supply Protection District. The Board of Trustees finds that the conduct of any such Pollution-Hazard Activity within Zone 1 poses an unreasonable risk of the release of contaminants that could cause Pollution to the public water systems serving the Town. The Public Wells are located in an unconfined alluvial aquifer with a water depth of approximately 35 feet making them highly sensitive. The Public Surface Water Sources are surface water sources that may be immediately impacted by a Pollution-Hazard Activity. If a release were to occur the Town would not have adequate time following any such release of contaminant to protect the water supply system. Consequently, the prohibition of any such Pollution-Hazard Activity with Zone 1 is required to adequately protect the health, safety, and welfare of the inhabitants of the Town.

Water Supply Protection District Zones 1 & 2



- (C) ZONE 2 – It shall be unlawful for any person to engage in any Pollution-Hazard Activity within Water Supply Protection Zone 2, unless such person shall, prior to undertaking such activity, obtain a permit for such activity under the provisions of this Article and applicable Federal and State laws and regulations. The Board of Trustees finds that the conduct of any such Pollution-Hazard Activity within Zone 2 poses a potential or threat of Pollution to the Town's water supply, but it may be possible to satisfactorily manage and mitigate such threat through the permit process and

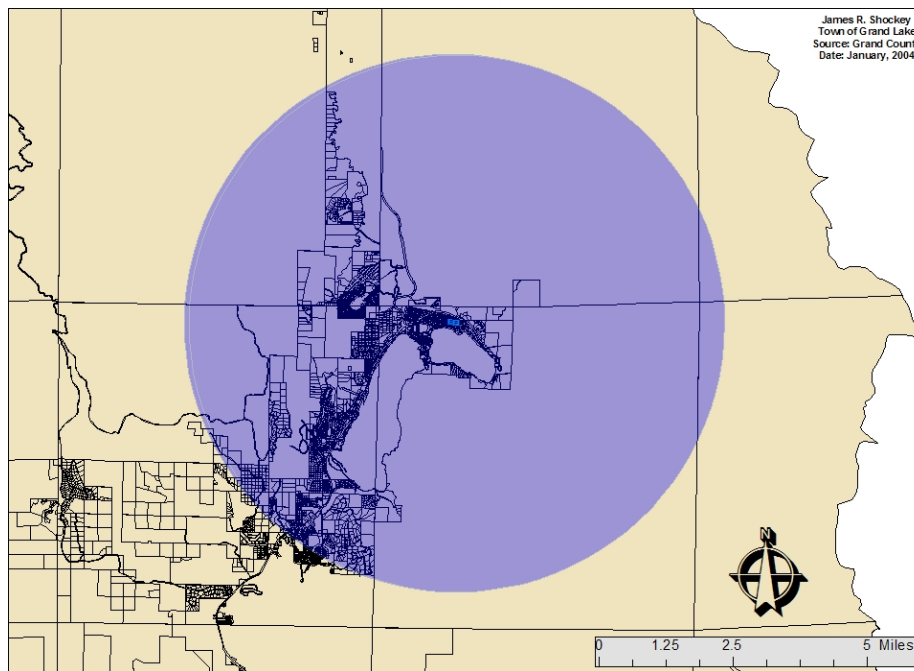


standards provided in this Article. A Water Supply Protection District Permit will be required.

- (D) ZONE 3 – It shall be unlawful for any person to engage in any Pollution-Hazard Activity within Water Supply Protection Zone 3, without first notifying the Town of Grand Lake, prior to undertaking such activity, to determine if this activity requires a permit. The Board of Trustees finds that the conduct of any such Pollution-Hazard Activity within Zone 3 poses a potential or threat of Pollution to the Town's water supply, but a permit most likely will not be required for the activity if it is possible to satisfactorily manage and mitigate such threat.

ZONE 4 – The Town will monitor activities in Water Supply Protection Zone 4, which includes areas of the Water Supply Protection District outside the Town's boundaries, and will work cooperatively with other governmental authorities having land use jurisdiction in those areas to protect public water supply sources from Pollution. The permit requirements contained in Section e will not normally apply to activities in Zone 4; provided, however, that if Board of Trustees finds that any Pollution-Hazard Activity or other activity is proposed or is being conducted in any area included in said Zone 4, which presents a foreseeable risk of Pollution to the Town's water supply and which is not being effectively managed by the another governmental authority, the person responsible for such activity shall be notified by the Town of such finding and the Town may require that such activity cease and desist until such person obtains a permit for such activity under the provisions of this Article.

**Water Supply Protection District Zone 4
Five Miles Around the Wells**



- (E) In the event that any activity not included in the definition of Pollution-Hazard



Activities set forth above, is being conducted in such a manner that the Board of Trustees finds that a foreseeable risk of Pollution to the Town's water supply exists from such activity, the person responsible for such activity shall be notified by the Town of such finding and the Town may require that such activity cease and desist until such person obtains a permit for such activity under the provisions of this Article.

10-3-5 Permit and Hearing Procedure

(A) Application and Fees

An applicant for a Water Supply Protection District Permit shall submit the following to the Town:

1. A completed application form as prescribed by the Town. If the applicant is not the owner of the subject property, the owner shall also sign such application and the applicant shall set forth its interest in the proposed activity. An application will not be deemed to be complete until all information required by the Town has been submitted to the Town and required fee has been paid.
 - (a) (The Town of Grand Lake shall not issue this permit unless the applicant (its constituents or members) are current with the Town and all Town enterprises for all fees, assessments, charges, taxes, or amount due of any type.
2. A full and complete description of the proposed activity for which a permit is sought, including, if applicable, a discussion of any future activity anticipated by the applicant with respect to the subject property for which a permit may be required hereunder.
3. Two sets of plans and specifications, which shall contain the following information:
 - (a) A vicinity sketch or other data indicating the site location and legal description for the subject property, and showing the location of any Public Wells or Public Surface Water Sources or water courses in the vicinity in relation to the proposed activity.
 - (b) Boundary lines of the property for which the application is sought, if applicable.
 - (c) Location of any existing and proposed buildings or structures within fifty (50) feet of the proposed activity.
 - (d) Accurate contours establishing the topography of the existing ground.
 - (e) An accurate soils, geologic and natural hazards report and map, including a flood plain map, if applicable. The information provided shall include soil types and geologic formations affecting tributary and non-tributary water sources.
 - (f) Elevations, dimensions, location, extent and the slopes of all proposed excavating, grading, filling or surfacing shown by contours and/or other means.
 - (g) Details of all existing and proposed drainage devices in connection with the proposed activity.
 - (h) A statement of the amount and location of any matter proposed to be deposited



in areas other than that shown on the plans.

- (i) Nature and location of existing and proposed vegetation and a statement as to the effect of the proposed activity on such vegetation.
 - (j) Map of all surface waters, wetlands, and groundwater potentially affected by the proposed land use activity.
 - (k) A groundwater flow map depicting the location of the groundwater flow from the site and from the public wells for a distance of 1 square mile.
 - (l) A map showing the drainage pattern and estimated runoff of the area of the proposed activity.
 - (m) A soils analysis, including the nature, classification, infiltration capacity, distribution and strength of existing soils, and recommendations for earth moving procedures and other design criteria.
4. Identification of any activity that may present or create a foreseeable risk of Pollution to the water supply of the Town of Grand Lake along with a specific description of the measures, including best management practices, specific Federal and State laws and regulatory guidelines, and industry standards that will be employed by the applicant to prevent such risks.
5. Any and all additional information that may be specifically requested by the Town, including, but not limited to, the following:
- (a) Revegetation, stockpile management, and reclamation plans and specifications, including a timetable for the same.
 - (b) A geologic analysis of the site and adjacent areas and its impact on the proposed activity
 - (c) An operation and maintenance analysis, including reporting requirements and schedules of the proposed activity.
 - (d) Water use analysis, including legal basis, source, quality, amount of consumptive use, impact on ground water, discharge characteristics and season of use.
6. Each applicant shall submit a Water Supply Protection District Permit application fee to the Town at the time of filing such application. The applicant shall be assessed a fee sufficient to cover the costs of publication, hearing, processing, administration, inspection and enforcement of such requested permit. The minimum fee hereunder shall fixed by resolution of the Board of Trustees. In the event the fee charged by the Town at the time of application is determined to be insufficient to cover the Town's costs, the Town shall have the right to charge the additional fee prior to the issuance or denial of any permit. No Water Supply Protection District Permit shall be issued until all such assessed fees have been paid.

(B) Review Procedures:



1. Within ninety (90) days following receipt of a completed application and following a site inspection, if necessary as determined by the Town, the Town staff shall review the application and prepare an analysis of the proposed activity, including a discussion of any factor that may present or create a foreseeable risk of Pollution to the water supply of the Town, along with an analysis of the measures, including best management practices, if any, that are proposed by the applicant to prevent such risks. If additional expertise is needed to determine if the proposed project is a potential risk, the Town will consult with a specialist about the project. All costs incurred with the specialist will be at the cost of the applicant.
2. In undertaking the analysis of any proposed activity, the following factors, among any others that may be deemed relevant, shall be considered:
 - (a) Nature and extent of the proposed activity.
 - (b) Proximity to existing Public Wells or Public Water Sources or other water courses.
 - (c) Drainage patterns and control measures.
 - (d) Soil criteria
 - (e) Geologic factors.
 - (f) Point source effluent emissions into water or groundwater.
 - (g) Ambient and non-point source effluent emissions into water or groundwater.
 - (h) Vehicular and motorized activity.
3. The Town staff may classify in writing an application as "no impact" in the following fashion. An applicant for a Water Supply Protection District Permit may request a "no impact" finding relative to the proposed activity. Such request shall be accompanied by such information, in writing, as the Town staff requires to determine whether a "no impact" finding is warranted (such information may be less than is required under Section e). Upon such request, the Town staff shall determine whether the proposed activity is of a type or location that no negative impact on the Town's water sources is reasonably foreseeable. If such a "no impact" finding is made, the Town staff shall issue a Water Supply Protection District Permit for the proposed activity. After issuance of said permit, the Town staff shall report same to the Board of Trustees at its next regular meeting, and shall also keep a record of such "no impact" permits.
4. If the Town staff does not make a "no impact" determination, an applicant may appeal that decision to the Board of Trustees at its next available regularly scheduled meeting. At said meeting the Board may, based upon the same standards as set forth above, grant a "no impact" permit for the proposed activity or uphold the Town staff's determination. If the Town does not provide a "no impact" determination, an applicant may request a Water Supply Protection District Permit hearing before the Board as provided by this ordinance.
5. Any Water Supply Protection District Permit Application not classified as "no impact" requires a hearing before the Town Board of Trustees after which hearing



- the Board of Trustees shall render a decision to issue, modify, or deny the application.
6. Within sixty (60) days after completion of the analysis pursuant to Section 10-3-5(B)1 above of a proposed activity not classified as “no impact”, Town staff shall schedule a public hearing before the Board of Trustees. Town staff shall forward application submittals and analysis to the Board in advance of the hearing.
 7. The Board of Trustees shall conduct a public hearing to review the application and analysis and shall render a decision regarding the issuance or denial of a Water Supply Protection District Permit to such applicant within three (3) months after the conclusion of such hearing, unless the activity requires approval of permit from any agency of the County, State or Federal Government and which approval or permit procedure exceeds the time requirements of this Article, then, and in that event, the Town shall have an additional sixty (60) days following the final decision of such County, State or Federal government approval or permit procedure to conduct the public hearing required hereunder and render a decision regarding the issuance or denial of a Water Supply Protection District Permit to such applicant. The Board of Trustees may require additional information from any applicant, in which event the public hearing and decision may be delayed or continued until receipt of such additional information.
 8. The failure of the Board of Trustees to render such decision within the time limits herein set forth shall be deemed and considered affirmative action on the issuance of the requested permit.

(C) Standards for Issuance of Permit

A Water Supply Protection District permit shall be issued when the Board of Trustees finds that the applicant has sustained the burden of proof that the proposed activity including best management practices, if any, does not present or create a foreseeable risk of Pollution to the groundwater or surface water within the Water Supply Protection District. A Water Supply Protection District Permit shall be denied when the Board of Trustees finds that the applicant has not sustained such burden of proof.

(D) Permit Conditions

The Board of Trustees in issuing any Water Supply Protection District Permit may prescribe any conditions it may deem necessary to effect the intent of this Water Supply Protection District. The Board of Trustees may require any applicant to post surety bond or cash in an amount sufficient to ensure compliance with the Water Supply Protection District Permit, including, but not limited to, the cost of maintenance, operation, revegetation, reclamation, remediation and other requirements of proposed activities. The Board of Trustees may release to the applicant portions of any such bond or cash from time to time when no longer necessary to ensure compliance with the Water Supply Protection District Permit.

(E) Duration of Permit

A Water Supply Protection District Permit shall remain valid so long as the applicant complies with the approved terms and conditions of the Permit, unless a specific time limit for the activity is set forth as part of the permit approval. If an approved activity



for which a Water Supply Protection District Permit is issued is not commenced within nine (9) months from the date of issuance of such Permit, or if the activity is discontinued for any reason for a period of one (1) year, the Permit shall be deemed to have expired, unless otherwise provided in the Permit itself.

(F) Notice of Hearing

Notice of any public hearing hereunder shall be given at least fourteen (14) days in advance of the public hearing by not less than one (1) publication in a newspaper of general circulation in the Town of Grand Lake or by other such means of publication as approved by the Board of Trustees for official publications.

(G) Joint Review Process

Any permit required hereunder can be reviewed and issued pursuant to a joint review process with any other government entity or agency charged with the review and approval of the same activity or activities.

10-3-6 Enforcement

(A) Right of Entry

Whenever necessary to make an inspection to enforce any provision of this Article, an authorized representative of the Town may go upon any land at any reasonable time to inspect the same or to perform any duty imposed hereunder, provided that he identify himself and, if such land be unoccupied, that he shall make a reasonable effort to locate the applicant or other persons having control of such land to notify them of such entry.

(B) Stop Work Order

Whenever any work or activity is being done contrary to the provisions of this Article, or in violation of the terms of any Water Supply Protection District Permit issued hereunder, the Town or its authorized representatives may order the work stopped by notice in writing served on the applicant or any person engaged in or causing such activity to be done, and any such person shall cease such activity until authorized by the Town to proceed. The Town shall reserve the right to revoke or suspend any permit issued hereunder if work or activity is not done in accordance therewith.

10-3-7 Regulations

The Board of Trustees may issue regulations providing guidelines and criteria to carry out the purposes of this Article.

10-3-8 Activity in Progress

A lawful use or activity being carried on in or on any buildings, structures or land at the time of the enactment of this Article may be continued even though it does not conform to the requirements of this Article. Ordinary repairs and maintenance of any existing building, structure or land shall be allowed. Any change, expansion, alteration or enlargement of such existing lawful use, activity, or structure shall be subject to all requirements of this Article.



10-3-9 Violation, Penalties and Remedies

(A) Violations

In addition to any administrative enforcement action, the violator shall be required to make full restitution for any damages caused to the Town's water system.

(B) Actions

Any activity which is continued, operated or maintained contrary to any provision of this Article is unlawful. The Town of Grand Lake may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove such violation in which event the Town shall be entitled to recover court costs and attorney's fees.

(C) Additional Remedies

The remedies herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. In addition to any other remedies exercised or pursued by the Town, the Town may pursue judgment in a court of competent jurisdiction for any and all damages, cost and expenses incurred by the Town or suffered by the Town's water system as a result of the violation of this Article.



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