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Chapter 171

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[HISTORY: Adopted by the Board of Trustees (now Mayor and Town Council) of the Town of Frisco: Art. I, 05-23-77, Ord. 77-03; Art. II, 05-22-78, Ord. 78-08; Art. III, 04-23-79, Ord. 79-09. Sections 171-13 and 171-18 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

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ARTICLE V Water Conservation

- § 171-19. Phased Water Use Restrictions.
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- § 171-23. Phase 4 Mandatory Water Use Restrictions.
- § 171-24. Irrigation Restrictions – Penalties.

GENERAL REFERENCES

Excavations - See Ch. 87.

ARTICLE I

Water Use [Adopted 05-23-77, Ord. 77-03]

§ 171-1. Purpose. [Amended 01-16-90, Ord. 90-01]

The Town Council of the Town of Frisco adopts this Article in order to provide an orderly growth of the town, to develop and distribute equitable costs of municipal water and to provide a policy to plan for areas in and outside of the corporate limits for water and future annexation.

§ 171-2. Definitions. [Amended 08-02-88, Ord. 88-04; 01-16-90, Ord. 90-01; 11-01-94, Ord. 94-14; 04-16-96, Ord. 96-08; 10-07-97, Ord. 97-20; 04-14-98, Ord. 98-10; 03-04-03, Ord. 03-03; 06-27-06, Ord. 06-22; 07-11-06, Ord. 06-22; 05-10-11, Ord. 11-03]

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

ACCESSORY HOUSING UNIT - Shall have the meaning as set forth in Section 180-5 of this Code.

AFFORDABLE HOUSING - Shall have the meaning as set forth in Section 180-5 of this Code.

CAPITAL EQR — Represents an average, single-family residence, or its equivalent, with respect to the capital facility requirements of the town's system.

DEFERRAL OF PLANT INVESTMENT FEES - The ability to delay payment of plant investment fees, as determined by this chapter.

DWELLING UNIT - A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating,

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cooking and sanitation. Dwellings may exist in many configurations, including single-household detached, duplex and multi-unit dwellings and group homes. Dwellings do not include boarding, rooming, lodging or tourist homes, hotels, motels, extended stay lodgings or lock-off units.

FIRE DISTRICT – The Colorado special district known as the “Lake Dillon Fire Authority.”

PLANT INVESTMENT FEE (PIF) — For each new service, there shall be an initial service charge to partially compensate the Town for water rights, pumping facilities, storage and transmission mains. This charge is based on estimated demands put on the system other than fire-fighting demands.

PROCESS WATER — Water used in an industrial or commercial process.

QUALIFIED DEVELOPER - Any person constructing new or renovating existing residential housing units within the Town of Frisco who is contractually bound, through financing arrangements or otherwise, by a governmental or non-profit agency including the Town, to provide all or a portion not less than twenty per cent (20%) of such residential housing as affordable housing for a period of twenty (20) years or more.

SERVICE LINE — The waterline running from the town distribution main including the corporation stop to and upon the premises of a user being supplied with water.

WATER DEPARTMENT — The Town of Frisco Water Department.

WATER MAIN — Any main or line within Town right of way or dedicated easement, owned by the Town for the purpose of domestic water supply.

§ 171-3. Water Superintendent. [Amended 08-02-88, Ord. 88-04; 01-16-90, Ord. 90-01]

- A. There is hereby created the office of Water Superintendent who shall have the powers and duties herein specified and pursuant to the personnel policies of the Town of Frisco.
- B. Nothing herein shall prevent the Water Superintendent from holding any other appointive town position, provided that the same does not interfere with his duties as Water Superintendent.
- C. The Water Superintendent shall have the general supervision of the town waterworks and distribution system and shall. In person or by an authorized representative, perform the duties herein prescribed.

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§ 171-4. Policy. [Amended 01-16-90, Ord. 90-01; 11-01-94, Ord. 94-14; 04-14-98, Ord. 98-10; 07-11-06, Ord. 06-22]

- A. The town is the owner of certain water rights and a waterworks system for the purpose of supplying domestic water for the use of the inhabitants of the Town of Frisco. Inhabitants of areas outside the town may be permitted to purchase domestic water service from the town by connection into its distribution system by written contract.
- B. Use of water outside the corporate limits shall be subject to the paramount rights of users within the corporate limits. In case of insufficient water to provide for users both within and without the corporate limits, the town may reduce, curtail or shut off the users outside the corporate limits during such period of water shortage or scarcity.
- C. No service will be provided for unplatted or undeveloped properties.
- D. The Town of Frisco shall have the option to require a large development or annexation to provide water rights or require payment in lieu of water rights as a condition of water service.

§ 171-5. Water System Extensions and Oversizing. [Amended 04-09-79, Ord. 79-07; 11-19-85, Ord. 85-19; 11-17-87, Ord. 87-20; 01-16-90, Ord. 90-01; 10-01-91, Ord. 91-15; 11-01-94, Ord. 94-14; 04-16-96, Ord. 96-08; 04-02-02, Ord. 02-09; 03-04-03, Ord. 03-03; 07-11-06, Ord. 06-22; 05-10-11, Ord. 11-03]

- A. Preliminary approval procedure for extensions.
 - 1. Any person desiring to extend any water main within the town shall make written application to the Water Superintendent. The application shall include at least the following information:
 - a. A description of the property to be served.
 - b. A description of the proposed development.
 - c. A timetable for development.
 - d. Probable flow requirements of the described development.
 - 2. The Water Superintendent shall forthwith review the application with the Town Planning Department and the Fire District. The Water Superintendent, when reviewing any application for extension, shall take into consideration the town's Comprehensive Plan, projected growth, availability of water and other specific or general information or advice deemed by the Council to be relevant, as well as general policies of the town regarding annexation, subdivision, growth and development. The town may refer the application for comment and

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recommendation to any state or federal agency, political subdivision or department or to any person having expressed an interest in the project or otherwise requesting or entitled by law to notice. All water main extensions within the Town of Frisco shall be made at the expense of the landowner or developer.

B. Final approval procedure for extensions.

1. The applicant shall be required to submit an engineering feasibility report prepared by an engineer of the applicant's choice, which engineer shall be a professional engineer licensed in the State of Colorado and which report shall include the following:
 - a. A more detailed explanation of the information included in the initial application.
 - b. Preliminary designs and cost estimates for all water distribution lines in the proposed service area.
 - c. Preliminary designs and cost estimates for water main extensions to and connections with the town system.
 - d. Hydraulic and functional analyses of the proposed extension which will show the effect of the added areas on the town's existing facilities.
 - e. Preliminary designs and cost estimates for any additional water treatment, transmission, or storage required because of service to the applicant.
2. The applicant shall pay the costs of the review and evaluation of the report by the Town. Accompanying this report, the applicant shall deposit with the Town Clerk an estimated dollar amount, as determined by the Water Superintendent, to cover such anticipated engineering expenses.

C. Extension contract. If the Town Council agrees to permit the applicant to extend the water main, such extension shall be permitted only upon satisfaction by the applicant of all the following conditions:

1. All water service lines and mains shall be paid for by the applicant and shall be constructed in compliance with all standards imposed by the town and all current American Water Works Association standards.
2. Water mains shall be installed to the farthest point or points of the property to be served and shall be looped whenever possible. Dead end waterlines shall be avoided.

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3. After the completion of the installation of all water mains and receipt by the town of the as-built drawing, the applicant shall deed to the town the mains and all appurtenances thereto and, upon acceptance of the deed by the town, any such deeded water main shall become the unqualified and sole property of the town, and the town shall become responsible for the maintenance and repair of such mains two (2) years from the date of acceptance.
 - a. Any newly installed water main which develops a leak within the first two (2) year of installation shall be repaired or replaced at the applicant's expense. In the event that the applicant ignores or refuses the Water Superintendent's instructions to repair the leak, the Town of Frisco shall be empowered to repair the leak at the applicant's expense. Failure on the applicant's part to pay for the repairs will result in a lien (with interest) being placed upon the property served, which lien may be foreclosed on in the manner provided by Colorado Statutes for foreclosure on a deed of trust for such property.
 4. All plans and specifications for proposed water main extensions and construction must be approved by the Water Superintendent prior to the beginning of any construction. All work prior to completion and acceptance must be inspected by the town for compliance with all standards and regulations which the town may impose.
 5. Prior to construction, the applicant shall have prepared an opinion that the applicant owns sufficient and adequate property or rights-of-way to permit construction operation and maintenance of the proposed water main extension.
 6. The applicant shall provide security acceptable to the Town Council for payment, performance and completion of the proposed extension.
- D. All new water services shall be served from mains only and from mains adjacent to the property being served.
- E. Except as may be otherwise provided in a written agreement with the Town, owners of properties outside the town requiring the construction of new mains in order to be served shall bear the cost of such main extensions, including design, supervision, valving, fire hydrants and appurtenances.
- F. Mains shall be laid only in dedicated, platted streets or in recorded right-of-way or recorded easements with provisions for access to maintain the facilities.
- G. Oversized mains.
1. The size of any water main extended from or connected to the town's water system shall be prescribed by the town. For purposes of this Article, an "oversized water main" means a water main required by the town to be greater than ten (10) inches in diameter.

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2. When an applicant is required by the town under Subsection G(1) above, to install any oversized water main from the existing town system through vacant property or through property owned by persons unwilling to participate in the cost of such oversizing, or upon his own property, the applicant shall pay the entire cost of such oversizing. Upon completion of any such oversized mains, the town shall file a certified statement of all costs deemed by the town to be attributable to the oversizing of such mains.
3. At the time any property abutting such mains (other than that for which the extension is made) is developed and service connections are made to such mains for the benefit of such property, the town may in its sole and exclusive discretion collect from the owner of such property in addition to the town's existing tap fee, an oversized main reimbursement fee based on a charge per front foot in proportion to the original construction cost and, if such a fee is collected, the town shall reimburse the applicant at whose expense the main was constructed up to the amount of all costs certified to under Subsection G(2) above. In no event shall the actual amount reimbursed to the applicant exceed the original certified cost of the oversizing, nor shall the applicant be permitted to seek such reimbursement at any time after seven (7) years from the date of completion of the mains. After such date, no further payments shall be made to any applicant, regardless of the total amount received by the applicant to that date.
4. Oversize main reimbursement fees, as provided for in Subsection G(3) above, if imposed by the town, shall be computed on the basis of the ratio of frontage of such constructed mains to the entire frontage served by such mains on a per-foot-of-frontage cost basis. In computing the cost of such fee hereunder, all property fronting on the right-of-way wherein such main is installed shall be considered in arriving at the cost of any particular fee.

§ 171-6. Conditions for Water Service Outside Town. [Amended 11-17-87, Ord. 87-20; 04-16-96, Ord. 96-08; 04-14-98, Ord. 98-10; 03-04-03, Ord. 03-03; 05-10-11, Ord. 11-03]

- A. All mains and piping outside the town shall be of materials and size as approved by the Water Superintendent.
- B. Water mains to outside areas may be installed by the Town of Frisco or by a developer or user but always at the expense of the developer or user. If the work is performed by persons other than the Town of Frisco or its representative, the drawings and specifications for the work must be approved by the Water Superintendent before the work commences and the final installation approved by the Water Superintendent before water shall be supplied through the system. If the installation is to be done by a developer or user, the developer or user shall furnish the town with a performance bond before the work commences in the amount of

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the estimated cost as determined by the Water Superintendent. The estimated cost shall include design engineering, construction, job inspection and drawings.

- C. At the town's request, the developer shall deed to the town the water system and rights-of-way, and easements thereof, after completion.
- D. Upon and after annexation to the town, the water rates to be charged and all fees applicable shall be the same as those within the town.
- E. The Town Council, at its discretion, shall have the authority to deny water service to out-of-town parcels should it deem it in the best interest of Town residents.

§ 171-7. General Conditions for Use of Town Distribution System. [Amended 07-23-79, Ord. 79-16; 03-01-83, Ord. 83-02; 08-02-88, Ord. 88-04; 01-16-90, Ord. 90-01; 10-01-91, Ord. 91-15; 08-04-92, Ord. 92-13; 11-01-94, Ord. 94-14; 04-16-96, Ord. 96-08; 04-14-98, Ord. 98-10; 04-02-02, Ord. 02-09; 03-04-03, Ord. 03-03; 05-24-05, Ord. 05-11; 07-11-06, Ord. 06-22; 05-10-11, Ord. 11-03]

- A. No person, firm, partnership or corporation receiving water through the distribution system of the town shall so extend his line as to supply water to the owner or occupant of any other premises.
- B. Only one (1) premises shall be supplied with water through a single-service line connected to the Town distribution system, except in the case of a hotel, motel, lodge, resort, apartment house or other similar place of business under single ownership and reasonably operated as an integrated unit or a condominium project in which one (1) person or association is responsible for payment of water charges, or in the case of a homeowners association or similar entity that has entered into a written agreement with the Town guarantying payment for irrigation water supplied to more than one premises through a single-service line connected to the Town's water distribution system. Provided, however, that this section shall not be construed to provide a right on the part of any association or similar entity to enter into such agreement, it being in the sole discretion of the Town Council to determine, from time to time, whether to enter into such an agreement. Common wall units with separate ownership and no responsible association shall have separate service lines.
- C. In the event of the sale or transfer of title to any premises receiving water through the town distribution system which is accompanied by such a change of use that a different rate for the use of water is applicable, or in the event of a change of one type of use to another use for which a different rate is applicable, the owner effecting the change in use or the new owner shall be responsible for payment of the proper PIF rates from the time the change of use occurs.
- D. In the event that the premises presently receiving water through the system is divided into separate ownerships, each owner shall have a separate service line connected to the distribution main, and each additional user shall pay the

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applicable plant investment fee and water rate charges. All work in installing service lines to the distribution main shall be done under the supervision of the Water Superintendent or his authorized representative.

- E. No person, firm, partnership or corporation shall perform any work upon or interfere in any way with any water main and associated appurtenances connected to the town distribution system without prior permission of the Water Superintendent or his authorized representative. Otherwise, all such connections to the distribution system shall be made by the Water Superintendent or his authorized representative.
- F. No person, other than the Water Superintendent or his authorized representative, shall use any key, tool or device to turn a curb stop or water main valve.
- G. No cross-connection will be permitted whereby any water other than water supplied by the town is permitted to enter the town distribution system. All buildings shall be required to install, as a minimum, a dual check valve on the service line where the service enters the building. If, in the opinion of the Water Superintendent or Building Official, there is a potential use of toxic substances to be utilized in the building, then a reduced pressure backflow device shall be required.
- H. The Water Superintendent or his authorized representative shall have free access to the premises of any person, firm, partnership or corporation receiving water through the town distribution system at any reasonable time to check for cross-connections to household wells, plumbing code violations, water wastage and checking or testing of water meters and cross connection control devices. The owner of any premises receiving town water service shall at all times keep all his pipes, fixtures and appurtenances from the water main to and on his premises tight and in good working order so as to prevent any waste of water. It shall be unlawful for any person, firm, partnership or corporation receiving water through the town water distribution system to install, cause to be installed or permit, suffer or allow the use, connection, repair or replacement of any bleeder valve on his premises. Existence of a bleeder valve on any water service line connected to the town water system shall be prima facie evidence of waste of water by the owner of the premises. Whenever water is being wasted, the Water Superintendent shall have the right to demand that such leakage be repaired and wastage stopped. If the owner of said premises fails to repair such leakage or remove plumbing code violations that cause leakage within twenty-four (24) hours after being notified, the Water Superintendent or authorized representative shall have the authority to shut off the water to such premises at the curb valve and shall not reinstitute service until the defect is corrected. For purposes of this paragraph, the terms "being notified" mean that the Water Superintendent has personally advised the owner or occupant of the premises of the water wastage and requirement for immediate repair, or has posted a written notice of the water wastage and requirement for repair at a conspicuous place on the premises.

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Any person, firm, partnership or corporation, other than representatives of the Water Superintendent permitted by him to make the connection to the town distribution system, shall post a performance bond running in favor of the town in the penal sum of not less than the total cost of the work and file the same with the Town before undertaking to make any connection to the town distribution system. Said persons so performing such work shall be responsible for any damage to the distribution system, including all costs for labor and materials in repairing the damage. The town shall not be liable for any damage to the waterworks system except such as may be done by the Water Superintendent or his authorized personnel. Such bond shall be duly executed by a qualified corporate surety, conditioned for the due and faithful performance of the contract. In addition, it shall provide that if the contractor or his subcontractors fail to duly pay for any labor, materials, team hire, sustenance, provisions, provender or other supplies used or consumed by such contractor or his subcontractor in the performance of the work contracted to be done, the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eighteen percent (18%) per annum.

- I. The town reserves the right to shut off the delivery of water through the system at any time whenever it is necessary to repair or replace the lines, to clean the system, to make connection or extensions thereto or for any other cause whatsoever. The Water Superintendent shall give such prior notice of intent to shut off the water as may be practicable. The town shall not be responsible to any person, firm, partnership or corporation on account of the freezing or breaking of pipes or escape of water through the system or for any stoppage of water while repairing or extending the system or for a refunding of any part of the water rent on account thereof.
- J. No person shall dig any new water well within the town or enlarge any existing water well now in use, it being the intent of the town to encourage the use of the water distribution system by the inhabitants of the town.
- K. All persons, firms or entities presently operating a business or establishment and supplying water from private water wells shall pay the appropriate plant investment fees and connect to the town water distribution system within six (6) months after notification by the town if a water main is located within two hundred (200) feet of the property to be served.
- L. In case of water shortage or scarcity, the Town Council may, by resolution, place any restriction which it deems necessary upon the use of water.
- M. The Town shall require a thirty (30) foot easement, fifteen (15) feet on center, to have sufficient access to all distribution mains and shutoffs in case repair of such is needed. Water service lines are the responsibility of the owner or owners of property being furnished with water service. In the case of a leak in a water service line, it is the responsibility of the owner or owners of the property to repair the leak.

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If the leak is not repaired within a reasonable time set forth by the Water Superintendent, service may be shut off.

- N. In addition to any penalties herein provided for a violation of this Article, the Water Superintendent is hereby authorized to withhold the supply of water through such service line without any liability whatsoever to the user receiving service through such line until this Article is complied with.
- O. All irrigation systems shall be connected to the water supply after the meter assembly and shall be totally contained on the premises for which the meter is designated. No irrigation system shall extend beyond the site's legally platted boundaries.

§ 171-8. Fire Lines and Fire Hydrants. [Amended 01-16-90, Ord. 90-01; 08-04-92, Ord. 92-13; 04-16-96, Ord. 96-08; 04-02-02, Ord. 02-09; 05-10-11, Ord. 11-03]

- A. Regular customers of the Town Water Department using water for domestic or commercial use and wishing to install fire lines to serve fire sprinkler systems to be used exclusively for the fighting of fires shall be permitted, upon approval of the plans by the Water Superintendent and Fire District, to connect to the Town mains at their own expense. Only one (1) tap off of such fire line shall be authorized to provide building service, and no service tap larger than two (2) inches will be allowed in a fire line.
- B. Use of fire hydrants is restricted to fire fighting, including training and testing, flushing mains and temporary construction water under town supervision only.
- C. In the event that a fire hydrant located on private property is damaged by the operator of privately-owned snow plowing or snow removal equipment, or other such similar cause, such damage will be repaired by Water Department personnel and the cost of the repairs will be billed to the property owner or applicable homeowners' association.

§ 171-9. Service Lines. [Amended 11-17-87, Ord. 87-20; 01-16-90, Ord. 90-01; 04-16-91, Ord. 91-07; 10-01-91, Ord. 91-15; 08-04-92, Ord. 92-13; 11-01-94, Ord. 94-14; 04-16-94, Ord. 94-08; 4-16-96, Ord. 96-06; 04-14-98, Ord. 98-10; 04-02-02, Ord. 02-09; 03-04-03, Ord. 03-03]

- A. Water service lines shall be installed under the general supervision of the Water Superintendent, at the expense of the owner of the premises desiring service. All lines shall be installed in accordance with the requirements of the Town of Frisco Water Construction Standards, as approved by the Town Council by resolution from time to time. The owner shall maintain his own corporation stop, service line and curb box and keep the same in repair without any liability therefor on the part of the town.

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- B. No single-family residence shall, without the approval of the Water Superintendent, be permitted to use a service line in excess of one (1) inch inside diameter. Other buildings shall be permitted the use of one (1) service line of up to one and one-half (1-1/2) or four (4) inches inside diameter as may be approved by the Water Superintendent.
- C. All trenches/ditches shall conform to the Occupational Safety and Health Standards in the protection of workers and the public. Backfill shall be replaced at its original density and the surface restored. Proper safety signage shall be maintained at all times during construction.
- D. In the event that the town has to turn an individual service line off or on and discovers that it is not in good repair, it may, after notifying the owner by certified mail, repair or cause to have repaired said service line at the property owner's expense. Should the property owner fail to reimburse the town for the cost of the repairs, the town shall discontinue water service to the premises and file a lien (with interest) upon the property until the bill is paid in full.
- E. Technical drawings showing the exact location of all service lines shall be provided to the Water Department for all new construction and at the time of any existing service line repairs.

§ 171-10. Water Meters. [Amended 11-17-87, Ord. 87-20; 01-16-90, Ord. 90-01; 10-01-91, Ord. 91-15; 10-06-92, Ord. 92-14; 04-16-96, Ord. 96-08; 04-02-02, Ord. 02-09; 03-04-03, Ord. 03-03; 05-10-11, Ord. 11-03]

- A. All new construction, both residential and commercial, shall install water meters and associated equipment as specified by the Water Superintendent. Such meters shall have remote readouts and shall, along with backflow prevention devices, be purchased from the Town of Frisco to ensure uniformity of installation and design.
- B. Existing structures shall convert to water meters according to the schedule set by the Water Superintendent. Meters to existing structures shall be of the type and style approved by the Water Superintendent. Each meter shall be installed in such a manner to prevent freezing and damage to said meter. Furthermore, each meter shall have a remote readout to facilitate reading.
- C. After determination by the Town that the installation is proper and the meter and associated equipment is functional, the meter shall become the property of the property owner and shall be maintained entirely at the property owner's expense.
- D. It shall be unlawful for any person to open, interfere with, injure, damage or in any way impair the working of any water meter, water meter read-out or associated equipment. It shall also be unlawful for any person to remove any water meter or associated equipment from its setting without permission of the Water Superintendent.

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- E. The Water Superintendent or his authorized representative shall have the right to periodically inspect and/or test each water meter.

§ 171-11. Rates and Charges. [Amended 09-04-79, Ord. 79-23; 10-06-81, Ord. 81-17; 10-20-81, Ord. 81-18; 5-18-82, Ord. 82-09; 12-07-82, Ord. 82-25; 12-06-83, Ord. 83-13; 11-19-85, Ord. 85-19; 11-17-87, Ord. 87-20; 08-02-88, Ord. 88-04; 01-16-90, Ord. 90-01; 12-07-93, Ord. 93-15; 11-01-94, Ord. 94-14; 04-16-96, Ord. 96-08; 04-14-98, Ord. 98-10; 03-04-03, Ord. 03-03; 07-11-06, Ord. 06-22; 05-10-11, Ord. 11-03]

- A. Plant investment fees, Capital EQR schedules, delivery charges, flat rates and fees shall be determined and adopted by Council Resolution from time to time.

- B. Plant investment fees shall be paid as follows:

- 1. For a single-family, duplex, multiple-family or commercial structure: payable in full in conjunction with and simultaneous to the issuance of a building permit except as noted in (2) and (3) below.

- 2. Notwithstanding the provisions of the preceding paragraph, for a publicly funded affordable housing project, or for any affordable housing project in which the Town participates by providing a substantial investment or contribution of land, money or services, the Plant Investment Fee shall be determined, and may be waived, by the Town Council on a case-by-case basis in consideration of the degree of public funding, or participation by the Town, in the project.

- 3. Deferral of plant investment fees.

- a. A qualified developer may request deferral of payment of Plant Investment Fees by submitting a written application to the Town Council in conjunction with development or subdivision review for an affordable housing project. The applicant shall submit written proof of eligibility demonstrating to the satisfaction of the Town Council that the applicant is a qualified developer and the proposed project will provide affordable housing in accordance with the requirements of this Section. Adequate proof shall also be submitted that the developer cannot afford to immediately pay the Plant Investment Fees for which deferral is requested and that the deferral is necessary to make the project financially feasible.

- b. Final Determination of eligibility for deferral of Plant Investment Fees and the terms and conditions for any such deferral shall be made by the Town Council. If determined to be eligible, and as a condition to the grant of any deferral, the applicant shall be required to enter into a contract with the Town stating the terms of payment for the deferred Plant Investment Fees and including suitable guarantees, as determined by the Town Council, that the project shall remain available as affordable housing for twenty (20) years or more. Each such contract shall provide that in case of any

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default by the developer in the payment of the deferred fees or in the performance of the other terms of the contract, such fees shall become immediately due and payable and shall be subject to the collection and penalty provisions of this Article.

- c. Deferrals for those units deemed "affordable" will receive separate treatment and consideration from those units not deemed "affordable" within the same application.

4. Plant Investment Fees for Auxiliary Units, which are approved as part of the Planning process, shall be payable in full in conjunction with and simultaneous to the issuance of a building permit at the rate prescribed in Section 171-11, "Rates and Charges".

C. Plant investment fees. Remodels

1. For the purpose of recalculating plant investment fees in the event that an existing commercial building is being remodeled, said building will not need a recalculation of plant investment fees unless there is an addition of more than one thousand (1,000) square feet or a change in use. In the event of such addition or change, it shall be recalculated in its entirety according to the provisions set forth in this section.
2. There shall be no recalculation of plant investment fees in residential structures unless an additional dwelling unit is added or there is a change in use.
3. Residential units currently drawing water from a private well shall be encouraged to connect to the town water system and shall be required to do so with the change of ownership.

- D. The owner will pay the cost of tapping the main for one and one-half inch (1 ½") taps and larger.

- E. A customer requiring a larger tap size will pay the difference between the old tap size and the new EQR. Plant investment fee refunds may only be made prior to Certificate of Occupancy and under the direction of the Water Superintendent. Any change of use of any customer being served which increases water consumption to the extent set forth in §171-11B shall pay the appropriate additional plant investment fees.

- F. Water taps, once issued, shall remain with the property to which they are issued and shall not be transferable. In the event a building for which a plant investment fee has been purchased is removed or razed, quarterly user fees in the amount of one-half (1/2) EQR shall be assessed against the property to maintain the presence of the plant investment fee. In the event that the user fees become delinquent for more than six (6) quarters [eighteen (18) months] the plant

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investment fee is forfeit, and resumption of water service to the premises shall require a new plant investment fee.

- G. User fees. Payment of water user fees shall begin twelve (12) months after the issuance of building permit from the building department or upon the issuance of a certificate of occupancy, whichever occurs first.
- H. For supplying water to users outside the Town, the charge shall be two (2) times the applicable rate within the Town.
- I. Responsibility for water payments.
 - 1. All water fees shall be charged against the owner of the property served and shall be a lien upon the respective lots or parcels of land where said water is used from the time when due and shall be a perpetual charge against said lots or parcels until paid.
 - 2. In the event that a notice of non-payment is sent, an administration fee shall be added to the required payment. In the event that the water to any premises is shut off for nonpayment, the Water Superintendent shall not reinstitute service until all sums remaining due for water service and other fees are paid either by the owner, occupant, new owner or other person who may pay the same.
 - 3. Water fees shall be due and payable each quarter. In the event that the same is not paid, the Water Billing Clerk shall notify the delinquent user by certified mail, with return receipt, that the payment has not been received. If payment has not been received seventy-two (72) hours after acknowledgment of notification, the Water Superintendent shall cease the delivery of water to the premises by turning off the water at the curb stop.
 - 4. All payments for water service and other fees prescribed hereunder shall be made to the Town Treasurer to be deposited by the Treasurer to the Water Fund.
 - 5. Until paid in full, all service charges, including but not limited to rates, fees, tolls, minimum charges, disconnection fees, reconnection fees and reasonable penalties for delinquencies, including interest on delinquencies from any due date at a rate determined by Council, reasonable attorney fees and other costs of collection, for the use of services furnished by or for the direct or indirect connection with town water facilities shall constitute a 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 the State of Colorado for the foreclosure of mechanics' liens.
 - 6. Nothing in the above shall be construed to limit the town's legal remedies to collect fees.

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§ 171-12. Adoption of Rules and Regulations; Applicability to Persons Contracting for Water. [Amended 01-16-90, Ord. 90-01]

- A. The Water Superintendent shall have the authority to adopt reasonable rules and regulations in carrying out the provisions of this Article, but said rules shall be in writing and filed with the Town Clerk and be approved by the Town Council before they become effective.
- B. All regulations contained in this Article shall be considered a part of the contract of every person taking water from the waterworks of the town. Every person taking water shall be considered as having expressly consented to be bound thereby.

§ 171-13. Violations and Penalties. [Amended 08-05-80, Ord. 80-20; 01-16-90, Ord. 90-01]

Any person violating the terms of this Article or the regulations adopted hereunder, upon conviction before the Municipal Judge, shall, in addition to any other penalties provided herein, be punishable as provided in Chapter 1, General Provisions, Article I.

ARTICLE II

Sale of Water Taps [Adopted 05-22-78, Ord. 78-08]

§ 171-14. Issuance of Building Permit Required. [Amended 04-05-82, Ord. 82-08; 04-16-96, Ord. 96-08; 07-11-06, Ord. 06-22]

- A. No water tap shall be sold by the town except in conjunction and simultaneously with the issuance of a building permit.
- B. At the time the Building Official of the Town of Frisco declares a building permit to be expired, all water taps for said permit shall be rescinded, and the water tap fees shall be refunded in the amount paid to the customer without interest.

§ 171-15. Payment of Plant Investment Fees. [Amended 11-17-87, Ord. 87-20; 08-02-88, Ord. 88-04; 01-16-90, Ord. 90-01; 04-16-96, Ord. 96-08]

- A. When any alteration or modification of, addition to or any construction affecting existing structures results in a change of user class fees as set out in §171-11 of this chapter, additional fees in accordance with said section shall be required.
- B. Only under special circumstances, means of payment of the plant investment fee shall be determined by the Town Council.

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ARTICLE III

Tampering with Water Supply [Adopted 04-23-79, Ord. 79-09]

§ 171-16. Trespass Upon Water System.

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

§ 171-17. Pollution of Waters or Equipment.

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

§ 171-18. Violations and Penalties. [Amended 08-05-80, Ord. 80-20; 04-16-96, Ord. 96-08]

Any person, firm or corporation violating this Article shall, upon conviction, be punishable as provided in Chapter 1, General Provisions, Article I. A separate offense shall be deemed committed, on each day during or on which a violation occurs or continues.

Article IV

WATER DEPARTMENT REGULATIONS

Water Construction Standards

[Amended 02-18-03, Res 03-14; 04-02-02, Res. 02-10; 02-18-03, Res 03-14]

Pursuant to this Article the Town Water Superintendent shall prepare and the Town Council shall adopt by resolution Water Construction Standards for the Town of Frisco to regulate the installation of water delivery systems.

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ARTICLE V

WATER CONSERVATION [Adopted 05-20-03, Ord. 03-13]

§ 171-19. Phased Water Use Restrictions.

There is hereby established a four-phase water conservation and water use restriction system for the Town of Frisco. Each water conservation phase, as described in the following sections, is based upon the need to conserve water as determined by the level of water flow from time to time in North Ten Mile Creek, or by the average yield of the town's water wells from time to time, or by a combination of such water flow level and average yield. Phase 1 water use restrictions shall be in effect at all times during which there is no posting of notice, in accordance with this section, that Phase 2, Phase 3, or Phase 4 water use restrictions are in effect. Public notice that Phase 2, Phase 3, or Phase 4 water use restrictions are in effect shall be provided by the posting of such information (i) on the town's web site (www.townoffrisco.com) and (ii) within the south vestibule of Town Hall at 1 Main Street, Frisco, Colorado and within the United States Post Office at 0035 West Main Street, Frisco, Colorado. For purposes of this article, the Town of Frisco shall be divided into two (2) zones that are defined as follows: "North Zone" shall consist of all land that is served by the town's water utility system that is north of Main Street or the center line of Main Street extended east and west; "South Zone" shall consist of all land that is served by the town's water utility system that is south of Main Street or the center line of Main Street extended east and west. The provisions of this article shall apply to all real property within the Town of Frisco, whether publicly or privately owned, and all land outside of the Town of Frisco that is served by the town's water utility system. Notwithstanding the foregoing, the following public park and/or recreation areas shall be exempt from the irrigation times of this article: Walter Byron Park, Meadow Creek Park, Peninsula Recreation Area, Lakefront Park, and the Frisco Historic Park. The provisions of this section may be enforced with respect to land located outside of the Town of Frisco by a suit for injunctive relief in a court of competent jurisdiction.

§ 170-20. Phase 1 Voluntary Water Use Restrictions.

- A. All of the following Phase 1 water use restrictions shall be voluntary and a failure to comply with any Phase 1 water use restriction shall not result in a violation of this article. No person should, and no owner of any property should cause, permit, suffer or allow any person to, irrigate, sprinkle or otherwise apply water to a lawn or other area of land on which grass is grown, or intended to be grown, except within the following areas and during the following days and within one, but not both in the same day, of the following time periods:

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<u>Area</u>	<u>Day(s)</u>	<u>Time(s)</u>
North Zone	Tuesday, Thursday, Saturday	6:00 a.m. to 9:00 a.m. or 6:00 p.m. to 9:00 p.m.
South Zone	Sunday, Wednesday, Friday	6:00 a.m. to 9:00 a.m. or 6:00 p.m. to 9:00 p.m.

- B. Notwithstanding any of the foregoing, flowers, decorative plants, bushes and trees may be watered at any time and on any day so long as such watering is done by way of drip irrigation or by hand using a watering can or a hose with an automatic shut-off valve.
- C. No person should do any of the following, and no owner of any property should cause, permit, suffer or allow any person to do any of the following on the owner's property:
1. use a hose to wash any structure, motor vehicle or boat unless the hose is equipped with an automatic shut-off valve;
 2. wash any paved area with a hose; and
 3. serve water to a customer of a commercial establishment except upon request of the customer.

§ 170-21. Phase 2 Mandatory Water Use Restrictions.

- A. All of the following Phase 2 water use restrictions are mandatory and shall be in effect (i) when the in-stream flow in North Ten Mile Creek is less than .75 cubic feet per second above the bypass flow mandated by the State of Colorado and (ii) after public notice that the Phase 2 water use restrictions are in effect has been provided in accordance with the requirements of section 171-19 above. No person shall, and no owner of any property shall cause, permit, suffer or allow any person to, irrigate, sprinkle or otherwise apply water to a lawn or other area of land on which grass is grown, or intended to be grown, except within the following areas and during the following days and within one, but not both in the same day, of the following time periods:

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<u>Area</u>	<u>Day(s)</u>	<u>Time(s)</u>
North Zone	Tuesday, Thursday, Saturday	6:00 a.m. to 9:00 a.m. or 6:00 p.m. to 9:00 p.m.
South Zone	Sunday, Wednesday, Friday	6:00 a.m. to 9:00 a.m. or 6:00 p.m. to 9:00 p.m.

- B. Notwithstanding any of the foregoing, flowers, decorative plants, bushes and trees may be watered at any time and on any day so long as such watering is done by way of drip irrigation or by hand using a watering can or a hose with an automatic shut-off valve.
- C. It shall be unlawful for any person to do any of the following acts, or for the owner of any property to cause, permit, suffer or allow any person to do any of the following acts on the owner's property:
1. use a hose to wash any structure, motor vehicle or boat unless the hose is equipped with an automatic shut-off valve;
 2. wash any paved area with a hose; and
 3. serve water to a customer of a commercial establishment except upon request of the customer.

§ 171-22. Phase 3 Mandatory Water Use Restrictions.

- A. All of the following Phase 3 water use restrictions are mandatory and shall be in effect (i) when the in-stream flow in North Ten Mile Creek is less than .75 cubic feet per second above the bypass flow mandated by the State of Colorado, and (ii) when the average yield of all town-owned water wells in production at any given time is between 20 percent (20%) and forty percent (40%) less than the average yield of all town-owned water wells that were in production in 2002, and (iii) after public notice that the Phase 3 water use restrictions are in effect has been provided in accordance with the requirements of section 171-19 above. No person shall, and no owner of any property shall cause, permit, suffer or allow any person to, irrigate, sprinkle or otherwise apply water to a lawn or other area of land on which grass is grown, or intended to be grown, except within the following areas and during the following days and within one, but not both in the same day, of the following time periods:

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<u>Area</u>	<u>Day(s)</u>	<u>Time(s)</u>
North Zone	Tuesday, Saturday	6:00 a.m. to 9:00 a.m. or 6:00 p.m. to 9:00 p.m.
South Zone	Sunday, Wednesday	6:00 a.m. to 9:00 a.m. or 6:00 p.m. to 9:00 p.m.

- B. Notwithstanding any of the foregoing, flowers, decorative plants, bushes and trees may be watered at any time and on any day so long as such watering is done by way of drip irrigation or by hand using a watering can or a hose with an automatic shut-off valve.
- C. It shall be unlawful for any person to do any of the following acts, or for the owner of any property to cause, permit, suffer or allow any person to do any of the following acts on the owner's property:
1. use a hose to wash any structure, motor vehicle or boat unless the hose is equipped with an automatic shut-off valve;
 2. wash any paved area with a hose; and
 3. serve water to a customer of a commercial establishment except upon request of the customer.

§ 171-23. Phase 4 Mandatory Water Use Restrictions.

- A. All of the following Phase 4 water use restrictions are mandatory and shall be in effect (i) when the in-stream flow in North Ten Mile Creek is less than the bypass flow mandated by the State of Colorado, and (ii) when the average yield of all town-owned water wells in production at any given time is more than forty percent (40%) less than the average yield of all town-owned water wells that were in production in 2002, and (iii) after public notice that the Phase 4 water use restrictions are in effect has been provided in accordance with the requirements of section 171-19 above.
- B. It shall be unlawful for any person to do any of the following acts, or for the owner of any property to cause, permit, suffer or allow any person to do any of the following acts on the owner's property:
1. irrigate, sprinkle or otherwise apply water to any outdoor vegetation;
 2. use a hose to wash any structure, motor vehicle or boat on a property used for residential purposes;

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3. wash any paved area with a hose; and
4. serve water to a customer of a commercial establishment except upon request of the customer.

§ 171-24. Irrigation Restrictions – Penalties.

Any person, firm, partnership or corporation suspected of violating any provision of this article shall, upon the first such suspicion, be issued only a warning citation. Any person, firm, partnership or corporation violating any provision of this article shall, upon first conviction, be punished by a minimum fine of not less than one hundred dollars (\$100.00), which fine shall not be suspended by the municipal court; upon a second conviction of such person, firm, partnership or corporation for a violation that occurred within one year of the date of the first violation, such person, firm, partnership or corporation shall be punished by a fine of not less than two hundred dollars and fifty (\$250.00), which fine shall not be suspended by the municipal court; upon a third and each subsequent conviction of such person, firm, partnership or corporation for a violation that occurred within one year of the date of the first violation, such person, firm, partnership or corporation shall be punished by a fine of not less than five hundred dollars (\$500.00), which fine shall not be suspended by the municipal court.