

**100 - GENERAL PROVISIONS AND ADMINISTRATION**

**110 - Explanatory Material, Penalty, Repeal**

**111 - Adoption of Municipal Code**

HISTORY: 1958 Municipal Code

**111.1. Title and Scope.**

This code containing seven main chapters shall be known as "THE MUNICIPAL CODE OF THE TOWN OF LIMON, COLORADO", and may be cited by that term or by the term "MUNICIPAL CODE" and shall be treated and considered as a new and comprehensive ordinance. This code shall supersede all ordinances heretofore enacted and shall repeal all ordinances, or part of ordinances in conflict with the provisions hereinafter contained.

**111.2. Establishing General Rules of Construction.**

**111.2.1. Construction of Words.**

Whenever any word in any section of this code importing the plural number is used, in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used. When any subject matter, party or person is referred to in this code by words importing the singular number only, or the masculine gender, several matters, parties or persons and females as well as males and bodies corporate shall be deemed to be included. The words "person, firm, or corporation" shall be deemed to include any association or organization of any kind. Words in the present shall include the future. The words "this ordinance" shall be held and taken to mean the entire code, including each and every section thereof. The word "town" whenever used in this code shall be held and taken to mean the Town of Limon, Colorado. The words "written" and "in writing" may include printing. Provided, that these rules of construction shall not be applied to any section of this code which contains any express provisions excluding such construction or where the subject matter or content of such section may be repugnant thereto.

**111.2.2. Officers and Employees.**

Whenever reference is made in this code to a town officer or employee by title only, this shall be construed as though followed by the words "of the Town of Limon, Colorado" and shall be taken to mean the officer or

employee of this town having the title mentioned or performing the duties indicated.

**111.2.3.** No provision of this code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided in this code for a failure to perform such duty, unless the intention of the Board of Trustees to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

**111.2.4. Penalties for Violations.**

In all cases where the same offense is made punishable or is created by different clauses or sections of this code, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

**111.2.4.1.** Whenever in this code a minimum but not maximum fine or penalty is imposed, the court may in its discretion may fine the offender any sum exceeding the minimum fine or penalty so imposed but not exceeding the amount of five hundred dollars (\$500.00).

**111.2.4.2.** Whenever in this code the doing of any act or the omission to do any act constitutes a breach of any section or provision of this code, and there shall be no fine or penalty declared for such breach, any person who shall be convicted of any such breach shall be fined not more than five hundred dollars (\$500.00) for each offense.

(Amended January 2, 1997 by Ordinance No. 411)

**111.3. Repealing Clause.**

**111.3.1. Repeal of General Ordinances.**

All general codes and ordinances of the town passed prior to the passage of this code are hereby repealed, except such as are referred to herein as being still in force or are by necessary implication herein reserved from repeal, subject to the saving clauses contained in the following section, from which are excluded the following codes or ordinances which are not hereby repealed; tax levy ordinances, appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances;

ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the town; building ordinances, zoning ordinances, and all special ordinances.

**111.3.2. Public Utility Ordinances.**

No code or ordinance relating to railroads or railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the passage of this ordinance or by virtue of the preceding section, excepting as this code may contain provision for such matters, in which case this code shall be considered as amending such ordinance or ordinances in respect of such provisions only.

**111.3.3. Pending Suits.**

**111.3.3.1.**No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment be mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

**111.3.3.2.**This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

**111.3.3.3.**Nothing contained in this or the preceding section shall be construed as abating any action now pending under or by virtue of any general ordinance of the town herein repealed; or as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the town under any ordinance or provision thereof in force at the time of the passage of this ordinance.

**111.3.4. Severability.**

If any provision of this Code or any provision of any rule or regulation lawfully promulgated hereunder or any application of this Code or rule is held invalid or inoperative, such invalidity or inoperativeness shall not affect other provisions or application of the Code or rules or regulations. The Board of Trustees hereby declare that in these regards the provisions of this Code and all rules and regulations promulgated hereunder are severable.

**111.4. Publication; Effective Date.**

This Code is hereby ordered published in loose leaf notebook form, and the Town Attorney is hereby authorized to effectuate the publication of this Code in book form as aforesaid. In the opinion of the Town Board an emergency exists, and the immediate passage of this ordinance is hereby declared necessary for the preservation of the public peace, health, and safety, therefore this ordinance shall be in full force and effect five (5) days from and after its final passage and publication as provided by law.

**111.5. Amendments.**

Any additions or amendments to the Code of the Town of Limon, Colorado, when passed in such form as to indicate the intention of the Town Board to make the same a part hereof, shall be deemed to be incorporated in this revision so that reference to the Code shall be understood as including them.



**120 – LEGISLATIVE FUNCTIONS**

**121 - Wards and Precincts**

HISTORY: 1958 Municipal Code

**121.1. Precincts.**

Pursuant to statute, the Town of Limon shall have one voting precinct, the boundary of which shall be all that area within the incorporated said Town of Limon town limits.



**122 - Rules and Regulations**

HISTORY: 1958 Municipal Code

**122.1. Definitions.**

The following words and phrases, wherever used in this section **122**, shall be defined as follows:

**122.1.1. rules and regulations:** the whole or any part of rules and regulations adopted pursuant to statute or ordinance authority, and includes modifications and amendments, but shall not include executive orders or matters relating exclusively to internal management and procedure.

**122.1.2. adopting authority:** any officer, employee, agent, or agency of the Town of Limon, including boards or commissions or members thereof, authorized by ordinance to make rules and regulations.

**122.1.3. Ordinance:** any ordinance adopted by the Board of Trustees of the Town of Limon, and shall include any code or compilation of ordinances, or any part thereof, adopted under the authority of the Board of Trustees.

**122.2. Authority to Adopt.**

No officer, employee, agent, or agency, board or commission or member thereof of the Town of Limon shall have power or authority to adopt any rules or regulations save and except by and under the authority of specific provision of statute or ordinances of the Town of Limon, setting forth the area and scope of rules and regulations permitted and specifying the person authorized to make rules and regulations.

**122.3. Submission to Town Attorney; Publication; Filing.**

Proposed rules and regulations shall be submitted to the Town Attorney and shall be subject to approval by him for legality. Before becoming effective, such rules and regulations shall be published in accordance with either of the methods set forth herein below, selection of the method to be followed to be made by the adopting authority.

**122.3.1.** By publishing the rules and regulations in full as finally adopted, once only in a newspaper of general circulation in the Town of Limon.

**122.3.2.** By filing three copies of the rules and regulations with the Town Clerk and one copy with the Town Attorney, and one copy shall be filed with the person authorized to make the rules and regulations; provided, however, that if this method of publication be adopted, there shall be published by the adopting authority a notice stating that the filings have been made, and setting forth the dates of such filings. Such notice shall be published once in a newspaper of general circulation.

**122.4. Public Inspection.**

The adopting authority and the Town Clerk shall make such rules and regulations available to public inspection at all reasonable times.

**122.5. Repeal.**

Notice of repeal of rules and regulations shall be published once in the official newspaper of the Town of Limon.

**122.6. Enforcement.**

Rules and regulations may not be enforced except upon compliance with the provisions hereof.

**122.7. Existing Rules; Regulations.**

Nothing in Section **122.6.** shall be interpreted, however, to nullify or limit the effectiveness of valid rules and regulations presently existing, but all such valid rules and regulations shall remain effective and enforceable, and copies thereof shall be filed in the office of the Town Attorney and with the Town Clerk within sixty (60) days of the effective date hereof.



**130 – TOWN ADMINISTRATION**

**131 - Town Officers**

HISTORY: 1958 Municipal Code. Amendments noted where applicable.

**131.1. Mayor.**

At the April 4, 1972, election, and at the regular election every four years thereafter, a mayor shall be elected to serve a four year term and shall serve until his successor is elected and qualified as is provided by statute.

(Amended December 21, 1971 by Ordinance No. 215)

**131.1.1. Duties.**

The mayor shall be the chief executive officer of the town, shall preside over the meeting of the Board of Trustees, and shall perform such duties as may be required of him by statute, code or ordinance. He shall have supervision over all of the executive officers and employees of the Town, and shall have the power and authority to inspect all books and records pertaining to Town affairs and kept by any officer or employee of the Town at any reasonable time.

**131.1.2. Appointment of Officers.**

The mayor shall appoint, by and with the advice and consent of the Town Board, all officers of the town whose election or appointment is not otherwise provided for. Any vacancies occurring in an appointive office shall be filled in the same manner.

**131.1.3. Designation of Officer’s Duties.**

Whenever there is a dispute as to the respective duties or powers of any appointed officer of the Town, this dispute shall be settled by the mayor after consultation with the Town Board; and the mayor shall have the power to delegate to any appointed officer any duty which is to be performed when no specific officer has been directed to perform that duty.

**131.1.4. Mayor Pro – Tem.**

During a temporary absence or disability of the mayor, the Town Board shall elect one of its number to act as mayor pro tem, who during such absence or disability shall possess the powers of mayor, as is provided by statute.

**131.1.5. Acting Mayor.**

In the event of a vacancy in the Office of Mayor the Town Board may appoint one of its members as acting mayor to serve until the vacancy is filled at a regular or special election as provided by law.

**131.1.6. Formal Occasions.**

The mayor shall act for and on behalf of the Town on formal occasions and receptions; but in his absence or inability to attend any such function the Town Board may select any other city officer to so act.

**131.2. Board of Trustees.**

**131.2.1. Election – Functions.**

The Board of Trustees, consisting of six members shall be elected according to the method provided by statute. At the April 4, 1972 election, six trustees shall be elected. The three candidates for trustee receiving the highest number of votes shall be elected for four-year terms, and the three candidates for trustee receiving the next highest numbers of votes shall be elected for two-year terms. At the next subsequent regular election and at each regular election thereafter, three trustees shall be elected to serve four-year terms.

(Amended December 2, 1971 by Ordinance No. 215)

**131.2.1.1.** This Board shall be the legislative department of the town government, and shall perform such duties and have such powers as may be delegated by statute to it.

**131.2.2. Oath – Salary.**

The members of the Board of Trustees shall take the oath of office prescribed by statute, and shall receive such compensation as may be provided by ordinance.

**131.2.3. Meetings.**

The Town Board shall hold its regular meetings in the Town Hall on the first Thursday of each month at 7 PM. The meeting place of said board shall be at the Town Hall, unless ordered by the Board of Trustees to be held at another place. Special Meetings may be called by the Mayor of the Town or any three Trustees upon requirements defined in the Colorado Revised Statutes. Notice of all regular and special meetings shall comply with requirements defined in the Colorado Revised Statutes.

(Amended February 5, 2009 by Ordinance No. 528.)

**131.2.4. Mayor.**

The Mayor shall be the presiding officer of all regular and special meetings of the Board of Trustees and at all times when the Board meets as a committee of the whole.

**131.2.5. Order of Business.**

The order of business of the Board of Trustees of the Town of Limon, Colorado shall be as follows:

1. Roll call.
2. Minutes of the preceding meeting.
3. Communications, resolutions, ordinances and bills.
4. Reports of officers.
5. Reports of committees.
6. Other business.

**131.2.6. Rescinded Action.**

No vote or action of the Board of Trustees shall be rescinded at any special meeting of the Board unless there be present at such special meeting as many members of the Board as were present at the meeting when such vote or action was taken, as provided by statute.

**131.2.7. Resolutions.**

Any resolutions submitted to the Board of Trustees shall be reduced to writing before being voted upon on request of any two members of the board.

**131.2.8. Addressing Meetings.**

No person other than the mayor or a member of the Board shall address that body at any regular or special meeting except upon consent of a majority of the members present.

**131.2.9. Suspension of Rules.**

The rules of order, other than those prescribed by statute, may be suspended at any time by the consent of a majority of the members present at any meeting.

**131.2.10. Robert’s Rules of Order.**

Robert's Rules of Order shall govern the deliberations of the Board of Trustees except when in conflict with any of the foregoing rules.

**131.2.11. Quorum.**

A majority of the trustees shall constitute a quorum to do business, but no ordinance shall be passed except upon the favorable vote of a majority of the elected members, as provided by statute.

**131.2.12. Committees.**

Such standing and special committees as from time to time the Board of Trustees may direct shall be appointed by the mayor.

**131.2.13. Disturbing Meetings.**

It shall be unlawful for any person to disturb any meeting of the Board of Trustees or of any committee thereof; any person violating the provisions of this section shall be fined not less than ten dollars nor more than one thousand dollars for each offense.

**131.2.14. Trustees to Fill Vacancy.**

The Board of Trustees shall have power, by appointment, to fill all vacancies in the Board or in any other elected office, and the person so appointed shall hold office until the next regular election and until his successor is elected and qualified. If the term of the person creating the vacancy was to extend beyond the next regular election, the person elected to fill the vacancy shall be elected for the unexpired term. Where a vacancy or vacancies exist in the office of trustee and a successor or successors are to be elected at the next election to fill the unexpired term or terms, the three candidates for trustee receiving the highest number of votes shall be elected to four-year terms and the candidate or candidates receiving the next highest number of votes, in descending order, shall be elected to fill the unexpired term or terms.

(Amended December 2, 1971 by Ordinance no. 215)

**131.3. Building Inspector.**

(Deleted June 6, 1996 by Ordinance No. 398)

**131.4. Plumbing Inspector.**

(Deleted June 6, 1996 by Ordinance No. 398)

**131.5. Town Superintendent.**

(Deleted June 6, 1996 by Ordinance No. 398)

**131.6. Town Manager.**

(Added June 6, 1996 by Ordinance No. 398; amended on July 11, 2002 by Ordinance No. 477)

**131.6.1. Appointment.**

The Town Manager shall be appointed by the Board of Trustees.

**131.6.2. Statement of Duties.**

**131.6.2.1.**The Town Manager performs highly responsible administrative and managerial work in serving as the chief administrative officer of the Town of Limon. The Town Manager shall be responsible to the Board of Trustees for the efficient administration of the Town's affairs.

**131.6.2.2.**The Town Manager performs highly responsible work directing and managing the Town's public works operations and systems including, but not limited to: construction, repair and maintenance of streets, operation of water and wastewater systems, storm drainage, cemetery, golf course, swimming pool, parks and recreation, sanitation and airport. The Town Manager shall be responsible to the Board of Trustees for the efficient operation of the Town's public works.

**131.6.2.3.**The Town Manager will be exempt from Fair Labor Standards and from portions of the Personnel Rules and Regulations pertaining to Probationary Period, Employee Discipline, and Grievance Procedure.

**131.6.2.4.**The Town Manager shall attend all meetings of the Board of Trustees, shall keep the Board of Trustees informed as to the affairs of the Town, and shall recommend to the Board of Trustees such actions as may be necessary or expedient for the welfare of the Town.

**131.6.2.5.**The Town Manager shall be charged with the enforcement of all ordinances within the municipality insofar as their enforcement is within the powers of the Town.

**131.6.3. Employees.**

The Town Manager shall have the following general authority and duties concerning the Administrative Department, the Public Works Department and all other employees of the Town except the Police Department. The Town Manager shall carry out those duties in accordance with the Town's policies and all applicable state and federal laws:

**131.6.3.1.**The Town Manager shall hire and discharge all employees of the Administrative Department, the Public Works Department and all other employees of the Town except those employed within the Police Department.

**131.6.3.2.**The Town Manager is empowered and authorized to generally direct the employees stationed in the Administrative Department and the Public Works Department, including but not limited to the Code

Enforcement Technician and the Billing Clerk/Receptionist. Further, except for those duties specifically given to the Town Clerk/Treasurer, by state statute, the Town Manager shall generally supervise the Town Clerk/Treasurer as to all administrative duties and functions assigned to the Town Clerk/Treasurer by the Board of Trustees.

**131.6.3.3.**The Town Manager shall further carry out and supervise all assigned administrative duties required in accordance with the Town's policies and all applicable state and federal laws.

**131.6.4. Purchases.**

The Town Manager shall be general purchasing agent of the Town, and except where specific provision to the contrary is made by law or by the Board, he shall make all purchases of supplies, materials and equipment authorized by the Board, in the manner prescribed by, and subject to the limitations imposed by law. No purchase shall be made or obligation incurred excepting upon authorization by the Board and no expense shall be incurred, except for the purpose for which no prior appropriation is required by law, if the amount thereof is not covered by an unexpended appropriation for the purpose.

**131.6.5. Appropriation and Levies.**

**131.6.5.1.**It shall be the duty of the Town Manager to cause to be prepared each year the annual budget and appropriation ordinance in time for consideration and enactment by the Board and to prepare the tax levy ordinance for passage and file a certified copy thereof with the county clerk within the time required by law.

**131.6.5.2.**The Town Manager shall keep current accounts of the amounts appropriated and the amounts spent out of each appropriation, showing the unexpended appropriations at all times.

**131.6.6. Accounts.**

It shall be the duty of the Town Manager to keep, or cause to be kept, current accounts, showing at all times the fiscal condition of the Town, including the current and anticipated expenses, appropriations, cash on hand and anticipated revenue of all municipal funds and accounts; and he shall see to the collection of all money due the municipality.

**131.6.7. Inventories.**

The Town Manager shall keep, or cause to be kept, a current inventory showing all real and personal property of the Town and its location.

**131.6.8. Reports and Publications.**

It shall be the duty of the Town Manager to see to the publication of all notices, ordinances and other documents required by law to be published, all reports which the Town or any of the officials thereof are required by law to prepare.

**131.6.9. Elections.**

The Town Manager shall assist the Town Clerk with all notices, ballots, and election provisions necessary in connection with municipal elections.

**131.6.10. Records and Certificates.**

**131.6.10.1.** The Town Manager shall make available to the Custodian of Records, Town Clerk, all necessary clerical assistance for the preparation of all municipal records required by law to be kept by the Town and shall make available a place for the custody of such records. Also, in compliance herewith, the Town Manager shall make available to the Clerk, stenographic or clerical assistance necessary for the preparation of the journal of Town Board Proceedings, and the record of ordinances and all other documents which by law the Clerk is required to keep; and he shall perform similar service for the treasurer in the maintenance of bond registers, and all other records or documents which by law the treasurer is required to keep or prepare.

**131.6.10.2.** Where the law requires or provides for certification of any records or documents by an officer of the town, the Town Manager shall cause such records or documents to be properly prepared and presented to such officer for his/her signature.

**131.6.11. Collector and Controller.**

The Town Manager shall be ex officio Town Collector and Town Controller unless such offices, or either of them, are duly filled by appointment, and he shall perform the duties of each such office in the absence of such appointment to either of them.

**131.6.12. Maps and Plats.**

The Town Manager shall cause to be kept a complete set of maps and plats showing the location of

all town utilities, and other municipal properties, all streets and other public places, and all lots and parcels of land subdivided according to law.

**131.6.13. Offices.**

The Town Manager shall maintain an office in the Town Hall and shall spend such time in the performance of duties as may be required by the Board of Trustees.

**131.6.14. Absence from the Town.**

In the event that the Town Manager is absent from the Town or incapacitated to such a degree he/she is unable to perform the duties required of his/her position, the Town Manager shall designate which staff member shall act as Town Manager during such absence or incapacity. This designation shall occur at the first meeting of each year and such designation shall be effective for the remainder of the year, upon approval by the Board of Trustees. In the event that the designated staff member desires to be removed from such designation, the designated employee leaves employment with the Town of Limon, or the Town Manager believes that another employee would better fulfill those obligations and responsibilities in the absence of the Manager; the Town Manager may reselect his designee at any time subject to approval of the Board of Trustees.

**131.6.15. Property.**

The Town Manager shall be responsible for the care and custody of all such property including equipment, buildings, parks and all other town property, which is not by law assigned to some other officer or body for care and control.

**131.7. Public Works Director.**

(Added June 6, 1996 by Ordinance No. 398; Section deleted in its entirety May 6<sup>th</sup>, 2010 by Ordinance No. 538.)

**131.8. Town Clerk / Treasurer.**

(Amended on July 11, 2002 by Ordinance No. 477)

**131.8.1. Appointment.**

The office of Town Clerk and Town Treasurer shall be filled by the same person until such time as the Code may be amended by the Board of Trustees. The Board of Trustees shall appoint the Clerk / Treasurer at the first meeting following a regular municipal election.

**131.8.2. Statement of Statutory Duties.**

The Town Clerk / Treasurer is appointed by the Board of Trustees, pursuant to Title 31, Part 4, Section 304 of the Colorado Revised Statutes. Pursuant to state statute, the Town Clerk is given the following statutory duties:

**131.8.2.1.**To attend all meetings of the board of trustees and to make a true and accurate record of all the proceedings, rules, and ordinances made and passed by the Board of Trustees.

**131.8.2.2.**To be the custodian of the records of the Town, not otherwise assigned to another officer, which records are to be in the Clerk's custody and shall be open to inspection at all reasonable times and under reasonable regulations established by the Town as provided in the Open Meetings Law. The records maintained by the Town Clerk shall include any codes adopted by reference by the Board.

**131.8.2.3.**To be the election official, as defined by statute, for all municipal elections and to fulfill all duties of the election official.

**131.8.3 Supervisory Authority as to Statutory Duties.**

The Town Clerk / Treasurer, as to those statutory duties set forth above, as well as any other duties that may subsequently be assigned to the Town Clerk / Treasurer by state statute, is empowered and authorized to generally direct the employees stationed in the Administrative Department, including but not limited to the Code Enforcement Technician and the Billing Clerk / Receptionist, provided that such supervision does not interfere with the duties, authority, and objectives of the Town Manager.

**131.8.4. Statement of Assigned Duties.**

The Town Clerk / Treasurer is also subject to all policies of the Town of Limon and responsible for the fulfillment of all duties imposed by the Board of Trustees. The assigned duties of the Town Clerk / Treasurer shall include but not necessarily be limited to those duties set forth in the following:

**131.8.4.1.**The Town Clerk / Treasurer shall have financial responsibilities to include payroll, investments, vouchers payable, cash receipts, accounts payable and receivable.

**131.8.4.2.**The Town Clerk / Treasurer shall have responsibility for the entering of all financial information into the Town computer and software network as provided by the Town.

**131.8.4.3.**The Town Clerk / Treasurer shall be responsible for all information and notice management including posting of notice, when necessary, and publication of all notices, ordinances, resolutions, and other documents required by law to be published including but not limited to minutes and the agendas for the Board of Trustees, Planning Commission, and the Board of Adjustment meetings.

**131.8.4.4.**The Town Clerk / Treasurer shall be responsible for the issuance of licenses and permits, applicable to his or her position, and for the handling of Town insurance policies, including Workers Compensation and health insurance, as well as other benefit programs.

**131.8.4.5.**The Town Clerk / Treasurer shall be responsible for the monitoring of all required substance abuse compliance programs.

**131.8.4.6.**The Town Clerk / Treasurer shall be responsible for the collection of all money due to the Town.

**131.8.5. Supervision and Supervisory Authority as to Assigned Duties.**

As to all assigned duties, as set forth above and any other duties subsequently assigned by the Board, the Town Clerk / Treasurer shall be under the supervision of the Town Manager. Subject to the Town Manager's overall administrative supervising authority, the Town Clerk / Treasurer, is empowered and authorized to generally direct the employees stationed in the Administrative Department, including but not limited to the Code Enforcement Technician and the Billing Clerk / Receptionist.

**131.9. Town Attorney.**

**131.9.1. Appointment.**

The office of Town Attorney shall be filled by a person who is licensed and in good standing to practice law in the State of Colorado. The office may be subject to competitive bidding at the discretion of the Board of Trustees. The Board of Trustees shall appoint the Town Attorney at the first meeting following a regular municipal election.

**131.9.2. Statement of Duties.**

The Town Attorney is appointed by the Board of Trustees, pursuant to Title 31, Part 4, Section 304 of the Colorado Revised Statutes. The Town Attorney shall attend all meetings of the Town Board unless directed otherwise by the Mayor. The Town Attorney shall also attend meetings of the Planning Commission, Board of Adjustment, or other municipal meetings or functions when so requested by the Town Manager. The Town Attorney is required to address all legal questions given to him or her by the Mayor, Board of Trustees, Town Manager, Police Chief, and the Town Clerk / Treasurer, unless a Town policy directs otherwise. The Town Attorney shall further perform such other duties as may be required of him or her by ordinance, or by request of the Mayor, Town Manager, Police Chief, and the Town Clerk / Treasurer."



**132 - Salaries**

HISTORY: 1958 Municipal Code

**132.1. Establishment.**

The officials and employees designated herein shall receive the monthly salaries indicated:

<u>Title</u>	<u>Salary</u>
Mayor	\$ 49.75
Trustee	45.00

(Amended by Ordinance No. 380 on October 6, 1994 and by Ordinance 436 on December 16, 1999)

**132.2. Payment.**

All salaries shall be paid in equal monthly installments, unless provision is made to the contrary, by the Board. The treasurer shall prepare a payroll list monthly which, when signed by the mayor and clerk, shall authorize the issuance of checks for the salaries indicated to be due. Deductions as provided by law shall be made for pension funds, social security, withholding, or income tax, and insurance.



**133 - Zoning**

HISTORY: 1958 Municipal Code; Portions repealed by Ordinance No. 376 adopted on June 2, 1994 where Land Development Code addresses and supercedes.

HISTORY: Pursuant to powers in the 1958 Municipal Code, Ordinance No. 188 adopted July 1, 1965, was added to Sections 133 - Zoning. See Land Development Code for additional information.

**133.1. Definitions.**

**133.1.1. Basement House.** A dwelling or structure constructed partly or wholly below the grade level of any property.

**133.2. Basement Houses and Moving Houses.**

**133.2.1.** No basement house, as defined in this ordinance shall be erected in the Town of Limon.

**133.2.2.** No house, constructed, or partially constructed, shall be moved into or within the Town of Limon without approval of the Board of Adjustment. Before moving a house into the Town of Limon, or from one lot to a different lot within the Town, application shall be made to the Board of Adjustment. Said application shall be accompanied by a detailed set of plans and specifications of the finished house.

**133.2.3.** The houses referred to in this section shall include converted trailer coaches, with or without wheels, and buildings of the type of construction and material known as "Quonsets" or otherwise constructed for the most part of metal components, whether or not such buildings are used for residences or accessory buildings.

(Added March 3, 1966 by Ordinance no. 191)

**133.3. Board of Adjustment.**

(Amended completely on September 11, 1997 by Ordinance No. 415)

**133.3.1.** A Board of Adjustment is hereby established. The Board shall consist of five members and shall be appointed by the Mayor with the approval of the Board of Trustees, each to be appointed for a term of three years, except that of the first board appointed after this Ordinance, two members shall be appointed for a term of three years, two members shall be appointed for a term of two years and one member for a term of one year. The presence of four members shall constitute a quorum and any action to reverse or modify any order, requirement, decision or determination appealed from or approve any variance request shall require four votes for approval. A motion to uphold any order, requirement,

decision, or determination or deny any variance request shall require a majority of the board's membership present.

**133.3.2.** A vacancy in the Board shall be appointed by the Mayor with the approval of the Board of Trustees to complete the term of the members replaced.

**133.3.3.** Members of the Board may be removed from office by a two-thirds vote of the Board of Trustees upon a motion including a statement of the specific reasons or findings of fact that support a motion for removal on the grounds of inefficiency, neglect of duty or malfeasance in office. The vacancy created would be filled pursuant to Section **133.3.2.**

**133.3.4.** The Land Development Code adopted by Ordinance No. 376, as amended, provides the appeal and variance process decided on by the Board of Adjustments.

**133.4. Certificate for Occupancy for Land.**

**133.4.1.** Certificate of occupancy for the use of vacant land or the change in the use of land as herein provided shall be applied for before any such land shall be occupied or used, and a certificate of occupancy shall be issued within ten days after the application has been made, provided such use is in conformity with the provisions of these regulations.

**133.4.2.** Certificate of occupancy shall state that the building or proposed use of a building or land, complies with all the building and health laws, codes and ordinances and with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Building Inspector, and copies shall be furnished on request to any person having a proprietary or tenant's interest in the building affected. No fee shall be charged for an original certificate applied for coincident with the application for a building permit; for all other certificates, or for copies of the original certificate there shall be a fee charged of One Dollar each.

**133.4.3.** No permit for excavation for any building shall be issued before application has been made for certificate of occupancy.

**133.5. Plats.**

Applications for building permits shall be accompanied by a plat in duplicate drawn to scale showing the actual dimensions of the lot to be built upon, the size of the building to be erected, and such other information as may be necessary to provide for the enforcement of

these regulations. A careful record of such applications shall be kept in the office of the Building Inspector.

**133.6. Interpretation, Conflict and Purpose.**

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirement for the promotion of the public health, safety, morals, order, conveniences, happiness, prosperity, and general welfare. It is not intended by this ordinance to interfere with, or abrogate or annul any easements, covenants, or other agreements, between parties; provided, however, that wherever this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or permits, or easements, covenants, or agreements, the provisions of this code shall govern.



**134 – Utility Service Billing**

**134.1.** Utility Billing shall include all billings for Water (Section **135**), Wastewater (Section **137**), Sanitation (Section **550**), as well as Miscellaneous Billings. These billings shall be combined on a single Utility Service Bill. The sum of these billings shall be the Principal Amount Owed. The Utility Service Bill shall include any Principal Amount Owed as well as any penalty fees and interest fees allowed by Section **134**.

HISTORY: Added on July 1, 1999 by Ordinance No. 431; amended November 5, 2009 by Ordinance No. 532.

**134.2. Billing Date.**

The Utility Service Bill described in Section **134.1.** shall be dated and mailed on the first working day of each month.

**134.3. Due Date.**

The Utility Service Bill shall be due and payable fourteen (14) days after the Billing Date.

**134.4. Delinquent Date.**

The Utility Service Bill shall be considered delinquent seven (7) days following the Due Date and shall be subject to a Penalty Fee in the amount of fifteen dollars

(\$15.00) or up to five percent (5%) per month, or fraction thereof, not to exceed a total of twenty-five percent (25%) of the amount due, whichever is greater.

(Amended November 5, 2009 by Ordinance No. 532.)

**134.5. Shut-Off-Date.**

Water Service shall be shut-off on the Delinquent Date of the following month. In cases where the Water Service is shut-off due to delinquency, a Reconnect Fee of twenty-five dollars (\$25) will be paid before water service is restored.

**134.6. Interest.**

In addition to the Penalty Fee, on the Delinquent Date of the following month, interest will be charged at the rate of one and one-half percent (1.5%) per month, not to exceed an annual percentage rate of eighteen percent (18%) on the Principal Amount Owed.

**134.7. Delinquent Notice.**

On the Delinquent Date a Delinquent Notice shall be mailed to the customer. Such Delinquent Notice shall state the amount of the Billing for Utility Services, the amount of penalty fee and the Shut-Off date and Reconnect Fee. The delinquent notice to be mailed under the provisions of this section shall be substantially as follows:

\_\_\_\_\_ 20\_\_\_\_\_

Your account # \_\_\_\_\_ is now delinquent in the principal amount of \$ \_\_\_\_\_.

A Penalty Fee of \$ \_\_\_\_\_ has been assessed.

The total amount owed is now \$ \_\_\_\_\_.

If this amount is not paid in full by \_\_\_\_\_, service will be discontinued without further notice.

A \$25.00 Reconnect fee will be charged if it comes necessary to disconnect your water service.

Accounts delinquent for more than 30 days are subject to an additional interest fee equal to 1.5% of the principal amount

All charges must be paid before service is re-established.  
TOWN OF LIMON

**134.8. Lien.**

**134.8.1.** Charges for water and sewer shall be a lien upon the premises as provided by statute. Whenever a bill for water service remains unpaid sixty days after is has been rendered, the clerk may file with the recorder of

Lincoln County, a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the town claims a lien for this amount as well as for all charges for water served subsequent to the period covered by the bill.

**134.8.2.** If the consumer of water, whose bill is unpaid, is not the owner of the premises, and the clerk has notice of this, then notice shall be mailed to the owner of the premises, if his address is known to the clerk, whenever such bills remain unpaid for a period of sixty days after the bill is rendered.

**134.8.3.** The failure of the clerk to record such lien claim or to mail such notice, or the failure of the owner to receive such notice, shall not affect the right to foreclose the lien for unpaid water bills as mentioned in the following section.

**134.8.4. Foreclosure of Lien.**

Property subject to a lien for unpaid water charges shall be sold for nonpayment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be by and in the name of the Town of Limon.



**135 - Water Department**

HISTORY: 1958 Municipal Code; Amended by Ordinance No. 398 on June 6, 1996; Amendments Noted As Shown

**135.2. Water Department General Provisions.**

**135.2.1. Turning On:** No water from the town water supply shall be turned on for service into any premises by any person but the Town Manager or some person authorized by him to perform this service.

**135.2.2. Plumbing:** No water shall be turned on for service in premises in which the plumbing does not comply with the ordinances of the town; provided, that water may be turned on for construction work in unfinished buildings, subject to the provisions of this code.

**135.2.3. Water Service Connection Fees:** No connections with a water main shall be made without a permit issued and 24 hours notice having been given to the Town Manager. All such connections shall be made and all such work done at the expense of the applicant for service who shall also furnish materials necessary for such work; all such connections shall be made under the supervision of the Superintendent and no connection shall be covered until the work has been inspected by him. Applications for such connections must be made to the Town Clerk and the fee, according to the following schedule shall be paid:

**135.2.3.1. Connections Within the Town of Limon From the Effective Date of this Code, Charges Assessed to Each New Water Service, Based on Meter Size, Will be as Follows:**

<u>Size</u>	<u>Areas Inside The Town Limits or Annexed</u>	<u>Areas Outside The Town Limits</u>
3/4"	\$ 2,460.00	4,920.00
1"	3,284.00	6,569.00
1 1/2"	7,380.00	14,760.00
2"	13,100.00	26,199.00
3"	29,520.00	59,040.00
4"	52,472.00	104,944.00

(Amended May 9, 2002 by Ordinance No. 471)

**135.2.3.2.** Subdivisions having private parks with maintenance assessed to the owner thereof will be charged an additional water development fee of \$1,000.00 of each acre so developed.

(Amended December 1, 1977 by Ordinance no. 246)

**135.2.3.3.** Any permit to connect with a Town water main issued under the authority of this Section **135.2.3.** shall specify the street address or other legal description of the land or building for the service of which the permit is issued. The permit shall only be valid for connection to the Town water mains for service to the land or building described in the permit.

**135.2.3.4.** Any permit to connect with a Town water main issued under the authority of this Section **135.2.3.** shall expire and become null and void one year after the date of issuance thereof, unless connection is made to a Town water main under the authority of said permit within such one year period.

(Added May 7, 1981 by Ordinance No. 272)

**135.2.4. Resale.**

No water shall be resold or distributed by the recipient thereof from the town supply to any premises other than that for which application has been made and the meter installed, except in case of emergency.

**135.2.5. Tampering.**

It shall be unlawful for any person not authorized by the Town to tamper with, alter or injure any part of the town waterworks or supply system, or any meter.

**135.2.6. Penalty.**

Any person, firm or corporation violating any provision of this code shall be fined not less than ten dollars nor more than three hundred dollars for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

**135.3. Service Pipes.**

**135.3.1. Installation.**

All service pipes from the mains to the premises served shall be installed by, and at the cost of, the owner of the property to be served on the application for the service. Such installation shall be under the inspection of the building inspector.

**135.3.2. Pipes.**

No service shall be installed unless it conforms to standards and regulations promulgated by the Town Board, a copy of which may be inspected at the office of the town clerk.

**135.3.3. Repairs.**

All repairs for service pipes and plumbing systems of buildings shall be made by and at the expense of the owners of the premises served. The town may in case of an emergency, repair any service pipes and if this is done the cost of such repair work shall be repaid to the town by the owner of the premises served.

**135.3.4. Excavations.**

Excavations for installing service pipes or repairing the same shall be made in compliance with the code provisions relating to making excavations in streets. Provided, that it shall be unlawful to place any service

pipe in the same excavation with, or directly over, any drain pipe or sewer pipe.

**135.3.5. Shut – Off Boxes.**

Shut-off boxes or service boxes shall be placed on every service pipe, and shall be located between the curb line and the sidewalk line where this is practicable. Such boxes shall be so located that they are easily accessible and shall be protected from frost.

**135.4. Meters – Rates.**

**135.4.1. Meters Required.**

All premises using the town water supply must be equipped with an adequate water meter furnished by the town but paid for by the consumer; provided, that such water service may be supplied by the town at a flat rate of charge until such meter may be installed.

**135.4.2. Installation.**

Meters shall be installed in a location that will be easy of access.

**135.4.3. Reading Meters.**

The Town Manager shall read or cause to be read every water meter used in the Town at such times as are necessary that the bills may be sent out at the proper time.

**135.4.4. Testing Meters.**

Any municipal water meter shall be taken out and tested upon complaint of the consumer, upon payment of a fee of \$5.00. If upon test the meter is not within three per cent of being accurate, it shall be repaired or replaced and the \$5.00 fee returned to the consumer. If, the meter is correct according to the above standards, the \$5.00 fee shall be retained by the Town.

**135.4.5. Rates within the Corporate Limits of the Town of Limon.**

**135.4.5.1.**All premises which may now or may hereafter be constructed or created having a connection with any mains or pipes which may be used hereafter or are now constructed and used in connection with the Town water system shall pay the following rates per month in the following column:

RATE	SCHEDULE IN GALLONS
\$13.83	First 3,999
\$3.32 per 1000 gallons	4000-14,999
\$3.46 per 1000 gallons	15,000-33,999
\$3.60 per 1000 gallons	34,000-up

**135.4.5.2.**The minimum (monthly) rate for all premises connected to the system by any tap whatsoever shall be \$13.83.

**135.4.5.3.**On an annual basis, these rates shall be adjusted by the amount of the previous year's Denver-Boulder Consumer Price Index with no further action of the Board of Trustees. The annual adjustment will take place in the January billing beginning in 2011.

(Amended June 21, 1962 by Ordinance No. 180; Amended November 6, 1969 by Ordinance No. 210; Amended October 5, 1972 by Ordinance No. 220; Amended June 2, 1977 by Ordinance No. 243; Amended November 1, 1979 by Ordinance No. 263; Amended May 1, 1986 by Ordinance No. 316.; Amended December 5, 1996 by Ordinance No. 408; Amended November 12, 1998 by Ordinance No. 425; Amended December 4, 2008 by Ordinance 527; Amended November 5, 2009 by Ordinance No. 535)

**135.4.6. Bills.**

(Amended April 1, 1982 by Ordinance No. 285; Deleted July 1, 1999 by Ordinance No. 431 – See Utility Billing, Chapter 134)

**135.4.7. Bulk Water.**

(Amended March 6, 2008 by Ordinance No. 523.)

The Town Manager shall have the authority to sell bulk water pursuant to applicable laws and ordinances for use within the Town of Limon and outside the limits of the Town of Limon. All such sales shall pay two (2) times the currently adjusted rates shown in Section **135.4.5.** -- Rates Within the Corporate Limits of the Town of Limon for rate category 34,000-up.

**135.4.8. Non-Payment.**

(Amended April 1, 1982 by Ordinance No. 285; Deleted July 1, 1999 by Ordinance No. 431 – See Utility Billing, Chapter 134)

**135.4.9. Lien.**

(Deleted July 1, 1999 by Ordinance No. 431 – See Utility Billing, Chapter 134)

**135.4.10. Foreclosure of Lien.**

(Deleted July 1, 1999 by Ordinance No. 431 – See Utility Billing, Chapter 134)

**135.4.11. Water Service Outside the Corporate Limits of the Town of Limon.**

**135.4.11.1. Eligibility.** At no time shall; the Town of Limon grant water service to a customer outside the corporate limits of the Town of Limon unless a majority of the Board of Trustees takes action at a duly called meeting of the Board of Trustees specifically allowing such water Service.

**135.4.11.2. Determination.** Prior to such action as described in **135.4.11.1.** the Board of Trustees shall consider the following items in order to ensure that the public welfare shall be preserved.

**135.4.11.2.1.** Would service affect the ability to provide service to customers within the corporate limits of the Town of Limon?

**135.4.11.2.2.** What is the economic benefit to the Town of Limon?

**135.4.11.2.3.** What affect will this service have on future development and annexations by the Town of Limon?

**135.4.11.2.4.** What factors prevent annexation of the property to be served by the Water Service?

**135.4.11.3. Finding.** Prior to granting or denying water service outside the corporate limits of the Town of Limon the Board shall include in their decision a finding which explains the factors explored in the determination.

**135.4.11.4.** All services which currently existed upon the effective date of this code shall remain the responsibility of the customer until such time as the customer requests re-tapping of a Town of Limon water main.

**135.4.11.4.1.** At the time any customer located outside the corporate limits requests re-tapping of a Town of Limon water main, the existing installation must be upgraded and will meet all requirements described in Section **135.4.11.5.**

**135.4.11.5.** All services granted according to this code shall meet the following requirements:

**135.4.11.5.1.** The owner /developer shall be responsible for the extension or creation of water transmission facilities and mains to and from the property to be served.

**135.4.11.5.2.** The water system shall be designed and installed by the developer/owner in accordance with the requirements of the Town.

**135.4.11.5.3.** Water mains shall be installed to serve each lot.

**135.4.11.5.4.** All pipe and other transportation materials, upon installation, shall be deemed to be the exclusive property of the Town. Further, prior to installation, the customer shall be responsible for acquiring appropriate easements for the installation of necessary equipment. Such easements for water lines shall be deeded and dedicated as exclusive easements in favor of the Town and no structure or other obstruction other than fences and landscaping shall be allowed within a water line easement.

**135.4.11.5.5.** Water line easement acquired shall be recorded with the Lincoln County Clerk and Recorder.

**135.4.11.5.6.** All installations shall meet all the requirements for service lines and water meters in section **135.**

**135.4.11.5.7.** The Town of Limon may require larger mains to be constructed in order to serve the needs of adjacent property owners. When this occurs, the Town may enter into an agreement with the customer to collect from adjacent landowners a pro-rata share of the construction costs and refund such costs to the customer at the time of each connection. Any Cost Recovery Agreement shall meet the requirements of Section **III.7.5.** of the Land Development Code of the Town Of Limon.

**135.4.11.6 Rates Outside the Corporate Limits of the Town of Limon.** All services connected to the Town of Limon water system shall pay two (2) times the rates shown in Section **135.4.5.** -- Rates Within the Corporate Limits of the Town of Limon.

(Amended June 21, 1962 by Ordinance No. 180; Amended November 6, 1969 by Ordinance No. 210; Amended October 5, 1972 by Ordinance No. 220; Amended June 22, 1977 by Ordinance No. 243; Amended November 1, 1979 by Ordinance No. 263; Amended May 1, 1986 by Ordinance No. 316; Amended by December 5, 1996 by Ordinance No. 408)



**136 - Parks and Recreation Board**

HISTORY - 1958 Municipal Code; Deleted in its entirety by Ordinance No. 380 on October 6, 1994



**137 - Sewer Department**

HISTORY: 1958 Municipal Code and Amended July 7, 1958 by Ordinance No. 171, repealed and replaced by Ordinance No. 339; Amended March 6, 2003 by Ordinance 480

**137.1. Definitions.**

**137.1.1.** Unless the context specifically indicates otherwise, the following terms as used in Section 137, shall have the meanings hereinafter designated:

**137.1.1.1.Act:** the Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500, and subsequent amendments (e.g., Clean Water Act of 1977).

**137.1.1.2.Authorized Representative of Industrial User:**

**137.1.1.2.1.**A principal executive officer of at least the level of vice president, if the industrial user is a corporation;

**137.1.1.2.2.**A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

**137.1.1.2.3.**A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facility from which the indirect discharge originates.

**137.1.1.3.BOD or Biochemical Oxygen Demand:** the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory methods of five (5) days at twenty degrees (20°) C., expressed in terms of weight and concentration (milligrams per liter).

**137.1.1.4.Building Official:** the Town Superintendent of the Town of Limon, Colorado or his designated representative.

**137.1.1.5.Collection Line:** that portion of the wastewater treatment system which collects and

transmits wastewater from users to the wastewater treatment plant, excluding service lines.

**137.1.1.6.Commercial:** pertaining to all wastewater service provided to other than residential, restaurant, or industrial users.

**137.1.1.7.Compliance Schedule:** a schedule containing increments of progress in the form of dates for the commencement and/or completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards.

**137.1.1.8.Composite Sample:** a series of grab samples of equal volume taken over a predetermined time period without regard to flow and which are combined into one sample.

**137.1.1.9.Conventional Pollutant:** BOD, suspended solids, pH and fecal coliform bacteria, and such additional pollutants as are now or may be in the future specified and controlled in the Town's CDPS permit for its wastewater treatment works where said works have been designed and used to reduce or remove pollutants.

**137.1.1.10. Cooling Water:** the water discharged from uses such as air conditioning or refrigeration or to which the only pollutant added is heat.

**137.1.1.11. Domestic Wastes or Sanitary Wastes:** liquid wastes:

**137.1.1.11.1.** From the noncommercial preparation, cooking and handling of food, or

**137.1.1.11.2.** Containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions.

**137.1.1.12. Fast Food Restaurant:** an establishment where meals and refreshments are prepared on the premises for sale to the public and said meals are served in or on paper products and no garbage disposal is located upon the premises.

**137.1.1.13. Fixture Unit Equivalent:** the unit value prescribed for plumbing fixtures as set out in the Uniform Plumbing Code, latest edition, computed on the basis of the design capability of such fixture to permit the flow of water or wastewater.

**137.1.1.14. Garbage:** solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of food.

**137.1.1.15. Grab Sample:** a singular sample of a user's effluent which is taken during the user's normal operating day without regard for variations in daily operational characteristics, flow or concentrations of pollutants.

**137.1.1.16. Incompatible Pollutant:** any pollutant which is not a "conventional pollutant" as defined in Section 137.1.1.9.

**137.1.1.17. Individual Wastewater Disposal System:** a septic tank, cesspool or similar self-contained receptacle or facility which collects and/or treats or otherwise disposes of wastewater and which is not connected to the wastewater treatment system of the Town.

**137.1.1.18. Industrial User:** a source of indirect discharge under regulations pursuant to the Act or for which local pretreatment standards have been published by the Environmental Protection Agency or for which local pretreatment standards have been established.

**137.1.1.19. Industrial Waste:** any liquid, solid or gaseous waste or form of energy or combination thereof resulting from any process or operational procedures of an industrial user.

**137.1.1.20. Interference:** inhibition or disruption of the publicly owned treatment work's (POTW's) sewer system, treatment processes operations or which contributes to a violation of any requirement of the Towns' CSPS permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act (33 V.S.C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Wastes Disposal Act (SWDA), the Resource Conservation and Recovery Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria applicable to the method of disposal or use employed by the POTW.

**137.1.1.21. Master Plumber:** a master plumber as defined in and licensed pursuant to Article 58 of Title 12 of the Colorado Revised Statutes as the same may be now or hereafter amended.

**137.1.1.22. NPDES or National Pollutant Discharge Elimination System:** the program for issuing, conditioning and denying permits for the

discharge of pollutants from point sources into the navigable waters, the contiguous zone and the oceans pursuant to Section 402 of the Act. This shall be analogous with the term CDPS, Colorado Discharge Permit System, wherein the State of Colorado is delegated the authorities and responsibilities outlined above.

**137.1.1.23. New Source:** any industrial user, the construction of which is commenced after the effective date of regulations prescribed in Section 307 (c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such industrial user.

**137.1.1.24. Normal Domestic Strength Wastewater:** wastewater that when analyzed by standard methods contains no more than 280 milligrams per liter of suspended solids (TSS) and 280 milligrams per liter of BOD.

**137.1.1.25. Operating Day:** that portion of a twenty-four (24) hour day during which industrial wastes are discharged or generated.

**137.1.1.26. pH:** the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution.

**137.1.1.27. Plant Investment Fee:** that charge assessed against new users of the wastewater treatment system to finance capital improvement of the wastewater treatment system.

**137.1.1.28. Pretreatment:** application of physical, chemical and/or biological processes to reduce the amount of pollutants in or to alter the nature of the pollutant properties in wastewater prior to discharging such wastewater into the wastewater treatment system.

**137.1.1.29. Pretreatment Standards:** all applicable Federal rules and regulations implementing Section 307 of the Act, as well as any nonconflicting State or local standards. In cases of conflicting standards or regulations, the more stringent thereof shall be applied.

**137.1.1.30. Receiving Water:** lakes, rivers, streams, or other watercourse which receive treated or untreated wastewater.

**137.1.1.31. Residential:** pertaining to wastewater service provided premises used as dwelling places or residences, including, but not limited to, single-family dwellings, common wall multi-family dwellings, mobile homes, and manufactured homes.

**137.1.1.32. Restaurant:** an establishment where meals and refreshments are prepared on the premises for sale to the public.

**137.1.1.33. Service Line:** the wastewater collector line extending from the wastewater disposal facilities of the premises up to and including the connection to the collection line.

**137.1.1.34. Significant Industrial User:** any industrial user of the Town's wastewater treatment system whose discharge rate:

**137.1.1.34.1.** Exceeds twenty-five thousand (25,000) gallons per average operating day, or

**137.1.1.34.2.** Is determined by the Superintendent to have significant impact, either singly or in concert with other contributing industries, in the treatment works such that the quality of the effluent from the treatment works deviates from the requirements set forth in the Colorado Discharge Permit System (CDPS) permit issued to the Town, or such that interference with the treatment process or facilities would result.

**137.1.1.35. Significant Violation:** a violation of this code which remains uncorrected forty-five (45) days after notification of noncompliance; or which is a pattern of noncompliance over a twelve (12) month period; or which involves a failure to accurately report noncompliance; or, which resulted in the POTW exercising its emergency authority under Section 403.8(F) (1)(IV)(B) of the Act.

**137.1.1.36. Sludge Discharge:** any discharge of water, sewage or industrial waste which:

**137.1.1.36.1.** Contains any substances regulated by Article VIII in concentrations which exceed for any period longer than ten (10) minutes more than five (5) times the average daily concentration of that substance during normal operations and exceeds the limitations contained in Article VIII; or,

**137.1.1.36.2.** Causes a twofold or more increase in discharge rate for a period longer than twenty (20) minutes; or

**137.1.1.36.3.** Causes the user's effluent to violate the pH limitations provided in Article VIII for a period longer than twenty (20) minutes.

**137.1.1.37. Storm Water:** any flow occurring during or immediately following any form of natural precipitation and resulting there from.

**137.1.1.38. Superintendent:** the Town Manager or his designated representative.

(Amended June 6, 1996 by Ordinance No. 398)

**137.1.1.39. Suspended Solids:** the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering by standard methods.

**137.1.1.40. Town:** the Town of Limon, the operating organization responsible for the operation and maintenance of the wastewater treatment system.

**137.1.1.41. Unpolluted Water:** is water not containing any substances limited or prohibited by the effluent standards in effect or water whose discharge will not cause any violation of receiving water quality standards.

**137.1.1.42. User:** any person who discharges, or causes or permits the discharge of wastewater into the Town's wastewater treatment system.

**137.1.1.43. User Classification:** a classification of users such as residential, commercial, restaurant, industrial, or significant industrial user.

**137.1.1.44. Wastewater:** the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the Town's wastewater treatment system.

**137.1.1.45. Wastewater Treatment System or Wastewater System:**

**137.1.1.45.1.** Any devices, facilities, structures, equipment or works owned or used by the Town for the purpose of the transmission, storage, treatment, recycling and reclamation of industrial and domestic wastes, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including intercepting sewers, outfall sewers, collection lines, pumping, power and other equipment, and their appurtenances and excluding service lines;

**137.1.1.45.2.** Extensions, improvements, additions, alterations, or any remodeling thereof;

**137.1.1.45.3.** Elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and

**137.1.1.45.4.** Any works, including the land and sites that may be acquired, that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

**137.1.2.** Terms not otherwise defined herein shall have the meanings adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

**137.2. County Health Department, Health Officer**

Any reference in this code to the "Department of Health" or "the Health Department" shall mean the Department of Health of Lincoln County. Any reference in this code to the "Health Officer" shall mean the Health Officer of the Department of Health of Lincoln County, or his designated representative.

**137.3. Town Responsibilities.**

**137.3.1. Responsibility of the Town.**

The Town shall be responsible for the wastewater systems and wastewater treatment plant serving the Town and such other areas as authorized by the Board of Trustees.

**137.3.2. Responsibility of Superintendent.**

The Superintendent of the Town shall be responsible for the management of the wastewater system of the Town and all of the property appertaining thereto. He shall see that such system is kept properly cleaned and in good working order and repair. He shall insure proper compliance with all local, State and Federal regulations for collection, treatment, and discharge of wastewater and shall perform all other duties in connection with such system as may be required of him by the Board of Trustees.

**137.3.3. Rules and Regulations; Adoption of.**

The Superintendent may adopt rules and regulations consistent with the provisions of this code for the administration of the wastewater system. Rules and regulations adopted by the Superintendent pursuant to this code shall pertain to, but shall not be limited to, discharge limitations, pretreatment requirements, standards, standards for installation of wastewater lines and services and implementation of standards promulgated pursuant to the Act. In establishing such rules and regulations, the Superintendent shall seek to

establish standards that will assure safe, efficient operation of the wastewater system, that will limit wastewater discharges to the system in concentrations and quantities which will not harm either the wastewater system, wastewater treatment process or equipment, that will not have an adverse effect on the receiving water, or will not otherwise endanger persons or property or constitute a nuisance. Such rules and regulations shall become effective after ratification by the Board of Trustees of the Town.

**137.4. Wastewater Service.**

**137.4.1. Application for Service.**

Any person desiring to connect a service line to the wastewater treatment system of the Town, or to add fixtures to an existing connection, shall make application to the Superintendent for wastewater service. The application for service shall be supplemented by any plans, specifications, or other information deemed necessary by the Superintendent to determine compliance with all codes and ordinances, regulations or rules concerning the wastewater system. The Superintendent shall endorse his approval or disapproval of the application as complying or failing to comply with all codes, ordinances, regulations or rules concerning the wastewater system of the Town. Upon approval by the Superintendent of such application, such user receiving wastewater service shall pay therefore in accordance with the applicable rates, rules and regulations.

**137.4.2. Service Outside the Town; Policy.**

The policy of the Town relating to the furnishing of wastewater treatment service to users located outside the boundaries to the Town requires agreement to annex to the Town prior to discharge of water to the Town's wastewater system. The Town expressly reserves the right, as may be limited by State or Federal law, to impose such conditions as it may see fit relative to furnishing such service, and may refuse such service in its discretion. Any deviation to this policy requires approval by the Board of Trustees of the Town.

**137.4.3. Application for Service Outside the Town.**

Any person desiring to connect a service line and/or add fixtures to an existing connection which is located outside the Town limits shall comply fully with this code. Such person shall then make application to the Town for wastewater service. The application for service shall be supplemented by any plans, specifications or other information deemed necessary by the Superintendent to

determine compliance with all regulations or rules concerning the wastewater system. The Superintendent shall endorse his approval or disapproval of the application as complying or failing to comply with all regulations or rules concerning the wastewater system of the Town.

**137.4.4. Service: Special Contract.**

**137.4.4.1.**The Town may provide by contract for the use of and connection to the Town's wastewater treatment system by institution, plants, organized sewer districts, municipal corporations or other similar users which are located outside the boundaries of the Town. Such use of or connection to the Town's wastewater treatment system shall be subject to such terms and conditions as the Town may see fit to impose.

**137.4.4.2.**Contracts entered into pursuant to this Section shall provide for compliance by the user with the discharge prohibitions and limitations contained in this code. Such contracts shall require the user to:

**137.4.4.2.1.**Submit to the jurisdiction of the Town for the purposes of the enforcement procedures and penalties set out in this code; and

**137.4.4.2.2.**Stipulate liquidated damages for violation of the provisions of this code in an amount equal to the penalties imposed herein.

**137.4.4.3.**Contracts entered into pursuant to this Section may provide for acceptance by the Town of only normal domestic strength wastewater, and the requirements of section **137.4.4.2.2.** shall not apply to such contracts. However, such contracts shall provide that any discharge of industrial wastewater by the user shall subject such user to consequential damages for breach of contract including, but not limited to, any amounts the Town may be required to pay for violation of the conditions of its CDPS permit where the discharge of the user caused or contributed to such violation. Discharges of industrial wastewater by a user bound by such contract shall not be accepted by the Town except pursuant to notice to the Town and execution of an amended or additional contract to which the requirements of section **137.4.4.2.2.** shall apply.

**137.4.4.4.**Contracts for use of or connection to the wastewater treatment system of the Town in force and effect on the effective date of this code shall remain in full force and effect in accordance with the terms and conditions thereof.

**137.4.5. Excavations for Service.**

All excavations for installation or repair of wastewater lines shall be adequately guarded with barricades and lights and meet all applicable safety standards so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of work shall be restored in a manner satisfactory to the Town and other local governing authority.

**137.5. Connection and Installation of System.**

**137.5.1. Connection Required.**

The owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the Town and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a collection line of the Town, is hereby required at such owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the proper collection line in accordance with the provisions of this code within ninety(90) days after official notice to do so, provided that said collection line is within four hundred feet (400') of the property line. Under unusual circumstances such as unique topographical characteristics, the Board of Trustees, with Health Department approval, may waive the connection requirement herein stipulated.

**137.5.2. Connection or Disconnection Permit.**

The Town shall issue a permit for each connection or disconnection made to or from the wastewater treatment system of the Town. Such permit will be required for all new connections, existing connections where additional fixtures are to be installed, and for disconnections. Permits for connections or disconnection shall be issued only to master plumbers. Discharge permits for significant industrial users shall be required as provided in sections **137.11.** and **137.12.** in addition to the connection permit.

**137.5.3. Unauthorized Connections Prohibited.**

It shall be unlawful for any unauthorized person to uncover, make any connections with or openings into, use, alter or disturb any collection line or appurtenance thereof, without first obtaining written permission from the Superintendent. Such connections shall be made in compliance with Building and Plumbing Codes, Town technical specifications and other applicable rules and regulations of the Town.

**137.5.4. Connection to System; Inspection by Town.**

The applicant for the wastewater service permit shall notify the Superintendent when the service line is ready for inspection and connection to the collection line. The connection and testing required by the Town shall be made under the supervision of the Superintendent. The Town shall not be subjected to any liability for any deficiency or defect which is not discovered by inspection nor shall the owner or developer of such premises be absolved from liability for such deficiency or defect and any resulting damage or from responsibility to correct such deficiency or defect.

**137.5.5. Collection Lines: Manner of Extension.**

Collection lines to collect and intercept wastewater from and throughout areas or additions shall be extended by the owner and/or developer of premises to be served by such lines from the existing collection line to the farthest point or points upgrade of such premises. If the Superintendent determines that extension of collection lines to the farthest point or points upgrade is not necessary for efficient expansion of the wastewater treatment system, the Superintendent may waive the requirement of such extension. In any event, collection lines shall be extended by the owner and/or developer of premises to be served by such lines from the existing collection line to a point which permits the shortest possible service line between the collection line and the property line of the premises served thereby. Thereafter said collection lines shall be extended to adjoining premises in compliance with the latest edition of the Town's regulations and specifications as promulgated, supplemented and amended by the Superintendent, as provided in section 137.3. Extensions shall not be made for remote or isolated services unless the applicant requesting such service shall provide for the cost of such extension to the point of service and such extension is approved by the Superintendent.

**137.5.6. Wastewater Lines: Compliance with Subdivision Requirements.**

No wastewater lines shall be laid or placed in any proposed addition or subdivision in the Town until said proposed addition is platted and approved by the local governing land use authority.

**137.5.7. Service Lines: Separate for Each Building; Exceptions.**

A separate and independent service line shall be provided for every building. However, where one building stands at the rear of another on an interior lot which cannot be subdivided, and no service line is available nor can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the service line of the front building may be extended to the rear building and the whole considered as one service. Multi-family or commercial or industrial complexes having more than one building on a single platted lot may have the individual buildings connected to a single common service line, unless and until such lot is re-subdivided or the buildings otherwise become separately owned in which case independent connections shall be made. Waiver of this requirement for a separate and independent service line, may be granted by the Superintendent upon re-subdivision or creation of separate ownership of individual buildings on a single lot with existing multi-family or commercial, but not industrial complexes. Such a waiver shall be granted upon showing that the service lines owned in common will be maintained by an entity of the owners of the separate buildings. By regulation, the Superintendent may provide for additional requirements to assure proper maintenance and repair of the common service lines, and, if necessary, monitoring of effluent quality or quantity. The Town does not assume any obligation nor acquire any liability for damage to the connecting property or any portion thereof caused by or resulting from any such connection to the wastewater system as aforementioned.

**137.5.8. Service Line: Construction to Conform to Rules and Regulations.**

The size, slope, alignment and materials of constructing of a service line, and the methods to be used in excavating, placing the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Building and Plumbing Codes and the Town's specifications and other applicable rules and regulations of the Town.

**137.5.9. Service Line: Use of Gravity Flow.**

Whenever possible, the service line shall be brought from the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the collection line, wastewater carried by such building drain shall be lifted by means approved by the Superintendent and discharged to the wastewater system.

**137.5.10. Service Line: Maintenance of.**

**137.5.10.1.** The owner of any premises connected to the Town's wastewater treatment system shall be responsible for the maintenance of the service line and appurtenances thereto, from and including the connection to the collection line to the premises served. The owner shall keep such line in good condition and shall replace, at his expense, any portions thereof which, in the opinion of the Superintendent, have become so damaged or disintegrated as to be unfit for further use. The owner must secure all required permits for construction purposes and shall be responsible for returning the public right-of-way and the street to acceptable Town/County standards.

**137.5.10.2.** In the event that more than one premises are connected to a single service line, the owners of the respective premises shall be jointly and severally responsible for the maintenance and repair requirements imposed by this Section.

**137.5.10.3.** Prior to repair or alteration of the service line, a permit must be obtained from the Town. A permit fee shall be imposed to cover the costs of the inspection. This inspection shall assure that codes, ordinances and rules applying to the wastewater system are met. The Town shall not be subjected to any liability for any deficiency or defect in the repair or alteration of such premises which is not discovered by inspection, nor shall the owner of such premises be absolved from liability for such deficiency or defect and any resulting damage or from responsibility to correct such deficiency or defect.

**137.5.11. Existing Lines Conditions for Use.**

Old wastewater lines may be used in connection with new buildings only when they are found, on examination by the Superintendent, to meet all requirements of this code and to be compatible with the proposed use. If found unacceptable for future use, the owner shall be required to excavate the line at the point of connection to the collection line and cap the connection as required by the Town Rules for Installation of Sewer Mains and Services.

**137.5.12. Construction: Requirements for Commencement and Completion.**

Construction of a building or facility to be served by a wastewater connection shall be commenced within one hundred eighty (180) days from the date of payment of connection charges or issuance of a permit, and such construction shall be pursued to completion without

suspension or abandonment, as set out in the Uniform Building Code under Building Permits, Section 302 (d). Failure to comply with the above regulations will result in cancellation of the permit and forfeiture of any plant investment fees paid.

**137.5.13. Fixture Unit Equivalent.**

**137.5.13.1.** Fixture unit equivalents shall be calculated using the following schedule and shall apply to "stubbed in" or "roughed in" fixture units as well as those fixtures being installed.

<u>Kind of Fixture</u>	<u>Trap and Trap Arm Unit Size</u>	<u>Equivalents</u>
Bathtubs	1-1/2"	2
Bidets	1-1/2"	2
Dental Unit or Cuspidors	1-1/4"	1
Drinking Fountains	1-1/4"	1
Floor Drains	2"	2
Interceptors for Grease, Oil, Solids, etc.	2"	3
Interceptors for Sand, Auto, Wash, etc.	3"	6
Laundry Tubs	1-1/2"	2
Clothes Washers	1-1/2"	2
Receptors, (Floor Sinks), Indirect Waste Receptors for Refrigerators, Coffee Urns, Water Stations, etc.	1-1/2"	1
Receptors, Indirect Waste Receptors for Commercial Sinks, Dishwashers, Air Washers, etc.	2"	3
Showers, Single Stall	2"	2
Showers, Gang (per shower head)	2"	1
Sinks, Bar, Private	1-1/2"	1
Sinks, Bar, Commercial	1-1/2"	2
Sinks, Commercial or Industrial, Schools, etc. Including Dishwashers, Wash-Up Sinks and Wash Fountains	1-1/2"	3
Sinks, Flushing Rim, Clinic Sinks, Double (Residential Kitchen)	3"	6
Dishwashers (Residential) Sinks, Service	1-1/2"	2
Urinals, Pedestal	2"	3
Urinals, Stall	3"	6
Urinals, Trough	2"	2
	1-1/2"	3

Wash Basins, (Lavatories)		
Single	1-1/4"	1
Wash Basins, In Sets	1-1/2"	2
Water Closet, Tank Type	3"	4
Water Closet, Flush Valve Type	3"	6

**137.5.13.2.** The unit equivalents of plumbing fixtures not listed above shall be based on the following schedule in the next column:

Trap or Trap Arm Size	Unit Equivalent
1-1/4"	1
1-1/2"	3
2"	4
3"	6
4"	8
5"	10
6"	12

**137.5.14. Disconnection.**

In the event that a user desires to disconnect his premises from the wastewater system of the Town, he shall not be permitted to take up that portion of the service line between the collection line and the property line of the premises, but at his expense the service line shall be capped at said property line and the service line shall be removed from the property line to the structure. New service lines to replace existing service lines shall not be approved by the Town until old service lines are dug up and properly capped. Such cap shall be sufficiently tight to prevent the escape of wastewater gas or the infiltration of water.

**137.6. Costs and Charges.**

**137.6.1. Wastewater Facilities: Allocation of Cost.**

**137.6.1.1.** Except as otherwise provided herein, a property owner or developer shall be responsible for the cost and construction of all wastewater facilities and the appurtenances thereto in and through his property or development upon approval of the plans and specifications by the Town. The Town shall inspect and approve the actual construction, prior to connection of the structures.

**137.6.1.2.** The Superintendent may require the property owner or developer to construct a collection line larger than that required for his needs for the service of lands adjacent to his property of development, in which case the Town may enter in to a recovery agreement

with the owner or developer to collect a pro rata share of the costs of such construction from the owner of adjacent lands at the time of their connection and refund such costs to the owner or developer. When an owner or developer finds it necessary to construct wastewater facilities through or adjacent to unserved or undeveloped lands, the owner or developer shall pay the entire cost of such facilities. However, the Town may agree in writing with the owner or developer to collect a pro rata share of the costs from the owner of property served by such facilities at the time of connection to the wastewater system and shall refund such cost to the owner or developer.

**137.6.1.3.** In the event that pump stations and force mains are required, the cost of constructing said station and mains shall be the responsibility of the owner of property served thereby. Where it appears that more area or lands may be served by the pump station and force mains, the Town may require a larger capacity than necessary to serve the initial development. Where such larger capacity is required, the Town may enter into a recovery agreement with the owner or developer to collect a pro rata share of the costs from adjacent lands at the time of their connection and refund such costs to the owner or developer.

**137.6.1.4.** In those instances where pump stations and force mains are required, the wastewater system shall be designed where possible so as to permit an eventual connection into a gravity system with a minimum of expense. Where practicable, easements shall be provided and lines constructed to tie into the gravity system. The Town may require deposits from the property owners requiring said force system, where deemed necessary, to pay for the eventual construction of gravity lines.

**137.6.1.4.1.** If an owner or developer desires to enter into a Recovery Agreement with the Town, he shall provide a complete detailed summary of all construction costs to the Town within one hundred twenty (120) days after the date of preliminary acceptance notice by the Town.

**137.6.1.4.2.** The owner or developer and the Superintendent shall jointly determine the service area of the facilities constructed by the owner or developer, and shall jointly determine a per-front-foot, per-lot or per-acre recovery charge for said service area. In the event that the owner or developer and the Superintendent shall fail to agree, the determination of the Superintendent shall be final for the purpose of review by the Town.

**137.6.1.4.3.** The amount of the recovery charge shall be computed by the terms and conditions set forth in the Recovery Agreement between the Town and the owner and developer.

**137.6.1.4.4.** The owner or developer's rights to reimbursement under the provisions of the recovery agreement shall not exceed the construction costs plus simple interest for a period of time to be stipulated in the Recovery Agreement.

**137.6.1.5.** All costs incidental to or resulting from the procurement by the Town of any required easement or right-of-way, whether obtained by dedication, contract, condemnation or otherwise, shall be borne by the owner or developer.

**137.6.2. Installation Cost.**

All costs and expenses incidental to the installation and connection of service lines from the collection line to the premises shall be borne by the owner of such premises. The owner shall indemnify the Town for any loss or damage to the Town that may directly or indirectly be occasioned by the installation of such service line.

**137.6.3. Connection Charge.**

In each lot, area, territory, subdivision or addition, inside or outside the Town limits, for which a request for wastewater connection or addition to the wastewater treatment system of the Town shall be made, there is and shall be a connection charge for each service line in said areas. Said connection charges shall consists of a permit charge and a plant investment fee and may also include recovery agreement charges.

**137.6.4. Permit Charge.**

A permit charge shall be assessed for each connection to the wastewater treatment system of the Town to defray the costs of administration and inspection. Such charge shall be assessed and collected prior to issuance of a permit to connect, in amounts as follows:

**137.6.4.1.** For each one-family dwelling or mobile home, the amount of the permit charge shall be twenty dollars (\$20.00).

**137.6.4.2.** For each commercial or industrial premises and for each two-family dwelling or multiple dwelling, the amount of the permit charge shall be twenty dollars (\$20.00) for the first fifteen (15) fixture unit equivalents, as in Section **137.5.13.**, and twenty dollars

(\$20.00) for each additional fifteen (15) fixture unit equivalents or portions thereof.

**137.6.5. Plant Investment Fee.**

**137.6.5.1.** A plant investment fee shall be assessed for each new connection to the wastewater system of the Town to partially defray the costs of capital improvement of such system. Such charge shall be collected prior to issuance of a building permit in amounts as follows:

**137.6.5.1.1.** For each residential wastewater service:

- Inside corporate limits \$1,000.00
- Outside corporate limits \$2,000.00

**137.6.5.1.2.** For each dwelling unit of all common wall multi-family residential construction, which may be described as an apartment, condominium, townhouse, stacked housing or other name form for multi-family housing, permanent or transient, and for each dwelling unit in a mobile home park, which shall be collected prior to issuance of a building permit.

- Inside corporate limits \$1,000.00
- Outside corporate limits \$2,000.00

**137.6.5.1.3.** Each commercial, restaurant, or industrial wastewater service shall be charged at the effective rate for single-family wastewater service, as defined above, for each fifteen (15) fixture unit equivalents, as in Section **137.5.13.**

**137.6.5.1.4.** Each service connection in a mobile home subdivision shall be charged at the effective rate for single-family wastewater service, as defined above.

**137.6.5.2.** The charges provided herein shall only be increased by the same percentage as the charge for each single-family wastewater service is increased and shall be effective upon such increase.

**137.6.5.3.** Payment of the wastewater system development charges provided herein shall be payable in full in cash at the time the building permit is issued or as directed by the Board of Trustees. Such charges shall not be waived for any governmental, quasi-governmental, nonprofit organization, or any other user requesting connection to the wastewater supply system of the Town without Board of Trustee approval.

**137.6.5.4.** Requests for a refund of charges paid under this Section shall be made in writing to the Superintendent within nine months of payment.

**137.6.6. Recovery Agreement Charge.**

A recovery agreement charge may be assessed for each connection to a collection line or use of a pumping facility, where such line or facility is the subject of a recovery agreement between the Town and the person who constructed such line or facility. Consistent with such agreements, such charge shall be in an amount which represents a pro rata share of the cost of construction of the line or facility and shall be collected prior to issuance of a building permit. Recovery agreements existing on the effective date of this Article shall remain in full force and effect.

**137.6.7. Basis For Rates and Charge.**

**137.6.7.1. Basis for Wastewater Service Charges:**

**137.6.7.1.1. Residential.** The amount of water billed for the January billing period of each year shall be the basis for determination of the monthly wastewater charge. In the case of new users, users not using Town water or changing service conditions, the Superintendent may designate an alternative base consumption period. The consumption established during any base period shall be used for the determination of monthly wastewater user charges until a new base consumption period occurs as provided herein.

**137.6.7.1.2. All Other.** All nonresidential customers shall be billed based on actual water consumption for each billing period. The actual water consumption may be adjusted as determined by the Superintendent as follows:

**137.6.7.1.2.1. Irrigation Allowance.**

Nonresidential users with one thousand (1,000) square feet or more of irrigated property shall be given an irrigation allowance based on the number of one hundred (100) square feet increments of irrigated property. The user must make application to the Superintendent for the credit. Application shall include an accurate accounting of irrigated property. The Superintendent shall confirm the property is under irrigation. The irrigation credit per one hundred (100) square feet if computed at the rate of 500 gallons of water per month for a six (6) month irrigation season extending from May through October, inclusive. The computed irrigation allowance shall be deducted from the monthly water volume for calculating the wastewater charge.

**137.6.7.1.2.2.** The suspension of water service and charges therefor for any premises shall relieve such premises from the payment of the monthly wastewater

service charges hereby imposed during the period that no charges are made for water.

**137.6.8. Computation of Rates and Charges.**

(Amended by Ordinance No. 434 on December 16, 1999; Amended December 4, 2008 by Ordinance No. 527; Amended November 5, 2009 by Ordinance No. 535.)

**137.6.8.1.** The rates and charges computed on the basis of water used as set forth in Section **137.6.7.** shall be as follows:

**137.6.8.1.1.** Base Customer Charge - \$6.83/month.

**137.6.8.1.2.** Normal treatment charge (excluding restaurants): minimum 6,000 gallons at rate of \$0.605 per 1,000 gallons or \$3.63 per month. All water consumed in excess of the 6,000-gallon-per-month minimum as established in Section **137.6.8.2.** shall be subject to a \$0.605 per 1,000 gallon surcharge for normal treatment.

**137.6.8.1.3.** Customers located outside the Town limits shall be charged two times the rates shown in this section for normal treatment.

**137.6.8.2.** Residential customers not connected to the Town's water distribution system shall be billed for a quantity of 6,000 gallons per month on a monthly basis and at the rates in section **137.6.8.1.**

**137.6.8.3.** Commercial users not connected to the Town's water distribution system shall be billed based on the method prescribed by the Superintendent as representative of the user's wastewater contribution volume and at the rates in subsection **137.6.8.1.**

**137.6.8.4.** Significant Industrial User Surcharge: In addition to the rates and charges imposed by sections **137.6.8.1.**, **137.6.8.2.**, and **137.6.8.3.**, significant industrial users will be assessed a surcharge for extra strength wastewater discharges. Significant industrial users located within and without the Town, which discharge Biochemical Oxygen Demand (BOD) which exceeds the normal domestic strength BOD (280 mg/l) will be assessed a surcharge as determined by the Superintendent.

**137.6.8.4.1.** The total BOD surcharge is computed by the following formula:

- $S = a \times b \times c$
- S = BOD, surcharge amount
- a = Normal domestic BOD rate per 1,000 gallons
- b = % by which the classification average discharge BOD exceeds the normal domestic discharge BOD (280 mg/l)
- c = Water volume used to calculate the wastewater user charge.

**137.6.8.4.2.** The Biochemical Oxygen Demand (BOD) quantity charge is \$0.437 per 1,000 gallons for normal domestic sewage.

**137.6.8.5.** Restaurant Surcharge: In addition to the base customer charge imposed by section **137.6.8.1.1.**, restaurants shall also be assessed a normal treatment charge as follows: minimum 6,000 gallons at rate of \$0.928 per 1,000 gallons or \$5.57 per month. All water consumed in excess of the 6,000-gallon-per-month minimum as established in Section **137.6.8.** shall be subject to a \$0.928 per 1,000 gallon surcharge for normal treatment.

**137.6.8.6.** Fast Food Restaurant Surcharge: In addition to the base customer charge imposed by section **137.6.8.1.**, fast food restaurants shall be assessed a normal treatment charge as follows: minimum 6,000 gallons at the rate of \$0.746 per 1,000 gallons or \$4.47 per month. All water consumed in excess of the 6,000-gallon-per-month minimum as established in Section **137.6.8.** shall be subject to a \$0.746 per 1,000 gallon surcharge for normal treatment.

**137.6.8.7.** On an annual basis, these rates shall be adjusted by the amount of the previous year's Denver-Boulder Consumer Price Index with no further action of the Board of Trustees. The annual adjustment will take place in the January billing beginning in 2011.

**137.6.9. Special Rates and Charges.**

**137.6.9.1. Discounts.** None.

**137.6.9.2. Contract Rates.** In the case of organized sewer district, municipal corporations or other similar users of the wastewater treatment system which are furnished wastewater treatment service pursuant to contract, the rates and charges for the use of the wastewater treatment system shall be as specified in said contracts so long as said contracts or renewals thereof remain enforce and effect.

**137.6.9.3. Tertiary Water Charges.** The Town may dispense non-potable tertiary water as such waters are available. Such waters shall be dispensed only at pressures, in quantities, and at times as determined by the Superintendent. The charges for such waters shall be as established by resolution of the Board of Trustees.

**137.6.10. Collection Procedures.**

(Deleted July 1, 1999 by Ordinance No. 431 – See Utility Billing, Chapter 134)

**137.7. Individual Wastewater Disposal Systems.**

**137.7.1. Conditions for Use.**

**137.7.1.1.** Where a collection line is not available to premises under the provisions established in this code, the wastewater disposal system facilities of such premises shall be connected to an individual wastewater disposal system complying with the provisions of this code and the Lincoln County - State Health Individual Sewage Disposal System Regulations as established by the Colorado Department of Health.

**137.7.1.2.** The type, capacity, location and layout of an individual wastewater disposal system shall comply with all standards of the Colorado Department of Health. No permits shall be issued for any individual wastewater disposal system employing subsurface soil absorption facilities where the area of the lot does not meet the regulations imposed by the Health Department. No septic tank or existing cesspool shall be permitted to discharge into any natural waterway or surface drainage.

**137.7.1.3.** Before commencement of construction of an individual wastewater disposal system on public or private property within the Town or in any area under the jurisdiction of the Town, the owner shall first obtain written approval signed by the Superintendent and by a representative of the Health Department.

**137.7.2. Privy Vaults Prohibited.**

It shall be unlawful for any person to construct or maintain a privy vault or receptacle for wastewater disposal or similar device within the limits of the Town and in all instances where such devices are now in use the owner or occupant of such premises shall discontinue the use thereof and install a proper service line or individual wastewater disposal system in accordance with the provisions of this code.

**137.7.3. Removal of Contents.**

The contents of privy vaults, septic tanks or cesspools within the limits of the Town shall not be removed therefrom, nor shall the same be transported through any street, alley or public place within the Town, except in a sanitary manner, through or by means of airtight tanks, if soft and mixed with matter, and if solid or dry, in tight covered tanks in such manner as shall prevent the escape of any noxious gases or offensive odors, and preserve such contents from sight or exposure during transportation. All tools, appliances and vehicles used in such cleaning and removal shall be kept and maintained in sanitary condition and shall be subject to inspection and licensing by the Department of Health.

**137.7.4. Designation of Dumping Grounds.**

The Board of Trustees shall, with the concurrence and approval of the Department of Health, within the boundaries of the Town, designate the dumping grounds within and upon which any wastewater residue, solid or soft matter or other matter of any kind removed from a cesspool or individual wastewater disposal system may be dumped or otherwise disposed.

**137.7.5. Cessation of Use: When Required.**

When a collection line becomes available to a property served by an individual wastewater disposal system, and upon receipt of official notice from the Superintendent to connect to the wastewater system of the Town, a direct connection shall be made by master plumber to the collection line in compliance with this code and the official notice, and any septic tanks, cesspools, and similar individual wastewater disposal systems shall be cleaned and filled with suitable material with approval of the Department of Health.

**137.8. Prohibitions and Limitations on Wastewater Discharge.**

**137.8.1. Wastewater Discharge: Treatment Required.**

It shall be unlawful for any person to discharge into any natural waterway or any surface drainage within the Town, or in any area under the jurisdiction of the Town, any wastewater unless suitable treatment of such wastewater has been provided in accordance with the provisions of this Article.

**137.8.2. Wastewater Discharge: Prohibitions.**

It shall be unlawful for any person to discharge or deposit or cause or allow to be discharged or deposited into the wastewater treatment system of the Town any wastewater which contains the following:

**137.8.2.1. Storm Water Drainage:** from ground surface, roof headers, catch basins, unroofed area drains or any other source. Also specifically prohibited is water from underground drains, sump pump discharges, natural springs and seeps, water accumulated in excavation or grading or any other water associated with construction.

**137.8.2.2. Inert Suspended Solids:** or other inert particulate matter such as, but not limited to, fullers earth, lime slurries and paint residues, resulting in wastewater with a settleable solids concentration greater than twenty-five (25) milliliters per liter.

**137.8.2.3. Unusual Concentration of Dissolved Solids;** such as but not limited to, chloride greater than ten thousand (10,000) mg/l and sulfate greater than one thousand (1,000) mg/l. The Superintendent may reject other unusually high concentrations upon determination that they are incompatible pollutants.

**137.8.2.4. Oil and Grease;** of the following concentrations, sources or nature:

**137.8.2.4.1.** Wastewater containing total grease and oil in excess of one hundred (100) mg/l concentration as measured by Soxhlet extraction set forth in the most recent edition of Standard Methods for the Examination of Water and Wastewater or U.S. EPA Manual of Methods for Chemical Analysis of Water and Wastes.

**137.8.2.4.2.** Wastewater containing more than twenty-five (25) mg/l petroleum, as measured as hydrocarbons by Soxhlet extraction, or other approved methods set out in Standard Methods for the Examination of Water and Wastewater. Evidence of oil or grease in wastewater shall be based upon instantaneous or "grab" samples.

**137.8.2.5. Explosive Mixtures.** consisting of liquids, solids or gases which by reason of their nature or quantity are, or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater treatment system or to the operation of the system. At no time shall two (2) successive readings on an explosion hazard meter at the point of discharge into

the wastewater system be more than five percent (5%), nor may any single reading be over ten percent (10%) of the lower explosive limit (L.E.L.) of the meter.

**137.8.2.5.1. Prohibited materials** include, but are not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

**137.8.2.6. Noxious Material;** consisting of noxious or malodorous solids, liquids or gases, which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into any portion of the wastewater system for its maintenance and repair.

**137.8.2.7. Improperly Shredded Garbage;** that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the wastewater system, with no particle greater than one-half inch (1/2") in any dimension.

**137.8.2.8. Radioactive Wastes or Isotopes,** of a half-life or concentration that they do not meet regulations set forth by the Colorado Department of Health, State of Colorado, in the latest edition of Rules and Regulations Pertaining to Radiological Control.

**137.8.2.9. Solid or Viscous Wastes,** which will or may cause obstruction to the flow in a collection line or otherwise interfere with the proper operation of the wastewater treatment system. Prohibited materials include, but are not limited to: grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing fuel or lubrication oil and similar substances.

**137.8.2.10. Toxic Substances,** in amounts exceeding standards promulgated by the Administrator of the United States Environmental Protection Agency pursuant to Section 307 (a) of the Act, and chemical elements of compounds, phenols or other taste- or odor-producing substances, or any other substances which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the treatment system or which will be transmitted through the system to receiving water.

**137.8.2.11. Substances Which are not Amenable to Treatment:** of prescribed reduction by the

treatment process employed by the Town, or are amenable to such a limited degree of reduction that a discharge of such wastewater would result in effluent discharge from the treatment works that does not meet requirements of State, Federal and other agencies having jurisdiction over discharge or application to receiving waters and/or lands.

**137.8.2.12. Wastes with Color;** not removable by the treatment process.

**137.8.2.13. Corrosive Wastes;** which will cause corrosion or other deterioration of the wastewater treatment system. All wastewater discharged into the wastewater system must have an instantaneous pH value in the range of five and one-half (5.5) to ten (10) standard units inclusive and must have a temperature not exceeding one hundred fifty degrees (150°) Fahrenheit.

**137.8.3. Wastewater Discharge Limitations:**

**137.8.3.1.** It shall be unlawful for any person to discharge or deposit or cause or allow to be discharged or deposited, any waste or wastewater which fails to comply with the limitations imposed by this Section.

**137.8.3.2.** Consistent with the provisions of the Act, no discharger into the wastewater treatment system shall augment his use of process water or otherwise dilute his discharge as a partial or complete substitute for adequate treatment to achieve compliance with these standards.

**137.8.3.3.** As used in this Section, the following terms shall have the meanings designated herein:

**137.8.3.3.1. Total Metal:** the sum of the concentrations of copper (Cu), nickel (Ni), total chromium (Cr) and zinc (Zn).

**137.8.3.3.2. Discharge Rate:** that volume of effluent from the user which has been determined by the Superintendent to be representative of process effluent from that user.

**137.8.3.4.** For users with a discharge rate of less than ten thousand (10,000) gallons per average operating day, the following limitations on the next page shall apply, except that at no time shall the maximum concentration exceed two (2) times the maximum average concentration per operating day:

<u>Pollutant Property</u> (milligrams/liter)	<u>Maximum Average Concentration</u> Pollutant or Per Operating Day
CN (Cyanide), amenable to chlorination)	2.0
Cr-(6) (Hexavalent Chromium)	0.25
Pb (Lead)	0.8
Cd (Cadmium)	1.0
BOD	1420

**137.8.3.5.** For users with a discharge rate of greater than ten thousand (10,000) gallons per average operating day, the following limitations shall apply, except that at no time shall the maximum concentration exceed two (2) times the maximum average concentration per operating day.

<u>Pollutant/Pollutant Property</u> (milligrams/liter)	<u>Maximum Average Concentration</u> (Per Operating Day)
CN (Cyanide), amenable to chlorination)	2.0
CN (Cyanide), total	0.64
Cr-(6) (Hexavalent Chromium)	0.25
Cu (Copper)	4.60
Ni (Nickel)	3.60
Cr (Chromate), total	4.20
Zn (Zinc)	3.40
Pb (Lead)	0.8
Cd (Cadmium)	1.0
Total Metal	7.5
BOD	1420.0

**137.8.3.6.** For all users, the following maximum concentrations on the next column shall apply:

<u>Toxicant</u> (milligrams/liter)	<u>Maximum Concentration</u> At Any Time
Arsenic	0.1
Barium	5.0
Beryllium	1.0
Boron	1.0

Chlorinated Hydrocarbons (including, but not limited to, pesticides, herbicides, and algaecide)	
	.02
Cresols	2.0
Fluorides	25.0
Formaldehyde	5.0
Manganese	1.0
Mercury	0.05
Organic Solvents	50.0
Phenols	1.0
Selenium	2.0

**137.8.3.7.** Effluent limitations and pretreatment standards promulgated pursuant to the Act shall apply in any instance where they are more stringent than those in this Section. Subsequent limitations shall apply as promulgated in accordance with the Act. The Town shall endeavor to give reasonable notice of the applicability of such standards and limitations to users potentially affected thereby.

**137.8.4. Limitations on Point of Discharge.**

**137.8.4.1.** It shall be unlawful for any person to discharge any substance directly into a manhole or other opening in the wastewater treatment system other than through an approved service line.

**137.8.4.2.** Liquid wastes from septic tanks, chemical toilets, and trailers, campers or other recreational vehicles which have been collected and/or held in tanks or other containers shall not be discharged into the wastewater system except at locations authorized by the Superintendent to collect such wastes within the Town.

**137.8.4.3.** It shall be unlawful for any person to discharge cooling waters or process waters to a storm sewer or natural outlet.

**137.8.5. Disposal Limitations.**

**137.8.5.1.** It shall be unlawful for any person to dispose of wastes at the disposal facilities of the Town where such wastes have been collected and/or held in a tank or other container and where such wastes fail to comply with any limitation set out in section **137.6.8.**

**137.8.5.2.** The Town shall endeavor to identify and compile a record of those sources which produce or may produce wastes which are or may be in violation of the limitations imposed by this Section and any such record shall be available to any person during normal business hours. However, the limitations imposed by this Section

shall apply without regard to the existence, substance or availability of any such record.

**137.9. Control of Prohibited Wastes.**

**137.9.1. Regulatory Actions: Specific Powers of Superintendent.**

If wastewaters containing any substance described in section 137.6.8. are discharged or proposed to be discharged into the wastewater system of the Town or to any wastewater system tributary thereto, the Superintendent may take any action necessary to:

137.9.1.1. Prohibit the discharge of such wastewater;

137.9.1.2. Require a discharger to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances in conformity with this code;

137.9.1.3. Require treatment, including storage facilities or flow equalization necessary to reduce or eliminate the objectionable characteristics or substance so that the discharge will not violate this code;

137.9.1.4. Require the person making, causing or allowing the discharge to pay any additional cost or expense incurred by the Town for handling and treating excess loads imposed on the wastewater treatment system; or

137.9.1.5. Take such other or further remedial action as may be deemed to be desirable or necessary to achieve the purposes of this code.

**137.9.2. Regulatory Actions: General Powers of Superintendent.**

137.9.2.1. Any actual or threatened discharge of wastewater containing substances limited or prohibited by this code into the wastewater treatment system of the Town which, by the determination of the Superintendent, presents an imminent or substantial endangerment to the health or welfare of persons or to the environment, or which causes interference with the normal operation of the wastewater treatment system, may be immediately halted or eliminated by the Superintendent. The Superintendent may halt or eliminate such discharges by means of any procedure or measure authorized by this code for enforcement of discharge limitations and prohibitions, or by means of physical disconnection from the wastewater treatment system or other discontinuance of wastewater treatment service. Such discharges may

be halted or eliminated without regard to the compliance of the discharge with other provisions of this code.

137.9.2.2. If the Town is fined by the State or Federal governments for any violation of its CDPS permit or violation of water quality standards as the result of a spill, intentional sludge discharge of a toxic pollutant or discharge of wastewater containing substances limited or prohibited by this code into the wastewater treatment system of the Town, then the fine, including all of the Town's legal, sampling, and analytical testing cost and any other related costs shall be charged to the responsible user.

**137.9.3. Pretreatment Facilities: Submission of Plans.**

Where pretreatment or equalization of wastewater flows prior to discharge into any part of the wastewater treatment system is required, plan, specifications and other pertinent data or information relating to such pretreatment or flow-control facilities shall first be submitted to the Superintendent for review and approval. Such approval shall not exempt the discharge of such facilities from compliance with any applicable code, ordinance, rule, regulation or order of any governmental authority. Such approval shall not be construed as or act as a guaranty or assurance that any discharge is or will be in compliance with any applicable code, ordinance, rule, regulations, or order of any governmental authority. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to and prior approval of the Superintendent.

**137.9.4. Pretreatment Facilities – Operations.**

If pretreatment or control of wastewater waste flow is required, such facilities shall be maintained in good working order and operated as efficiently as possible by the owner or operator at his own cost and expense, subject to the requirements of this code and all other applicable codes, ordinances, laws, rules and regulations.

**137.9.5. Admission to Property.**

Whenever it shall be necessary for the purposes of this code, the Superintendent, upon the presentation of credentials, may enter upon any property or premises at reasonable times, including at any time during the operating day of the use, for the purposes of:

137.9.5.1. Copying any records required to be kept under the provisions of this code.

137.9.5.2. Inspecting any monitoring equipment or method, and/or

137.9.5.3. Sampling any discharge of wastewater into the wastewater treatment system.

137.9.5.4. The occupant of such property or premises shall render all proper assistance in such activities.

**137.9.6. Protection from Accidental Discharge.**

Each industrial user shall provide adequate protection as approved by the Superintendent from accidental discharge of prohibited materials of other wastes regulated by this code. Facilities and procedures to prevent accidental discharge of prohibited materials shall be provide and maintained at the owner or operator's own cost and expense. Detailed plans showing facilities and operating procedures to proved this protection shall be submitted to the Superintendent for review, and shall be approved by him before installation of the accidental discharge protection. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify this facility as necessary to meet the requirements of this code.

**137.9.7. Report Required for Accidental Discharge.**

If a facility has an accidental sludge discharge, the owner or user of the facility responsible for such discharge shall immediately notify the Superintendent so that corrective action may be undertaken to protect the wastewater treatment system. In addition, a written report addressed to the Superintendent detailing the date, time and cause of the accidental discharge and corrective action taken to prevent future discharges, shall be filed by the responsible person within five (5) days of the occurrence of the noncomplying discharge.

**137.9.8. Failure to Report Accidental Discharge.**

If shall be unlawful for any person to fail to report any accidental discharge which violates the prohibitions and limitations of this code, as provided in Section 137.9.7.

**137.10. (Deleted in its Entirety)**

(Deleted on March 6, 2003 by Ordinance No. 480)

**137.11. (Deleted in its Entirety)**

(Deleted on March 6, 2003 by Ordinance No. 480)

**137.12. Enforcement and Penalties.**

**137.12.1. Notification of Violation.**

Whenever the Superintendent finds that any person has violated or is violating this code, or any prohibition, limitation or requirement contained herein, he may serve upon such person a written notice stating the nature of the violation and providing a reasonable time, not to exceed thirty (30) days, for the satisfactory correction thereof. A meeting with the Superintendent may be scheduled at the request of the violating person or Superintendent to discuss the violation and/or satisfactory correction schedule.

**137.12.2. Show Cause Hearing.**

**137.12.2.1.** Upon a finding by the Superintendent that a person has caused or permitted an unauthorized discharge or that any such unauthorized discharge has not been corrected by timely compliance with a correction schedule, whether with or without a meeting with the Superintendent, the Superintendent may order any person who causes or allows such unauthorized discharge to show cause before the Board of Trustees why service should not be terminated. A notice shall be served on the offending party, specifying the time and place of a hearing to be held by the Board of Trustees regarding the violation, and directing the offending party to show cause before the Board of Trustees why an order should not be made directing the termination of service. The notice of the hearing shall be served personally or by certified mail at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

**137.12.2.2.** The Board of Trustees may conduct the hearing and take the evidence, or may designate a representative to:

**137.12.2.2.1.** Issue in the name of the Board of Trustees notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearings;

**137.12.2.2.2.** Take the evidence;

**137.12.2.2.3.** Transmit a report of the evidence and hearing to the Board of Trustees, including transcripts and other evidence, together with recommendations for action thereon.

**137.12.2.3.** At any public hearings, testimony taken before the hearing authority or any person

designated by it, shall be under oath and recorded electronically. The transcript so recorded will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

**137.12.2.4.** Upon review of the evidence by the Board of Trustees, the Board shall make written findings of fact. Thereupon the Board may:

**137.12.2.4.1.** Issue an order stating that no unauthorized discharge has occurred and directing that service shall not be terminated therefor;

**137.12.2.4.2.** Issue an order stating that an unauthorized discharge has occurred and directing that, following a specified time period, the wastewater treatment service of the offending party be discontinued unless:

**137.12.2.4.2.1.** Adequate treatment facilities, devices or other appurtenances shall have been installed, or

**137.12.2.4.2.2.** Existing treatment facilities, devices or other appurtenances are properly operated or maintained; or

**137.12.2.4.3.** Issue such other or further orders and directives as are necessary and appropriate.

**137.12.2.5.** Any party to the hearing aggrieved or adversely affected by an order of the Board of Trustees may appeal such order to the District Court in and for the County of Lincoln, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

**137.12.3. Remedies.**

**137.12.3.1.** Legal Action Authorized: If any user discharges into the Town's wastewater treatment system contrary to the provisions of section 137, Federal or State pretreatment requirements, or any order of the Town, the Town's attorney may commence an action for appropriate legal and/or equitable relief, including a petition in a court of competent jurisdiction for a temporary restraining order, preliminary and permanent injunction against the violation.

**137.12.3.2.** Termination of Service: The Town may terminate or cause to be terminated wastewater treatment service to any user for a violation of any provisions herein.

**137.12.3.3.** Civil Liability for Expenses: Any person violating the provisions herein shall be liable for

any expense, loss or damage caused the Town by reason of such violation, including the increased costs, if any, for managing effluent and/or sludge, when such increases are the result of the user's discharge of toxic pollutants. The Superintendent shall add such charge to the discharger's user charge.

**137.12.3.4.** Civil Fine Pass Through: In the event that a user discharging such pollutants which cause the Town to violate any condition of its CDPS permit and the Town is fined by EPA or the State for such violation, then such user shall be fully liable for the total amount of the fine assessed against the Town by EPA and/or the State.

**137.12.3.5. Penalties for Violation.** Any person who violates the provisions of this Chapter shall be subject to a fine of not more than Five Hundred Dollars (\$500.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

**137.12.3.6.** Appropriate Penalties: In addition to the penalties provided herein, the Town may recover reasonable attorneys' fees, court costs, court reporter's fees, and other expenses of litigation by appropriate legal action against the user found to have violated any provisions herein, or the orders, rules, regulations, and permits issued hereunder. The attorney for the Town, upon request of the Town Board, shall petition the District Court to impose, assess, and recover such sums.

**137.12.3.7. Penalties for Falsifying Information.** Any user who knowingly makes false statements, representations or certifications in any application, record, report plan or other document files or required to be maintained pursuant hereto, or pursuant to its wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required herein shall, upon conviction, be subject to a fine of not more than Five Hundred Dollars (\$500.00).

**137.12.4. Disclosure: Availability to Public.**

Except as otherwise provided in this code, all records, reports, data or other information supplied by any person as a result of any disclosure required by this code shall be available for public inspection.

**137.12.5. Confidentiality of Trade Secrets.**

**137.12.5.1.** The provisions of section 137.12.3. shall not be applicable to any information designated as a trade secret by the person supplying such information.

Material designated as a trade secret may include, but shall not be limited to, processes, operations, style of work or apparatus of confidential commercial or statistical data.

**137.12.5.2.** Information designated as a trade secret pursuant to Section **137.12.5.1.** shall remain confidential and shall not be subject to public inspection. Such information shall be available only to officers, employees or authorized representatives of the Town charged with enforcing the provisions of this code.

**137.12.5.3.** It shall be unlawful for any officer, employee or authorized representative of the Town to divulge in any manner or to any extent not authorized by judicial order or other provision of law information supplied pursuant to any requirement of this code, when such information has been designated as a trade secret pursuant to Section **137.12.5.1.** In addition to any other penalties that may be imposed, any officer, employee or authorized representative of the Town who violates the provisions of this section shall be subject to discharge from the employ of the Town.

**137.13. Effective Date.**

**137.13.1. Rates and Charges.**

In order to accommodate the Town's billing cycle for Wastewater Service Charges, the provisions of Article VI Sections **137.6., 137.7., 137.8., and 137.9.** code shall become effective beginning with those Wastewater Service Charges which will be billed by the Town to the user during the month of August, 1989.



**138 - Boards and Commissions**

**138.1. Library Board**

**138.1.1. Library Board of Trustees.**

The management and control of the Library shall be vested in a board of five Trustees who shall be appointed by the Mayor with the consent of the Board of Trustees of the Town of Limon. The first appointments of such Board of Trustees shall be for terms of one, two, three, four and five years, respectively, and thereafter a Trustee shall be appointed annually to serve for five years. Vacancies shall be filled for unexpired terms as soon as

possible in the manner in which members of the board are regularly chosen. A library trustee may be removed only by vote of the Town Board.

**138.1.2.** The board of trustees of the library, immediately after their appointment, shall meet and organize by the election of a president and a secretary and such other officers as they may deem necessary. The board of trustees of the library shall have the power to:

**138.1.2.1.** Adopt such by-laws, rules and regulations for their own guidance and for the government of the library as they deem expedient;

**138.1.2.2.** Have supervision, care and custody of all property of the library, including rooms or buildings constructed, leased or set apart therefor;

**138.1.2.3.** Employ a librarian, and upon his recommendation, employ such other employees as may be necessary, prescribe their duties and fix their compensation;

**138.1.2.4.** Submit annually a budget as required by law, and certify to the Town of Limon the sums necessary to maintain and operate the library during the ensuing year;

**138.1.2.5.** Have exclusive control of the disbursement of the finances of the library;

**138.1.2.6.** Accept such gifts of money or property for library purposes as they deem expedient;

**138.1.2.7.** Hold and acquire land by gift, lease or purchase, for library purposes;

**138.1.2.8.** Lease, purchase or erect any appropriate building or buildings for library purposes, and acquire such other property as may be needed therefor;

**138.1.2.9.** Purchase books, periodicals, maps, supplies, and materials for the library on the recommendation of the librarian; and

**138.1.2.10.** Do all other acts necessary for the orderly and efficient management and control of the library.

**138.1.3. Finance.**

The Board of Trustees of the Town of Limon, Colorado shall levy a tax, not to exceed one and a half mills on the dollar of assessed valuation upon all

property, real, personal, or mixed, within the boundaries of the Town of Limon, Colorado, the revenue from which assessment shall be placed to the credit of "The Library Fund" and shall be kept separate and apart from all other moneys of the Town of Limon, to be drawn upon by the Town Treasurer only upon presentation of properly authenticated vouchers of the Board of Trustees of the library.

**138.1.4. Destruction of Library Property.**

If any person shall wilfully or maliciously, or wantonly and without cause, write in or upon, or injure, deface, tear or destroy any book, plate, picture, engraving, map, newspaper, magazine, pamphlet, or manuscript belonging to said library, he shall be deemed guilty of an offense, and shall be, upon conviction thereof, be punished by a fine of not more than Twenty-Five Dollars for each and every offense.

**138.1.5. Failure to Return Books.**

Any person who shall fail to return any book belonging to said library, according to the by-laws duly made and adopted by said Library Board, shall be fined not less than one dollar nor more than ten dollars for each and every offense.

**138.1.6. Rules and Regulations.**

The said Library Board shall have the power to adopt such rules and regulations as they shall deem necessary to govern and prescribe the use of the public library and its facilities by the public, and the violation of any such rules and regulations shall be deemed a violation of this code.

**138.2. CEMETERY BOARD.**

HISTORY: Amended entirely on March 3, 1994 by Ordinance 374

**138.2.1 Board of Trustees.**

A five member Board of Trustees shall be appointed by the Mayor with the consent of the Board of Trustees of the Town of Limon. The first appointments of such cemetery Trustees shall be for terms of one, two, three, four, and five years, respectively, and thereafter a Trustee shall be appointed annually to serve five years. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which members of the board are regularly chosen. A cemetery Trustee may be removed only by vote of the Board of Trustees of the Town of Limon.

**138.2.2 Organization and Powers.**

The Board of Trustees of the cemetery, immediately after their appointment, and annually thereafter shall meet and organize by the election of a president and a secretary and such other officers as they may deem necessary. The Board of Trustees of the cemetery shall have the power to:

**138.2.2.1.** Adopt such by-laws, rules and regulations for their own governance and for the government of the cemetery as they deem expedient;

**138.2.2.2.** Submit annually a budget and capital improvements plan to the Town of Limon identifying the sums necessary to maintain and operate the cemetery during the budgetary year;

**138.2.2.3.** Accept such gifts of money for cemetery purposes as they deem expedient;

**138.2.3. Town of Limon Responsibilities.**

Under the supervision of the Town Manager, the Town of Limon shall:

(Amended on June 6, 1996 by Ordinance No. 398)

**138.2.3.1.** Provide all materials, supplies and labor for the maintenance and upkeep of the cemetery within the limits established by the General Fund Budget;

**138.2.3.2.** Coordinate with the Board of Trustees of the Cemetery to plan and carry out a capital improvements plan.

**138.2.4. Finance.**

The Board of Trustees of the Town of Limon shall levy a tax, not to exceed one mill on the dollar of assessed valuation upon all property, real, personal, or mixed within the boundaries of the Town of Limon, Colorado, the revenue from which assessment shall be placed to the credit of General Fund and budgeted for use in the Cemetery Department.

**138.2.5. Perpetual Care.**

The Board of Trustees of the Cemetery may allocate funds from any source to a "Cemetery Perpetual Care Fund" to be kept separate and apart from any other monies of the Town. The Board of Trustees of the Cemetery shall determine how these funds shall be allocated and included in a capital improvements plan.

**138.2.6. Sale of Lots.**

The Board of Trustees of the Cemetery shall sell or cause to be sold lots or a lot to any person applying for the purchase of the same. The Board of Trustees of the Cemetery shall have the authority to set the cost for said lots as well as to determine the percentage of sale that will go to the General Fund for Cemetery use and the percentage of the sale that shall be deposited in the Cemetery Perpetual Care Fund.

**138.2.7. Name of Cemetery.**

From this day forth, the said cemetery shall be designated under the name of "Pershing Memorial Cemetery".

**138.3. Parks and Recreation Board.**

(Deleted in its entirety by Ordinance No. 380 on October 6, 1994)

**138.4. Planning Commission.**

HISTORY: Ordinance No. PHA1 adopted June 3, 1965; Amended April 6, 1995 by Ordinance No. 386.

**138.4.1.** There is herewith created for the Town of Limon, Lincoln County, Colorado, a Planning Commission in pursuance of the Planning Commission Law for Towns and Cities, Chapter 31, Article 23, Part 2, Colorado Revised Statues.

**138.4.2.** The commission shall consist of seven members: there shall be the two ex-officio members consisting of the Mayor, a member of the Board of Trustees to be selected by said Board and five other persons as appointed by the Mayor. All members shall be bona fide members and residents of the municipality and if any member ceases to reside in such municipality his membership on said commission shall immediately terminate. All members of the commission shall serve as such without compensation and the appointed members shall hold no other municipal office except that one such appointed member may be a member of the zoning board of adjustment or appeals.

**138.4.3.** The terms of the ex-officio members shall correspond to their respective official tenures.

**138.4.4.** The term of each appointed member shall be six years or until his successor takes office, except that respective terms of one member first appointed shall be for two, two members first appointed shall be for four years and two members first appointed shall be six years. Members, other than the member representing the Board of Trustees, may be removed, after public hearings, by the Mayor for inefficiency,

neglect of duty, or malfeasance in office, and the Board of Trustees may remove the member representing it for the same reasons. The Mayor, or Board of Trustees, as the case may be, shall file a written statement of reasons for such removal.

**138.4.5.** Vacancies occurring otherwise than through the expiration of a term shall be filled for the remainder of the unexpired term by the Mayor in the case of members selected or appointed by him, by the Board of Trustees in the case of the Trustee member selected by it.

**138.4.6.** The commission shall select its chairman from among the appointed members and create and fill such other of its offices as it may determine. The term of the chairman shall be one year with eligibility for re-election. The commission shall hold at least one regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

**138.4.7.** The Board of Trustees shall provide the funds, equipment and accommodations necessary for the work of the commission, but the expenditures of the commission, exclusive of gifts, shall be within the amounts specified and appropriated for this purpose by the Board; and no expenditures nor agreements for expenditures shall be valid in excess of such amounts.

**138.4.8.** It shall be the purpose and duty of the commission to make and adopt a master plan for the physical development of the municipality, including any areas outside of its boundaries subject to the approval of the legislative or governing body having jurisdiction thereof, which in the commission's judgment, bear relation to the planning of such municipality. Such plan, with the accompanying maps, plats, charts and descriptive matter, shall show the commission's recommendations for the development of said territory. And, further, to do each and every thing reasonably necessary and proper to accomplish such purposes and duties.



**139 - Disposition of Unclaimed Property**

HISTORY: Added June 25, 1992 by Ordinance No. 362

**139.1. Purpose.**

The purpose of this code is to provide for the administration and disposition of unclaimed property which is in the possession of or under the control of the Town of Limon.

**139.2. Definitions.** Unless otherwise required by context or use, words and terms shall be defined as follows:

**139.2.1. Unclaimed property:** any tangible or intangible property, including any income or increment derived there from, less any lawful charges, that is held by or under the control of the Town of Limon and which has not been claimed by its owner for a period of more than one year after it became payable or distributable.

**139.2.2. Municipality:"** the Town of Limon, Colorado.

**139.2.3. Owner:** a person or entity, including a corporation, partnership, association, governmental entity other than this municipality, or a duly authorized legal representative or successor in interest of same, which owns unclaimed property held by the municipality.

**139.2.4. Town Clerk:** the Officer responsible for administration of this code or designee thereof.

**139.3. Procedure for disposition of property.**

**139.3.1.** Prior to disposition of any unclaimed property having an estimated value of \$50.00 or more, the Town Clerk shall send a written notice by certified mail, return receipt requested, to the last known address, if any, of any owner of unclaimed property. The last known address of the owner shall be the last address of the owner as shown by the records of the municipal department or agency holding the property. The notice shall include a description of the property, the amount or estimated value of the property, and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the Town Clerk with a written claim for the return of the property within sixty (60) days of the date of the notice, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

**139.3.2.** Prior to disposition of any unclaimed property having an estimated value of less than \$50.00 or having no last known address of the owner, the Town Clerk shall cause a notice to be published in a newspaper of general circulation in the municipality. The notice shall include a description of the property, the owner of the property, the amount or estimated value of the property and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the Town Clerk with a written claim for the return of the property within sixty (60) days of the date of publication of the notice, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

**139.3.3.** If the Town Clerk receives no written claim within the above sixty (60) day claim period, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

**139.3.4.** If the Town Clerk receives a written claim within the sixty (60) day claim period, the Town Clerk shall evaluate the claim and give written notice to the claimant within ninety (90) days thereof that the claim has been accepted or denied in whole or in part.

**139.3.5.** The Town Clerk may investigate the validity of a claim and may request further supporting documentation from the claimant prior to disbursing or refusing to disburse the property.

**139.3.6.** In the event that there is more than one claimant for the same property, the Town Clerk may, in the Town Clerk's sole discretion, resolve said claims, or may resolve such claims by depositing the disputed property with the registry of the District Court in an interpleader action.

**139.3.7.** In the event that all claims filed are denied, the property shall become the sole property of the municipality and any claim of the owner of such property shall be deemed forfeited.

**139.3.8.** Any legal action filed challenging a decision of the Town Clerk shall be filed pursuant to Rule 106 of the Colorado Rules of Civil Procedure within thirty (30) days of such decision or shall be forever barred. If any legal action is timely filed, the property shall be disbursed by the Town Clerk pursuant to the order of the Court having jurisdiction over such claim.

**139.3.9.** The Town Clerk is authorized to establish and administer procedures for the administration and disposition of unclaimed property consistent with this code, including compliance requirements for other municipal officers and employees in the identification and disposition of such property.

**139.4. Sale of unclaimed property.**

Sale or disposition of unclaimed property shall be at the discretion of the Board of Trustees of the municipality, based upon recommendation of the Town Clerk.



**140 – Court**

**141 - Organization of Limon Municipal Court**

HISTORY: 1958 Municipal Code - Amended entirely on March 3, 1994 by Ordinance No. 375

**141.1. Establishment of Court; Term, Appointment, and Removal of Municipal Judge.**

**141.1.1** A Municipal Court shall be and hereby is created and established as a "qualified municipal court of record" pursuant to the provisions of Colorado Revised Statutes. In all operations of the Municipal Court, a verbatim record of the proceedings and evidence at trial shall be kept by either electric devices or stenographic means. The Municipal Court is created to hear and try all alleged violations of the Town Code and ordinance provisions.

**141.1.2** The Municipal Court shall be presided over by a municipal judge who shall be appointed by the municipal governing body for a specified term of not less than two years and who may be reappointed for a subsequent term; except that the initial appointment under this section may be for a term of office which expires on the date of the next election of the municipal governing body. Any vacancy in the office of municipal judge shall be filled by appointment of the municipal governing body for the remainder of the unexpired term. The municipal judge shall be duly qualified and admitted to, and currently licensed in, the practice of law in the State of Colorado.

**141.1.3** A municipal judge may be removed during his or her term of office only for cause. A judge may be removed for cause if:

**141.1.3.1.** He or She is found guilty of a felony or any other crime involving moral turpitude;

**141.1.3.2.** He or She has a disability which interferes with the performance of his or her duties and which is or is likely to become of a permanent character;

**141.1.3.3.** He or She has willfully or persistently failed to perform his or her duties;

**141.1.3.4.** He or she is habitually intemperate;

**141.2. Municipal Judge Compensation.**

The salary of the municipal judge shall be a fixed annual compensation payable upon a monthly basis as determined by the Town Board and as established by Resolution.

**141.3. CLERK OF THE MUNICIPAL COURT.**

**141.3.1** The position of clerk of the Municipal Court is hereby established by the Town Board, said clerk to be appointed by the presiding Municipal Judge. However, if the Town Board determines that the business of the Municipal Court is insufficient to warrant a separate full-time or part-time clerk, the Town Board may designate the municipal judge to serve as ex officio clerk.

**141.3.2** The clerk of the Municipal Court shall have such duties as are delegated to him or her by law, court rule, or the presiding municipal judge.

**141.3.3** The salary of the clerk of the Municipal Court shall be a fixed annual compensation payable upon a monthly basis as determined by the Town Board and as established by Resolution.

**141.4. Bond**

**141.4.1** The Clerk of the Municipal Court shall be covered by a bond or insurance policy carried by the Town, such bond or policy to be approved by the Town Board and to be conditioned upon the faithful performance of the clerk's duties, and for the faithful accounting for, and payment of, all funds deposited with or received by the court.

**141.4.2** Before entering upon the duties of his or her office, the municipal judge shall take and subscribe and file with the Clerk of the Town of Limon, an oath or

affirmation that he or she will support the Constitution of the United States and of the State of Colorado and the Charter and codes and Ordinances of the Town of Limon, and will faithfully perform the duties of the office.

**141.5. Procedures and Powers of the Municipal Court.**

The municipal judge shall have all judicial powers relating to the operation of his or her court, subject to any rules of procedure governing the operation and conduct of municipal courts promulgated by the Colorado supreme court. The municipal judge also has authority to issue local rules of procedure consistent with any rules of procedure adopted by the Colorado Supreme Court.

**141.6. COMMENCEMENT OF ACTIONS.**

**141.6.1** Any action or summons brought in the Municipal Court to recover any fine or enforce any penalty or forfeiture under any Town ordinance or the Town Code shall be filed in the corporate name of the Town of Limon by and on behalf of the people of the state of Colorado.

**141.6.2** Any process issued from the Municipal Court runs in the corporate name of the Town of Limon by and on behalf of the people of the state of Colorado. Processes from the Municipal Court shall be executed by any authorized law enforcement officer from the Town.

**141.6.3** Any authorized law enforcement officer may execute within his jurisdiction any summons, process, writ, or warrant issued by the Municipal Court. For the purposes of this section, traffic offenses shall not be considered criminal or quasi-criminal offenses.

**141.6.4** The clerk of the Municipal Court shall issue a subpoena for the appearance of any witness in Municipal Court upon the request of either the Town or the defendant. The subpoena may be served upon any person within the jurisdiction of the court in the manner prescribed by the rules of procedure applicable to municipal courts. Any person subpoenaed to appear as a witness in Municipal Court shall be paid a witness fee in the amount of five dollars (\$5.00).

**141.6.5** Upon the request of the Municipal Court the Town or the defendant, the clerk of the Municipal Court shall issue a subpoena for the appearance, at any and all stages of the court's proceedings, of the parent, guardian, or lawful custodian of any child under eighteen years of age who is charged with a municipal offense.

**141.7. Fines, Penalties, Costs, and Rights of Defendants.**

**141.7.1** Any person convicted of violating a municipal codes and/or ordinance may be fined an amount not to exceed Three Hundred Dollars, (\$300.00) per occurrence. In that the Town has decriminalized those traffic offenses as set forth in section **636.**, any person charged with violating the Code or any ordinance therein shall not be entitled to a trial by jury, but shall be entitled to the following rights: (1) to appear and defend in person and by counsel; (2) to demand the nature and cause of the accusation; (3) to meet the witnesses against him face to face; (4) to have process to compel the attendance of witnesses in his behalf; (5) a speedy public trial to the Municipal Judge; and (6) no person shall be compelled to testify against himself nor shall any person be twice put in jeopardy for the same offense.

**141.7.2. Sentencing or Fines Under Model Traffic Code and/or Section 636.**

In sentencing or fining a violator who has been convicted of committing a traffic offense as defined by the Model Traffic Code as adopted by the Town of Limon, or section **636**, the fine shall be the same as and shall not exceed such fine as imposed by the State of Colorado, effective October 1, 2008, for similar traffic offenses or infractions committed on a state highway or road. A Schedule of Fines shall be posted in the vicinity of where the violator is to pay his or her fine setting forth the maximum fine for each offense. This provision does not impede the Municipal Court Judge's discretion as to the suspension of fines for circumstances deemed relevant by the Judge. Further, any change or amendment of the State of Colorado fines for traffic offenses, as such schedule exists on October 1, 2008, shall not result in a similar change in the fines imposed by the Limon Municipal Court without a corresponding resolution, code or ordinance approved by the Board.

(Amended October 2, 2008 by Ordinance No. 525.)

**141.7.2.1.Sentencing or Fines Under Other Code Violations.** In sentencing or fining a violator who has been convicted of committing any offense not addressed in Section **141.7.2.**, the municipal judge shall not exceed the sentence or fine limitations established by code. The municipal judge may suspend the sentence or fine of any violator and place him or her on probation for a period not to exceed one year.

(Added October 2, 2008 by Ordinance No. 525.)

**141.7.3** The municipal judge is empowered in his or her discretion to assess costs against any defendant who pleads guilty or nolo contendere or who enters into a plea agreement or who, after trial, is found guilty of an ordinance violation. The municipal judge shall, in all such cases, assess costs of no less than Twenty Five Dollars (\$25.00).

(Amended October 2, 2008 by Ordinance No. 525.)

**141.7.4** All fines and costs collected or received by the municipal court shall be reported and paid monthly, to the treasurer of the Town and deposited in the general fund of the Town.

**141.8. Appeals.**

**141.8.1** Appeals taken from judgments of the Municipal Court shall be made to the District Court of Lincoln County. The practice and procedure in such case shall be the same as provided by section 13-6-310 of the Colorado Revised Statutes and applicable rules of procedure for the appeal of misdemeanor convictions from the county court to the district court.

**141.8.2** All appeal costs, procedures, and bond requirements shall be the same as set forth in Colorado Revised Statutes 13-10-117, 13-10-118, 13-10-119, 13-10-120, 13-10-121, 13-10-122, 13-10-123, and 13-10-124 as such statutes apply to municipal courts of record.



**142 - Compensation for Police Magistrates, Fees, Other Charges**

HISTORY: Ordinance No. 187 dated May 6, 1985; Repealed in its entirety on March 3, 1994 by Ordinance No. 375.



**150 - Administrative Matters**

**151 - Legal Holidays**

**151.1. Legal Holiday – Town Hall to Observe.**

The following days, viz: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day are hereby declared to be legal holidays. If a legal holiday shall fall on a Saturday, it shall be observed on the preceding Friday. If a legal holiday falls on a Sunday, it shall be observed on the following Monday.

(Amended by Ordinance No. 380 on October 6, 1994)

**151.2. Saturday Half – Day.**

(Deleted by Ordinance No. 380 on October 6, 1994)

**151.3. Emergency.**

The mayor is hereby empowered to declare an emergency in which event any of the holidays enumerated above may be discontinued for the duration of the emergency.



**152 - Official Map**

**153 - Fiscal Year**

**155 – Non-Domestic Pretreatment**

**155.1. General Provisions.**

**155.1.1. Purpose and Policy.**

This code sets forth uniform requirements for users of the Publicly Owned Treatment Works for the Town of Limon and enables the Town of Limon to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403).

155.1.1.1. The objectives of this code are:

155.1.1.1.1. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;

155.1.1.1.2. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;

155.1.1.1.3. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

155.1.1.1.4. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;

155.1.1.1.5. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and

155.1.1.1.6. To enable the Town of Limon to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

155.1.1.2. This code shall apply to all users of the Publicly Owned Treatment Works. The code authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

**155.1.2. Administration.**

Except as otherwise provided herein, Town Manager shall administer, implement, and enforce the provisions of this code. Any powers granted to or duties imposed upon the Town Manager may be delegated by the Town Manager to other Town of Limon personnel, as appropriate.

**155.1.3. Abbreviations.**

The following abbreviations, when used in this code, shall have the designated meanings:

- 155.1.3.1.1. BOD - Biochemical Oxygen Demand
- 155.1.3.1.2. CFR - Code of Federal Regulations
- 155.1.3.1.3. COD - Chemical Oxygen Demand
- 155.1.3.1.4. EPA - U.S. Environmental Protection Agency
- 155.1.3.1.5. gpd - gallons per day
- 155.1.3.1.6. mg/l - milligrams per liter
- 155.1.3.1.7. NAICS - North American Industry Classification System
- 155.1.3.1.8. NPDES - National Pollutant Discharge Elimination System
- 155.1.3.1.9. POTW - Publicly Owned Treatment Works
- 155.1.3.1.10. RCRA - Resource Conservation and Recovery Act
- 155.1.3.1.11. TSS - Total Suspended Solids
- 155.1.3.1.12. U.S.C. - United States Code

155.1.3.2. Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

155.1.3.2.1. Act or "the Act": The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 6 1251 et seq.

155.1.3.2.2. Authorized Representative of the User:

155.1.3.2.3. If the user is a corporation:

155.1.3.2.3.1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

155.1.3.2.3.2. The manager of one or more manufacturing, production, or operation facilities, covered by this code, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures and the written authorization is submitted to the Town of Limon.

**155.1.3.2.4.** If the user is a partnership or sole proprietorship: a general partner or Proprietor, respectively.

**155.1.3.2.5.** If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

**155.1.3.2.6.** The individuals described in sections **137.1.3.2.1.** through **137.1.3.2.3.**, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Town of Limon.

**155.1.3.3. Biochemical Oxygen Demand or BOD:** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).

**155.1.3.4. Categorical Pretreatment Standard or Categorical Standard:** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 6 1317), as amended.

**155.1.3.5. Environmental Protection Agency or EPA:** The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

**155.1.3.6. Existing Source:** Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

**155.1.3.7. Grab Sample:** A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

**155.1.3.8. Indirect Discharge or Discharge:** The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.

**155.1.3.9. Instantaneous Maximum Allowable Discharge Limit:** The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

**155.1.3.10. Interference:** A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and may, as a result thereof, result in or contribute as a cause of a violation of Town of Limon's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

**155.1.3.11. Medical Waste:** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes. and dialysis waste

**155.1.3.12. New Source:**

**155.1.3.12.1.** Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

**155.1.3.12.1.1.** The building, structure, facility, or installation is constructed at a site at which no other source is located; or

**155.1.3.12.1.2.** The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

**155.1.3.12.1.3.** The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

**155.1.3.12.2.** Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Sections **137.1.3.12.1.2.** or **137.1.3.12.1.3.**, but otherwise alters, replaces, or adds to existing process or production equipment.

**155.1.3.12.3.** Construction of a new source as defined under this section has commenced if the owner or operator has:

**155.1.3.12.3.1.** Begun, or caused to begin, as part of a continuous onsite construction

**155.1.3.12.3.1.1.** any placement, assembly, or installation of facilities or equipment; or

**155.1.3.12.3.1.2.** significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

**155.1.3.12.3.2.** Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

**155.1.3.13. Non-contact Cooling Water:** Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

**155.1.3.14. North American Industry Classification System:** A system developed jointly by the U.S., Canada, and Mexico to provide new comparability in statistics about business activity across North America which replaced Standard Industry Codes (SIC).

**155.1.3.15. Pass Through:** A discharge, which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, and may as a result thereof result in or contribute as a cause of a violation of any requirement of the Town of Limon's NPDES permit, including an increase in the magnitude or duration of a violation.

**155.1.3.16. Person:** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

**155.1.3.17. pH:** A measure of the acidity or alkalinity of a solution, expressed in standard units.

**155.1.3.18. Pollutant:** Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive material, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

**155.1.3.19. Pretreatment:** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

**155.1.3.20. Pretreatment Requirements:** Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

**155.1.3.21. Pretreatment Standards or Standards:** Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

**155.1.3.22. Prohibited Discharge Standards or Prohibited Discharges:** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section **155.2.1.**

**155.1.3.23. Publicly Owned Treatment Works or POTW:** A “treatment works,” as defined by Section 212 of the Act (33 U.S.C. 91292) which is owned by the Town of Limon. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

**155.1.3.24. Town Manager:** The person designated by the Town of Limon to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this code, or a duly authorized representative.

**155.1.3.25. Septic Tank Waste:** Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

**155.1.3.26. Sewage:** Human excrement and gray water (household showers, dishwashing operations, etc.).

**155.1.3.27. Significant Industrial User:**

**155.1.3.27.1.** A user subject to categorical pretreatment standards; or

**155.1.3.27.2.** A user that:

**155.1.3.27.2.1.** Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater);

**155.1.3.27.2.2.** Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

**155.1.3.27.2.3.** Is designated as such by the Town of Limon on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement.

**155.1.3.27.3.** Upon a finding that a user meeting the criteria in section **155.1.3.27.2.** has no reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement, the Town of Limon may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

**155.1.3.28. Slug Load or Slug:** Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section **155.2.1.**

**155.1.3.29. Storm Water:** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

**155.1.3.30. Suspended Solids:** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

**155.1.3.31. Town:** The Town of Limon or the Board of Trustees of the Town of Limon

**155.1.3.32. Town Code:** The Municipal Code of the Town of Limon.

**155.1.3.33. User or Industrial User:** A source of indirect discharge.

**155.1.3.34. Wastewater:** Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

**155.1.3.35. Wastewater Treatment Plant or Treatment Plant:** That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

**155.2. General Sewer Use Requirements.**

**155.2.1. Prohibited Discharge Standards.**

**155.2.1.1.General Prohibitions.** No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

**155.2.1.2.Specific Prohibitions.** No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

**155.2.1.2.1.** Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;

**155.2.1.2.2.** Wastewater having a pH less than 6.5, nor greater than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;

**155.2.1.2.3.** Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch (1/2") in any dimension;

**155.2.1.2.4.** Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

**155.2.1.2.5.** Wastewater having a temperature greater than 150° F (65.56° C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

**155.2.1.2.6.** Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

**155.2.1.2.7.** Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

**155.2.1.2.8.** Trucked or hauled pollutants, except at discharge points designated by the Town Manager in accordance with Section **155.3.4.**;

**155.2.1.2.9.** Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

**155.2.1.2.10.** Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the Town of Limon's NPDES permit;

**155.2.1.2.11.** Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;

**155.2.1.2.12.** Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and

unpolluted wastewater, unless specifically authorized by the Town Manager;

**155.2.1.2.13.** Sludges, screenings, or other residues from the pretreatment of industrial wastes;

**155.2.1.2.14.** Medical wastes, except as specifically authorized by the Town Manager in a wastewater discharge permit;

**155.2.1.2.15.** Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

**155.2.1.2.16.** Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

**155.2.1.2.17.** Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter.

**155.2.1.3.** Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

**155.2.2. National Categorical Pretreatment Standards.**

**155.2.2.1.** The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated

**155.2.2.1.1.** Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Town Manager may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

**155.2.2.1.2.** When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Town Manager shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

**155.2.2.1.3.** A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

155.2.2.1.4.A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

**155.2.3. State Pretreatment Standards.**

[RESERVED]

**155.2.4. Local Limits.**

(Amended October 9, 2003 by Ordinance No. 489)

155.2.4.1. The following pollutant limits are established to protect against pass through and interference. No user shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

- 155.2.4.1.1. May – November  
.00344 mg/l arsenic  
December – April  
.00344 mg/l arsenic
- 155.2.4.1.2. May – December  
.003068 mg/l cadmium  
December – April  
.003067 mg/l cadmium
- 155.2.4.1.3. May – November  
2.714 mg/l chromium (6,  
Hexavalent Chromium)  
November – April  
2.684 mg/l chromium (6,  
Hexavalent Chromium)
- 155.2.4.1.4. May – November  
2.646 mg/l chromate, total  
November – April  
2.616 mg/l chromate, total
- 155.2.4.1.5. May – November  
.1934 mg/l copper  
December – April  
.1919 mg/l copper
- 155.2.4.1.6. May – November  
.03480 mg/l lead  
December – April  
.03458 mg/l lead
- 155.2.4.1.7. May – November  
.002733 mg/l mercury  
December – April  
.002706 mg/l mercury

- 155.2.4.1.8. May – November  
.04873 mg/l nickel  
December – April  
.04842 mg/l nickel

- 155.2.4.1.9. May – November  
1,247.67 mg/l nitrogen, total  
kjeldahl  
December – April  
1,234.13 mg/l nitrogen, total  
kjeldahl

- 155.2.4.1.10. 102.88 mg/l oil and grease

- 155.2.4.1.11. May – November  
.00883 mg/l selenium  
December – April  
.00881 mg/l selenium

- 155.2.4.1.12. 10 mg/l Settable Solids

- 155.2.4.1.13. 37 ml/l Settable Solids

(Amended March 6, 2006 by Ordinance No. 514.)

- 155.2.4.1.14. May – November  
.2764 mg/l zinc  
December – April  
.2753 mg/l zinc

- 155.2.4.1.15. Not less than 6.5 nor greater than 9.0 pH

155.2.4.2. The following pollutant limits are established to protect against pass through and interference. No user shall discharge wastewater containing in excess of the following allowable discharge limits:

155.2.4.2.1. BOD<sub>5</sub> shall not exceed an instantaneous maximum allowable discharge limit of 712 mg/l nor exceed a thirty (30) day average of 475 mg/l.

155.2.4.2.2. Total Dissolved Solids (TDS) shall not exceed an instantaneous maximum allowable discharge limit of 3,750 mg/l nor exceed a thirty (30) day average of 2,500 mg/l.

155.2.4.2.3. Total Suspended Solids (TSS)

155.2.4.2.3.1. May – November shall not exceed an instantaneous maximum allowable discharge limit of 790 mg/l nor exceed a thirty (30) day average of 527 mg/l.

**155.2.4.2.3.2.** December – April shall not exceed an instantaneous maximum allowable discharge limit of 870 mg/l nor exceed a thirty (30) day average of 580 mg/l.

**155.2.4.2.4.** Cyanide, amendable to chlorination

**155.2.4.2.4.1.** May – November shall not exceed an instantaneous maximum allowable discharge limit of 0.354 mg/l nor exceed a thirty (30) day average of 0.236 mg/l.

**155.2.4.2.4.2.** December – April shall not exceed an instantaneous maximum allowable discharge limit of 0.350 mg/l nor exceed a thirty (30) day average of 0.233 mg/l.

**155.2.4.2.5.** Sulfate/Sulfide shall not exceed an instantaneous maximum allowable discharge limit of 1,778 mg/l nor exceed a thirty (30) day average of 1,185 mg/l.

**155.2.4.3.** The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. the Town Manager may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

**155.2.4. Town of Limon's Right of Revision.**

The right to establish, by code, ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

**155.2.5. Dilution.**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. the Town Manager may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

**155.3. Pretreatment Of Wastewater.**

**155.3.1. Pretreatment Facilities.**

**155.3.1.1.** Users shall provide wastewater treatment as necessary to comply with this code and shall achieve compliance with all categorical

pretreatment standards, local limits, and the prohibitions set out in Section **155.2.1.** within the time limitations specified by EPA, the State, or the Town Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Town Manager for review, and shall be acceptable to the Town Manager before such facilities are constructed. The Town Manager may request such additional information as is necessary for a full review of the plans.

**155.3.1.1.1.** Within ten (10) days of receiving all information requested by the Town Manager, the Town Manager shall schedule a consultation meeting with the user or the user's representative at which time the Town Manager may request the user to prepare a mitigation plan that modifies the facility operation or design to ensure compliance with the Town Code and pretreatment standards.

**155.3.1.1.2.** Within twenty (20) days of the consultation meeting, the Town Manager may, by written memorandum, approve the facility plan incorporating any alterations, modifications, or conditions deemed necessary to ensure that the facility will comply with Town Code and pretreatment standards, or may deny the facility plan if the constructed facility will not meet Town Code or pretreatment standards.

**155.3.1.1.3.** In the event that the Town Manager determines that plans submitted by the user require further technical expertise may authorize the use of appropriate technical assistance in evaluating and/or modifying the plan and shall further establish at that time a time table for the completion of the study and construction or installation of the proposed facility.

**155.3.1.1.4.** As to Significant Industrial Users, the timetable for the construction of pretreatment facilities may, at the discretion of the Town Manager, be coordinated with the issuance of a wastewater discharge permit as set forth in Section **155.4.**

**155.3.2. Additional Pretreatment Measures:**

**155.3.2.1.** Whenever deemed necessary, the Town Manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this code.

**155.3.2.2.**The Town Manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow- control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

**155.3.2.3.**Grease, oil, and sand interceptors shall be provided when, in the opinion of the Town Manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Town Manager and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

**155.3.2.4.**Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

**155.3.3. Accidental Discharge/Slug Control Plans**

**155.3.3.1.**At least once every two (2) years, the Town Manager shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. the Town Manager may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Town Manager may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

**155.3.3.1.1.**Description of discharge practices, including non-routine batch discharges;

**155.3.3.1.2.** Description of stored chemicals;

**155.3.3.1.3.**Procedures for immediately notifying the Town Manager of any accidental or slug discharge, as required by Section **155.6.6.** ; and

**155.3.3.1.4.**Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

**155.3.4. Hauled Wastewater.**

[RESERVED]

**155.4. Wastewater Discharge Permit Application.**

**155.4.1.** When requested by the Town Manager, a user must submit information on the nature and characteristics of its wastewater within twenty-one (21) days of the request. the Town Manager is authorized to prepare a form for this purpose and may periodically require users to update this information.

**155.4.2. Wastewater Discharge Permit Requirement.**

**155.4.2.1.**No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Town Manager except that a significant industrial user that has filed a timely application pursuant to Section **155.4.3.** may continue to discharge for the time period specified therein.

**155.4.2.2.**The Town Manager may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this code.

**155.4.2.3.**Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this code and subjects the wastewater discharge permittee to the sanctions set out in Sections **155.10.** through **155.12.** Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

**155.4.3.Wastewater Discharge Permitting: Existing Connections**

**155.4.3.1.**Any user, other than a Significant Industrial User, required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this code and who wishes to continue such discharges in the future, shall, within sixty (60) days after said date, apply to the Town Manager for a wastewater discharge permit in accordance with Section **155.4.5.**, and shall not cause or allow discharges to the POTW to continue after one hundred twenty (120) days of the effective date of this code except in accordance with a wastewater discharge permit issued by the Town Manager.

155.4.3.2. Any Significant Industrial User required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this code and who wishes to continue such discharges in the future, shall, within sixty (60) days after said date, apply to the Town Manager for a wastewater discharge permit in accordance with Section 155.4.5.

155.4.3.2.1. In support of the application, the Significant Industrial User shall submit any and all information requested by the Town Manager as set forth on a form provided by the Town.

155.4.3.2.2. If additional pretreatment facilities or requirements are necessary to meet the pretreatment standards, the Town Manager with assistance from available technical assistance that the Town Manager may seek, may establish a schedule and timetable for meeting pretreatment standards.

155.4.3.2.3. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Significant Industrial User to meet the applicable pretreatment standards.

155.4.3.2.4. In no event shall the schedule exceed nine (9) months or the Significant Industrial User be permitted to discharge into the POTW after the schedule deadline without the written consent of the Town Manager.

**155.4.4. Wastewater Discharge Permitting: New Connections.**

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 155.4.5., must be filed at least sixty (60) days prior to the date upon which any discharge will begin or recommence.

**155.4.5. Wastewater Discharge Permit Application Contents**

155.4.5.1. All users required to obtain a wastewater discharge permit must submit a permit application. The Town Manager may require all users to submit as part of an application the following information:

155.4.5.1.1. All information required by Section 155.6.1.2.;

155.4.5.1.2. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

155.4.5.1.3. Number and type of employees, hours of operation, and proposed or actual hours of operation;

155.4.5.1.4. Each product produced by type, amount, process or processes, and rate of production;

155.4.5.1.5. Type and amount of raw materials processed (average and maximum per day);

155.4.5.1.6. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by site, location, and elevation, and all points of discharge;

155.4.5.1.7. Time and duration of discharges; and

155.4.5.1.8. Any other information as may be deemed necessary by the Town Manager to evaluate the wastewater discharge permit application.

155.4.5.2. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

**155.4.6. Application Signatories and Certification.**

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

*"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the System, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."*

**155.4.7. Wastewater Discharge Permit Decisions.**

**155.4.7.1.**The Town Manager will evaluate the data furnished by the user, except for Significant Industrial Users, and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application for users other than Significant Industrial Users, the Town Manager will determine whether or not to issue a wastewater discharge permit. The Town Manager may deny any application for a wastewater discharge permit.

**155.4.7.2.**The Town Manager will evaluate data provided by Significant Industrial Users pursuant to the Section **155.4.3.2.**

**155.5. Wastewater Discharge Permit Issuance Process.**

**155.5.1. Wastewater Discharge Permit Duration.**

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Town Manager. Each wastewater discharge permit will indicate a specific date upon which it will expire.

**155.5.2. Wastewater Discharge Permit Contents.**

**155.5.2.1.**A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Town Manager to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

**155.5.2.2.**Wastewater discharge permits must contain:

**155.5.2.2.1.**A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

**155.5.2.2.2.**A statement that the wastewater discharge permit is nontransferable except in accordance with Section **155.5.5.**, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

**155.5.2.2.3.**Effluent limits based on applicable pretreatment standards;

**155.5.2.2.4.**Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and

**155.5.2.2.5.**A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

**155.5.2.2.6.**A statement requiring that within ninety (90) days of the effective date of the permit, a Best Management Practices Plan for control of solvents and for the control of accidental spills shall be submitted.

**155.5.2.2.7.**Industrial Pretreatment Enforcement Response Guide

**155.5.3.** Wastewater discharge permits may contain, but need not be limited to, the following conditions:

**155.5.3.1.**Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

**155.5.3.2.**Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

**155.5.3.3.**Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

**155.5.3.4.**Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

**155.5.3.5.**The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

155.5.3.6. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

155.5.3.7. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

155.5.3.8. Other conditions as deemed appropriate by the Town Manager to ensure compliance with this code, and State and Federal laws, rules, and regulations.

**155.5.4. Wastewater Discharge Permit Appeals.**

155.5.4.1. The Town Manager shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Town Manager to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance.

155.5.4.1.1. Failure to submit a timely petition for review shall be deemed to be a waiver of the user's right to an administrative appeal.

155.5.4.1.2. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

155.5.4.1.3. The effectiveness of the wastewater discharge permit shall not be stayed pending the administrative review and/or appeal.

155.5.4.1.4. Upon receipt of the petition, the Town Manager shall respond, in writing, to the petition either admitting or denying any request set forth in the petition.

155.5.4.1.5. The Town Manager shall have the discretion to request a meeting with the petitioner for the purpose of receiving clarification or further information concerning any matter contained in the petition.

155.5.4.1.6. If the Town Manager has not responded to the petition within fourteen (14) days of receiving the petition, a request for reconsideration shall be deemed to be denied by the Town Manager.

155.5.4.1.7. In the event the Town Manager denies the request set forth in the petition for reconsideration, the petitioner shall be entitled to have the decision of the Town Manager reviewed by the Municipal Court Judge of the Limon Municipal Court.

155.5.4.1.7.1. The request for review must be made by the petitioner by the filing of the petition for review with the Limon Municipal Court Clerk within fifteen (15) days of the denying of the petition by the Town Manager.

155.5.4.1.7.2. In this review, the Municipal Court Judge will be hearing the petition in a final administrative review capacity and not in a judicial appeal capacity.

155.5.4.1.7.3. The usual judicial rules of evidence shall not apply though the Municipal Judge may establish rules deemed to be appropriate for the efficient and thorough review of the matter.

155.5.4.1.8. The final administrative review hearing before the Limon Municipal Court Judge shall be held within thirty (30) days of the filing of the petition for review unless both parties agree to a longer period.

155.5.4.1.9. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Lincoln County District Court within the time allowed by law..

**155.5.5. Wastewater Discharge Permit Modification.**

155.5.5.1. The Town Manager may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

155.5.5.1.1. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

155.5.5.1.2. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

155.5.5.1.3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

155.5.5.1.4. Information indicating that the permitted discharge poses a threat to the Town of Limon’s POTW, Town of Limon personnel, or the receiving waters;

155.5.5.1.5. Violation of any terms or conditions of the wastewater discharge permit;

155.5.5.1.6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

155.5.5.1.7. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

155.5.5.1.8. To correct typographical or other errors in the wastewater discharge permit; or

**155.5.6. Wastewater Discharge Permit Transfer.**

155.5.6.1. Wastewater discharge permits shall be issued to a specific user for a specific operation. A wastewater discharge permit shall not be assigned or transferred or sold to a new owner, new user, or applied to different permits or to a new or changed operation without the approval of the Town Manager. Any succeeding owner or user shall also comply with the terms of the existing permit until a final decision is made by the Town Manager.

155.5.6.2. Notice of an assignment, transfer, sale, application to other permits or changed operation shall be submitted to the Town Manager for consideration within five (5) days of closing of the transaction.

155.5.6.2.1. Failure of the user and the proposed transferee to provide such notice may, in the discretion of the Town Manager, result denial of approval of the transfer.

155.5.6.2.2. The user shall, in event of any agreement for the sale of the user’s business operation fully inform the proposed new owner or new user of the terms and conditions of the existing permit.

155.5.6.2.3. No liability shall attach to the Town or the Town Manager in the event that the Town Manager, or other of the Town Officers or employees, are contacted by the proposed new owner or new user with questions concerning the permit or Town requirements.

155.5.6.2.4. In such event, the Town Manager, or other Town Officers or employees, shall to the best of their ability, keep such communications confidential.

155.5.6.3. The notice to the Town Manager must include a written certification by the new owner or operator which:

155.5.6.3.1. States that the new owner and/or operator has no immediate intent to change the facility’s operations and processes;

155.5.6.3.2. Identifies the specific date on which the transfer occurred; and

155.5.6.3.3. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

155.5.6.4. Failure to provide notice of a transfer in accordance with Section 155.5.6.2. shall render the permit transfer ineffective, and the transferring permit holder shall remain responsible for permit compliance until the proposed transfer is approved by the Town Manager.

**155.5.7. Wastewater Discharge Permit Revocation.**

155.5.7.1. The Town Manager may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

155.5.7.1.1. Failure to notify the Town Manager of significant changes to the wastewater prior to the changed discharge;

155.5.7.1.2. Failure to provide prior notification to the Town Manager of changed conditions pursuant to Section 155.6.5.;

155.5.7.1.3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

155.5.7.1.4. Falsifying self-monitoring reports;

155.5.7.1.5. Tampering with monitoring equipment;

155.5.7.1.6. Refusing to allow the Town Manager timely access to the facility premises and records;

155.5.7.1.7. Failure to meet effluent limitations;

155.5.7.1.8. Failure to pay fines;

155.5.7.1.9. Failure to pay sewer charges;

155.5.7.1.10. Failure to meet compliance schedules;

155.5.7.1.11. Failure to complete a wastewater survey or the wastewater discharge permit application;

155.5.7.1.12. Failure to provide notice of the transfer of business ownership of a permitted facility as required in Section 155.5.6.2.; or

155.5.7.1.13. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this code.

155.5.7.2. Wastewater discharge permits shall be voidable upon permanent cessation of operations. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

**155.5.8. Wastewater Discharge Permit Re-issuance.**

155.5.8.1. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit re-issuance by submitting a complete permit application, in accordance with Section 155.4.5., a minimum of sixty (60) days prior to the expiration of the user’s existing wastewater discharge permit.

155.5.8.2. Provided that a user submits a timely application for wastewater discharge permit reissuance as provided in the preceding paragraph, that user’s existing wastewater discharge permit will continue to remain in effect and operate under its stated terms, until the new permit is either issued or denied. It shall not be a violation of this code for a user to continue discharging in compliance with an expired permit pending approval of a properly applied for new wastewater discharge permit.

**155.5.9. Regulation of Waste Received from Other Jurisdictions. [RESERVED]**

**155.6. Reporting Requirements.**

**155.6.1. Baseline Monitoring Reports.**

155.6.1.1. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 4036(a)(4), whichever is later, existing categorical users currently

discharging to or scheduled to discharge to the POTW shall submit to the Town Manager a report which contains the information listed in section 155.6.1.2. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to Town Manager a report which contains the information listed in section 155.6.2. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

155.6.1.2. Users described above shall submit the information set forth below.

155.6.1.2.1. Identifying Information. The name and address of the facility, including the name of the operator and owner.

155.6.1.2.2. Environmental Permits. A list of any environmental control permits held by or for the facility.

155.6.1.2.3. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

155.6.1.2.4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

**155.6.1.2.5. Measurement of Pollutants.**

155.6.1.2.5.1. The categorical pretreatment standards shall be applicable to each regulated process.

155.6.1.2.5.2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Town Manager, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 155.6.10.

**155.6.1.2.5.3.** Sampling must be performed in accordance with procedures set out in Section **155.6.11.**

**155.6.1.2.6.** Certification. A statement, reviewed by the user’s authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

**155.6.1.2.7.** Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section **155.6.2.**

**155.6.1.2.8.** Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section **155.4.6.**

**155.6.2. Compliance Schedule Progress Reports.**

**155.6.2.1.**The following conditions shall apply to the compliance schedule required by Section **155.6.1.2.7.:**

**155.6.2.1.1.**The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

**155.6.2.1.2.**No increment referred to above shall exceed nine (9) months;

**155.6.2.1.3.**The user shall submit a progress report to the Town Manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

**155.6.2.1.4.**In no event shall more than nine (9) months elapse between such progress reports to the Town Manager.

**155.6.3. Reports on Compliance with Categorical Pretreatment Standard Deadline.**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Town Manager a report containing the information described in Sections **155.6.1.2.4.** through **155.1.2.6.** For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user’s long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user’s actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section **155.4.6.**

**155.6.4. Periodic Compliance Reports.**

**155.6.4.1.**All significant industrial users shall, at a frequency determined by the Town Manager, but in no case less than indicated in the chart below:

**SELF-MONITORING FREQUENCY**

GALLONS PER DAY	PER	FREQUENCY
1 – 10,000		Once per month
10,000 – 50,000		Twice per month
50,000 – 100,000	–	Once per week
100,000 – 250,000	–	Twice per week
Over 250,000		Three times per week

**155.6.4.2.**Industrial users shall submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section **155.4.6.**

**155.6.4.3.**All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

**155.6.4.4.**If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Town Manager, using the procedures prescribed in Section **155.6.11.**, the results of this monitoring shall be included in the report.

**155.6.5. Reports of Changed Conditions.**

Each user must notify the Town Manager of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

**155.6.5.1.**The Town Manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a discharge permit application under Section **155.4.5.**

**155.6.5.2.**The Town Manager may issue a wastewater discharge permit under Section **155.4.7.** or modify an existing wastewater discharge permit under Section **155.5.4.** in response to changed conditions or anticipated changed conditions.

**155.6.5.3.**For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

**155.6.6. Reports of Potential Problems.**

**155.6.6.1.**In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Town Manager of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user. Within five (5) days following such discharge, the user shall, unless waived by the Town Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not

relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

**155.6.6.2.**A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in section **155.6.6.1.** Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

**155.6.7.Reports from Un-permitted Users.**

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Town Manager as the Town Manager may require.

**155.6.8. Notice of Violation/Repeat Sampling and Reporting.**

If sampling performed by a user indicates a violation, the user must notify the Town Manager within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Town Manager within fifteen (15) days after becoming aware of the violation.

**155.6.9. Notification of the Discharge of Hazardous Waste.**

**155.6.9.1.**Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and Colorado Department of Public Health and Environment, Hazardous Materials and Waste Division Director, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of

constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section **155.6.5**. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections **155.6.1.**, **155.6.3.**, and **155.6.4**.

**155.6.9.2.** In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Town Manager, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

**155.6.9.3.** In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

**155.6.9.4.** This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this code, a permit issued thereunder, or any applicable Federal or State law.

#### **155.6.10. Analytical Requirements.**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standards. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

#### **155.6.11. Sample Collection.**

**155.6.11.1.** Except as indicated in Section **155.6.11.2.**, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Town Manager may authorize the use of time proportional sampling or a minimum of four (4) grab

samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

**155.6.11.2.** Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

#### **155.6.12. Timing.**

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

#### **155.6.13. Record Keeping.**

Users subject to the reporting requirements of this code shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this code and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation between the user and the Town of Limon, or where the user has been specifically notified of a longer retention period by the Town Manager.

#### **155.7. Compliance Monitoring.**

##### **155.7.1. Right of Entry: Inspection and Sampling.**

**155.7.1.1.** The Town Manager or designee shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this code and any wastewater discharge permit or order issued hereunder. Users shall allow the Town Manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties; or as described in CRS.

**155.7.1.1.1.** Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Town Manager will be permitted to enter without delay for the purposes of performing specific responsibilities.

**155.7.1.1.2.** The Town Manager shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

**155.7.1.1.3.** The Town Manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy or documentation provided that demonstrates calibration accuracy.

**155.7.1.1.4.** Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Town Manager and shall not be replaced. The costs of clearing such access shall be born by the user.

**155.7.1.1.5.** Unreasonable delays in allowing the Town Manager access to the user's premises shall be a violation of this code.

**155.7.1.2.** The Town Manager shall perform sampling on each significant industrial user facility no less frequently than indicated on the following chart:

**MONITORING FREQUENCY**

GALLONS PER DAY	FREQUENCY
1 – 10,000	Once every three months
10,000 – 50,000	Twice every three months
50,000 – 100,000	Once per month
100,000 – 250,000	Twice per month
Over 250,000	Three times per month

**155.7.1.3. Annual Evaluation.** The Town Manager shall, on an annual basis, complete a full evaluation of each facility of any significant industrial user.

**155.7.2. Search Warrants.**

If the Town Manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this code, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town of Limon designed to verify compliance with this code or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town Manager may seek issuance of a search warrant from the Municipal Court of the Town of Limon or other court of competent jurisdiction.

**155.8. Confidential Information.**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Town Manager's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Town Manager, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

**155.9. Publication of Users in Significant Noncompliance.**

**155.9.1.** The Town Manager shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

**155.9.1.1.**Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six- (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

**155.9.1.2.**Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

**155.9.1.3.**Any other discharge violation that the Town Manager believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

**155.9.1.4.**Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Town Manager's exercise of its emergency authority to halt or prevent such a discharge;

**155.9.1.5.**Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

**155.9.1.6.**Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

**155.9.1.7.**Failure to accurately report noncompliance for which a Notice of Violation has been issued; or

**155.9.1.8.**Any other violation(s) for which a Notice of Violation has been issued which the Town Manager determines will adversely affect the operation or implementation of the local pretreatment program.

**155.10. Administrative Enforcement Remedies.**

**155.10.1. Notification of Violation.**

**155.10.1.1.** When the Town Manager finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Town Manager may serve upon that user a written Notice of Violation. Within twenty (20) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Town Manager.

**155.10.1.2.** Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Town Manager to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

**155.10.2. Consent Orders.**

The Town Manager may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections **155.10.4.** and **155.10.5.** and shall be judicially enforceable.

**155.10.3. Show Cause Hearing.**

The Town Manager may order a user which has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Town Manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

**155.10.4. Compliance Orders.**

When the Town Manager finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Town Manager may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

**155.10.5. Cease and Desist Orders.**

**155.10.5.1.** When the Town Manager finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Town Manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:

**155.10.5.1.1.** Immediately comply with all requirements; and

**155.10.5.1.2.** Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

**155.10.5.2.** Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

**155.10.6. Administrative Penalties.**

**155.106.1.** When the Town Manager finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Town Manager may fine such user in an

amount not to exceed \$25,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

**155.10.6.2.** Unpaid charges, fines, and penalties shall be collected as provided for in the Municipal Code of the Town of Limon, Section **134**.

**155.10.6.3.** Users desiring to dispute such administrative penalties and costs may request a review through the petition process described in Section **155.5.4**. The Town Manager may add the costs of preparing administrative enforcement actions, such as notices and orders, as well as the cost of the administrative review, if the user is unsuccessful, to the penalty.

**155.10.6.4.** Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

**155.10.7. Emergency Suspension.**

**155.10.7.1.** The Town Manager may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Town Manager may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

**155.10.7.1.1.** Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Town Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Town Manager may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Town Manager that the period of endangerment has passed, unless the termination proceedings in Section **155.10.8** are initiated against the user.

**155.10.7.1.2.** A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement,

describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Town Manager prior to the date of any show cause or termination hearing under Sections 155.10.3. or 155.10.8.

155.10.7.2. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

**155.10.8. Termination of Discharge.**

155.10.8.1. In addition to the provisions in Section 155.5.6., any user who violates the following conditions is subject to discharge termination:

155.10.8.1.1. Violation of wastewater discharge permit conditions;

155.10.8.1.2. Failure to accurately report the wastewater constituents and characteristics of its discharge;

155.10.8.1.3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

155.10.8.1.4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

155.10.8.1.5. Violation of the pretreatment standards in Section 155.2.

155.10.8.2. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 155.10.3. why the proposed action should not be taken. Exercise of this option by the Town Manager shall not be a bar to, or a prerequisite for, taking any other action against the user.

**155.11. Judicial Enforcement Remedies.**

**155.11.1. Injunctive Relief.**

When the Town Manager finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Town Manager may petition the Municipal Court of the Town of Limon or any court of competent jurisdiction through the Town of Limon's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit,

order, or other requirement imposed by this ordinance on activities of the user. The Town Manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

**155.11.2. Civil Penalties.**

155.11.2.1. A user who has violated, or continues to violate, any provision of this code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Town of Limon for a maximum civil penalty of \$25,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

155.11.2.2. The Town Manager may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Town of Limon.

155.11.2.3. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

155.11.2.4. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

**155.11.3. Criminal Prosecution.**

155.11.3.1. A user who willfully or negligently violates any provision of this code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$25,000 per violation, per day.

155.11.3.2. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$25,000. This penalty shall be in

addition to any other cause of action for personal injury or property damage available under State law.

**155.11.3.3.** A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this code, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$25,000 per violation, per day.

**155.11.3.4.** In the event of a second conviction, a user shall be punished by a fine of not more than \$25,000 per violation, per day.

**155.11.4. Remedies Nonexclusive.**

The remedies provided for in this code are not exclusive. The Town Manager may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town of Limon’s enforcement response plan. However, the Town Manager may take other action against any user when the circumstances warrant. Further, the Town Manager is empowered to take more than one enforcement action against any noncompliant user.

**155.12. Supplement Enforcement Action.**

**155.12.1. Performance Bonds.**

The Town Manager may decline to issue or reissue a wastewater discharge permit to any user who the Town Manager determines may result in required long term cleanup efforts beyond the term of the discharge unless such user first files a satisfactory bond, payable to the Town of Limon, in a sum not to exceed a value determined by the Town Manager to be necessary to achieve consistent compliance.

**155.12.2. Water Supply Severance.**

Whenever a user has violated or continues to violate any provision of this code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed upon a determination by the Town Manager that the user is unable or unwilling to comply with this code. Service will only recommence, at the user’s expense, after it has satisfactorily demonstrated its ability and willingness to comply.

**155.12.3. Informant Rewards.**

The Town Manager may pay up to fifty dollars (\$50) for information leading to the discovery of noncompliance by a user. In the event that the information provided results in a civil penalty or an administrative penalty levied against the user, the Town Manager may disburse up to five percent (5%) of the collected line or penalty to the informant. However, a single reward payment may not exceed one thousand dollars (\$1,000).

**155.13. Affirmative Defenses to Discharge Violations.**

**155.13.1. Upset.**

**155.13.1.1.** For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

**155.13.1.2.** An upset shall constitute an affirmative defense to an action brought for noncompliance with pretreatment standards if the requirements of section **155.13.1.3.**, are met.

**155.13.1.3.** A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

**155.13.1.3.1.** An upset occurred and the user can identify the cause(s) of the upset;

**155.13.1.3.2.** The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

**155.13.1.3.3.** The user has submitted the following information to the Town Manager within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:

**155.13.1.3.3.1.** A description of the indirect discharge and cause of noncompliance;

155.13.1.3.3.2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

155.13.1.3.3.3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

155.13.1.3.4. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

155.13.1.3.5. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with pretreatment standards.

155.13.1.3.6. Users shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**155.13.2. Prohibited Discharge Standards.**

155.13.2.1. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 155.2.1.1. or the specific prohibitions in Sections 155.2.1.2.3. through 155.2.1.2.17. if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

155.13.2.1.1. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

155.13.2.1.2. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Town of Limon was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

**155.13.3. Bypass.**

155.13.3.1. For the purposes of section 155.13.3.:

155.13.3.1.1. "Bypass": the intentional diversion of waste streams from any portion of a user's treatment facility.

155.13.3.1.2. "Severe property damage": substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

155.13.3.1.3. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation.

155.13.3.1.3.1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Town Manager, at least ten (10) days before the date of the bypass, if possible.

155.13.3.1.3.1.1. A user shall submit oral notice to the Town Manager of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Town Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

155.13.3.1.3.2. Bypass is prohibited, and the Town Manager may take an enforcement action against a user for a bypass, unless

155.13.3.1.3.2.1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

155.13.3.1.3.2.2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment

downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

155.13.3.1.3.2.3. The user submitted notices as required under section 155.13.3.1.3.1.1.,

155.13.3.1.4. The Town Manager may approve anticipated bypass, after considering its adverse effects, if the Town Manager determines that it will meet the three conditions listed in section 155.13.3.1.3.2.

155.14. Annual Discharge Permit Fees.

155.14.1. Industrial dischargers subject to categorical effluent standards discharging to publicly owned treatment works with pretreatment programs (not including categorical industries subject to zero discharge standards) shall annually pay the following amounts:

155.14.1.1. Subcategory 1: Less than 10,000 gallons per day: \$ 600

155.14.1.2. Subcategory 2: 10,000 to 50,000 gallons per day: \$ 900

155.14.1.3. Subcategory 3: Greater than 50,000 gallons per day: \$ 1,200

155.14.2. All other significant industrial dischargers discharging to publicly owned treatment works with pretreatment programs (including categorical industries subject to zero discharge standards) shall annually pay the following amounts:

155.14.2.1. Subcategory 1: Less than 10,000 gallons per day: \$ 150

155.14.2.2. Subcategory 2: 10,000 to 50,000 gallons per day: \$ 300

155.14.2.3. Subcategory 3: Greater than 50,000 gallons per day: \$ 400

155.14.3. All significant industrial users shall be billed for the cost of each monitoring sample completed by the Town of Limon as required by Section 155.7.1.2.

155.15. Miscellaneous Provisions.

155.15.1. Pretreatment Charges and Fees

155.15.1.1 The Town of Limon may adopt reasonable fees for reimbursement of costs of setting up and operating Town of Limon's Pretreatment Program which may include:

155.15.1.1.1. Fees for wastewater discharge permit applications including the cost of processing such applications;

155.15.1.1.2. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

155.15.1.1.3. Fees for reviewing and responding to accidental discharge procedures and construction;

155.15.1.1.4. Fees for filing appeals; and

155.15.1.1.4.1. Other fees as the Town of Limon may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this code and are separate from all other fees, fines, and penalties chargeable by the Town of Limon.



160 - Finance

161 - Municipal Contracts, Purchases, Conveyances

(Amended March 3, 2005 by Ordinance No. 500.)

161.1. CONTRACTORS' BONDS.

Any person or persons, company or companies, firm or firms, corporation or corporations entering into a contract with the Town of Limon for the construction of any public building or the prosecution or completion of any public work, or for repairs upon any public building or public work, shall be required before commencing work, to execute, in addition to all bonds that may now or hereafter be required of them, a penal bond, with good and sufficient surety or sureties, to be approved by the

Board of Trustees of the Town of Limon, conditioned that such contractor or contractors shall promptly make payments of all amounts lawfully due to all persons supplying or furnishing him or them, or his or their contractor or subcontractors with labor or materials, used or performed in the prosecution of the work provided for in such contract, and will indemnify the Town of Limon to the extent of any and all payments in connection with the carrying out of such contracts which said Town of Limon may be required to make under the law.

**161.2. PUBLICATION OF LEGAL NOTICES.**

Except in those cases where the ordinances of the Town of Limon shall require legal notices to be published in the official paper of the Town of Limon, it shall be lawful to publish such notices in any newspaper in the Town of Limon qualified under the statutes of the State of Colorado to publish legal notices.

**161.3. PURCHASES OF THE TOWN OF LIMON.**

Purchases by the Town of Limon shall be governed by the Purchasing Policy of the Town of Limon which must be approved and/or amended by Resolution of the Board of Trustees.



**162 - Budget**

**162.1. Budget Required.**

The Town of Limon is required to prepare an annual budget in accordance with the statutes of the State of Colorado.

**162.2. Annual Appropriation Bill.**

Pursuant to statute, the Board of Trustees of Limon shall within the last quarter of each fiscal year pass an ordinance to be termed the Annual Appropriation Bill for the next fiscal year.

**162.3. Nature and Scope of Budget.**

Pursuant to statute, the budget for the Town of Limon, being a local government, shall present a complete financial plan for the ensuing budget year. It shall set forth all proposed expenditures for the administration,

operation and maintenance of all offices, departments, boards, commissions and institutions, including publicly owned or operated utilities and enterprises; the actual or estimated operating deficits from prior years; all interest and debt redemption charges during the budget year; expenditures for capital projects to be undertaken or executed during the budget year. In addition thereto, the budget shall set forth the anticipated income and other means of financing the proposed expenditures for the fiscal year.



**163 - Depository for Funds of the Town of Limon**

The official depository for the Town of Limon shall be such bank or banks as may from time to time be designated by the Board of Trustees.



**164 - Reserved**

HISTORY: Cigarette tax under 1958 Code; Amended October 5, 1972 by Ordinance No. 223; Repealed June 7, 1973 by Ordinance No. 227



**165 – Use of Public Right-of-Way**

(Entire Section added by Ordinance No. 503 on July 7, 2005)

**165.1. Purpose and Objectives.**

**165.1.1. Purpose.**

This ordinance provides principles, procedures and associated funding for the placement of Structures and Facilities, construction excavation encroachments and work activities within or upon any public right of way, and to protect the integrity of the road system. To achieve

these purposes, it is necessary to require permits of private users of the public rights of way, to establish permit procedures and to fix and collect fees and charges.

**165.1.2. Objectives.**

Public and private uses of public rights of way for location of Facilities employed in the provision of public services should, in the interests of the general welfare, be accommodated; however, the Town must insure that the primary purpose of the right of way, passage of pedestrian and vehicular traffic, is maintained to the greatest extent possible. In addition, the value of other public and private installations, roadways, facilities and properties should be protected, competing uses must be reconciled, and the public safety preserved. The use of the right of way corridors by private users is secondary to these public objectives, and the movement of traffic. This code is intended to strike a balance between the public need for efficient, safe transportation routes and the use of rights of way for location of Facilities by public and private entities. It thus has several objectives:

**165.1.3.** To insure that the public safety is maintained and that public inconvenience is minimized.

**165.1.4.** To protect the Town's infrastructure investment by establishing repair standards for the pavement, facilities, and property in the public rights of way, when work is accomplished.

**165.1.5.** To facilitate work within the rights of way through the standardization of regulations.

**165.1.6.** To maintain an efficient permit process.

**165.1.7.** To conserve and fairly apportion the limited physical capacity of the public rights of way held in public trust by the Town.

**165.1.8.** To establish a public policy for enabling the Town to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition and technological development.

**165.1.9.** To promote cooperation among the Permittees (as defined herein) and the Town in the occupation of the public rights of way, and work therein, in order to (i) eliminate duplication that is wasteful, unnecessary or unsightly, (ii) lower the Permittee's and the Town's costs of providing services to the public, and (iii) minimize street cuts.

**165.1.10.** To assure that the Town can continue to fairly and responsibly protect the public health, safety, and welfare.

**165.2. Definitions.**

For the purpose of section 165 the following words shall have the following meanings:

**165.2.1. Access Vault:** any structure containing one or more ducts, conduits, manholes, handhole or other such facilities in Permittee's facilities.

**165.2.2. Appurtenances:** transformers, switching boxes, gas regulator stations, terminal boxes, meter cabinets, pedestals, junction boxes, handholes substations, system amplifiers, power supplies, pump stations, manholes, valves and valve housings and other devices that are necessary to the function of electric, communications, cable television, water, sewer, storm water, natural gas and other utilities and services.

**165.2.3. Town:** the Town of Limon, Colorado.

**165.2.4. Contractor:** a person, partnership, corporation, or other legal entity who undertakes to construct, install, alter, move, remove, trim, demolish, repair, replace, excavate, or add to any improvements covered by this code, that requires work, workers, and/or equipment to be in the Public Right of Way in the process of performing the above named operations.

**165.2.5. Degradation:** a decrease in the useful life of the right of way or damage to any landscaping within the rights of way caused by excavation in or disturbance of the right of way, resulting in the need to reconstruct the surface and/or subsurface structure of such right of way earlier than would be required if the excavation or disturbance did not occur.

**165.2.6. Developer:** the person, partnership, corporation, or other legal entity who is improving a parcel of land within the Town and who is legally responsible to the Town for the construction of improvements within a subdivision or as a condition of a building permit.]

**165.2.7. Director:** the Town Manager of the Town or his/her authorized representative.

**165.2.8. Duct or Conduit:** a single enclosed raceway for cables, fiber optics or other wires, or a pipe or canal used to convey fluids or gases.

**165.2.9. Emergency:** any event which may threaten public health or safety, or that results in an interruption in the provision of services, including, but not limited to, damaged or leaking water or gas conduit systems, damaged, plugged, or leaking sewer or storm drain conduit systems, damaged electrical and communications facilities, and advanced notice of needed repairs is impracticable under the circumstances.

**165.2.10. Excavate:** to dig into or in any way remove or penetrate any part of a right of way.

**165.2.11. Facilities:** including, without limitation, any pipes, conduits, wires, cables, amplifiers, transformers, fiber optic lines, antennae, poles, street lights, ducts, fixtures and appurtenances and other like equipment used in connection with transmitting, receiving, distributing, offering, and providing utility and other services.

**165.2.12. Fence:** any artificially constructed barrier of wood, masonry, stone, wire, metal, or any other manufactured material or combination of materials erected to enclose partition, beautify, mark, or screen areas of land.

**165.2.13. Infrastructure:** any public facility, system, or improvement including, without limitation, water and sewer mains and appurtenances, storm drains and structures, streets, alleys, traffic signal poles and appurtenances, conduits, signs, landscape improvements, sidewalks, and public safety equipment.

**165.2.14. Landscaping:** materials, including without limitation, grass, ground cover, shrubs, vines, hedges, or trees and non-living natural materials commonly used in landscape development, as well as attendant irrigation systems.

**165.2.15. Permit:** any authorization for use of the public rights of way granted in accordance with the terms of this ordinance, and the laws and policies of the Town.

**165.2.16. Permittee:** the holder of a valid Permit issued pursuant to section 165.

**165.2.17. Person:** any person, firm, partnership, special, metropolitan, or general district, association, corporation, company, or organization of any kind.

**165.2.18. Public Right of Way or Right of Way or Public Way:** any public street, way, place, alley, sidewalk, easement, park, square, plaza, and Town-owned right of way dedicated to public use.

**165.2.19. Routine Maintenance:** any above ground activity that does not affect the surface of the right-of-way nor affects the use of the right-of-way.

**165.2.20. Specifications:** engineering regulations, construction specifications, and design standards adopted by the Town.

**165.2.21. Structure:** anything constructed or erected with a fixed location below, on, or above grade, including, without limitation, foundations, fences, retaining walls, awnings, balconies, and canopies.

**165.2.22. Surplus Ducts or Conduits:** are Conduits or Ducts other than those occupied by Permittee or any prior Permittee, or unoccupied Ducts held by Permittee as emergency use spares, or other unoccupied Ducts that Permittee reasonably expects to use within three (3) years from the date of a request for use.

**165.2.23. Work:** any labor performed on, or any use or storage of equipment or materials, including but not limited to, construction of streets and all related appurtenances, fixtures, improvements, sidewalks, driveway openings, bus shelters, bus loading pads, street lights, and traffic signal devices. It shall also mean construction, maintenance, and repair of all underground structures such as pipes, conduit, ducts, tunnels, manholes, vaults, buried cable, wire, or any other similar structure located below surface, and installation of overhead poles used for any purpose.

**165.3. Police Powers.**

The Permittee's rights hereunder are subject to the police powers of the Town, which include the power to adopt and enforce codes and/or ordinances, including amendments to this code, necessary to the safety, health, and welfare of the public. The Permittee shall comply with all applicable laws, codes and ordinances enacted, or hereafter enacted, by the Town or any other legally constituted governmental unit having lawful jurisdiction over the subject matter hereof. The Town reserves the right to exercise its police powers, notwithstanding anything in this code and the Permit to the contrary. Any conflict between the provisions of the code, ordinances or the Permit and any other present or future lawful exercise of the Town's police powers shall be resolved in favor of the latter.

**165.4. Permit Required.**

**165.4.1.** No person except an employee or official of the Town or a person exempted by contract with the

Town shall undertake or permit to be undertaken any construction, excavation, or Work in the public rights of way without first obtaining a Permit from the Town as set forth in section 165, except as provided in section 165.4.2. and in Section 165.22. Each Permit obtained, along with associated documents, shall be maintained on the job site and available for inspection upon request by any officer or employee of the Town.

**165.4.2.** Work in State of Colorado highway right-of-way shall be exempt from this requirement.

**165.4.3. Construction, Excavation or Work Area.** No Permittee shall perform construction, excavation, or Work in an area larger or at a location different, or for a longer period of time than that specified in the Permit or Permit application. If, after construction, excavation, or Work is commenced under an approved Permit, it becomes necessary to perform construction, excavation, or Work in a larger or different area than originally requested under the application or for a longer period of time, the Permittee shall notify the Director immediately and within twenty-four hours shall file a supplementary application for the additional construction, excavation, or Work.

**165.4.4. Permit Transferability or Assignability.** The applicant may subcontract the Work to be performed under a Permit provided that the Permittee shall be and remain responsible for the performance of the Work under the Permit and all insurance and financial security as required. Permits are transferable and assignable if the transferee or assignee posts all required security pursuant to this code and agrees to be bound by all requirements of the Permit and this code.

**165.4.5. Developer Ownership of Public Infrastructure.** In Town, the physical construction of public infrastructure in new developments is the responsibility of the developer of the land. Ownership of that infrastructure remains with the developer of the land until acceptance by the Town. Any Developer of land where Work is undertaken on infrastructure that is within a Public Right of Way, but prior to acceptance by the Town, shall obtain a Permit from the Town. The Town will not accept public infrastructure improvements, where Work performed is not in accordance with applicable Town specifications and applicable provisions of section 165.

**165.4.6.** Any person or utility found to be conducting any excavation activity within the public right of way without having first obtained the required Permit(s) shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required

to obtain a Permit before Work may be restarted. A surcharge to be set by Board of Trustees resolution shall be required in addition to all applicable Permit fees.

**165.5. Permit Application – Permit Contents.**

**165.5.1.** An applicant for a Permit to allow construction, excavation, or Work in the public right of way under this section shall:

**165.5.1.1.** File a written application on forms furnished by the Town which include the following: the date of application; the name and address of the applicant; the name and address of the developer, contractor or subcontractor licensed to perform Work in the public right of way; the exact location of the proposed construction, excavation or Work activity; the type of existing public infrastructure (street pavement, curb and gutter, sidewalks or utilities) impacted by the construction, excavation or Work; the purpose of the proposed construction, excavation or Work; the dates for beginning and ending the proposed construction, excavation or Work; proposed hours of Work; itemization of the total cost of restoration, based upon R.S. Means Estimating Standards or at the discretion of the Director, other published street repair cost estimating standards; and type of Work proposed.

**165.5.1.2.** Include an affirmative statement that the applicant or its contractor is not delinquent in payments due the Town on prior Work.

**165.5.1.3.** Attach copies of all Permits or licenses (including required insurance, deposits, bonding, and warranties) required to do the proposed Work, and to Work in the public rights of way, if licenses or Permits are required under the laws of the United States, the State of Colorado, or codes, ordinances or regulations of the Town. If relevant permits or licenses have been applied for but not yet received, provide a written statement so indicating. Copies of any such permits or licenses shall be provided to the Town within forty-eight (48) hours after receipt.

**165.5.1.4.** Provide a satisfactory plan of Work acceptable to the Director showing protection of the subject property and adjacent properties.

**165.5.1.5.** Provide a satisfactory plan for the protection of existing landscaping acceptable to the Director, when the Town determines that damage may occur.

**165.5.1.6.** Include a signed statement verifying that all orders issued by the Town to the applicant, requiring

the applicant to correct deficiencies under previous Permits issued under this code, have been satisfied. This verification shall not apply to outstanding claims that are honestly and reasonably disputed claims by the applicant, if the applicant and the Town are negotiating in good faith to resolve the dispute.

**165.5.1.7.** Include with the application engineering construction drawings or site plans for the proposed construction, excavation, or Work.

**165.5.1.8.** Include with the application a satisfactory traffic control, stormwater management and erosion protection plan for the proposed construction, excavation, or Work.

**165.5.1.9.** Include a statement indicating any proposed joint use or ownership of the Facility; any known existing Facility or Permit of the applicant at this location; any known existing Facility of others with which the proposed installations might conflict; and the name, address and telephone number of a representative of the applicant available to review proposed locations at the site.

**165.5.1.10.** Pay the fees prescribed by this code.

**165.5.2.** Applicants shall update any new information on Permit applications within ten (10) days after any material change occurs.

**165.5.3.** Joint Applications. Applicants may apply jointly for Permits to Work in public rights of way at the same time and place. Applicants who apply jointly for Permits may share in the payment of the Permit fee. Applicants must agree among themselves as to the portion each shall pay.

**165.6. Permit Fee.**

**165.6.1.** Before a Permit is issued pursuant to this code, the applicant shall pay to the Town a Permit fee, which shall be determined in accordance with a fee schedule adopted by the Board of Trustees by resolution. Fees will be reasonably related to the costs inherent in managing the public rights of way. As used in section **165**, these costs include, but are not necessarily limited to, the costs of permitting rights of way occupants, verifying rights of way occupation, mapping rights of way occupations, inspecting job sites and rights of way restorations, administering section **165**, and costs incurred by the Town relating to the degradation of the rights of way, i.e., the cost to achieve a level of restoration as determined by the Town at the time the Permit is issued.

**165.6.2.** The portion of the Permit fee relating to degradation/restoration costs shall be reduced by the Town in cases where the applicant demonstrates to the satisfaction of the Director that the excavation proposed will be used by two or more entities, legally and financially unrelated, for the installation, maintenance or repair of Facilities.

**165.6.3.** Any Permit for temporary use or occupation of the public rights of way, where there is no construction involved, shall not require payment of a degradation fee as part of the Permit fee.

**165.6.4.** An applicant may avoid the imposition of a degradation/restoration fee if it agrees to perform the required restoration of the public right-of-way to the Town's standards. The applicant shall decide at the time of application whether the applicant will perform the required restoration, and the applicant's decision shall be final.

**165.6.4.1.** In the roadway, the disturbed pavement area will be removed and the subgrade will be scarified and recompact

**165.6.4.2.** A minimum of twelve (12) feet wide of pavement will be removed and the subgrade will be scarified and recompact if the necessary removal is in excess of five (5) feet wide and the overall length exceeds forty (40) feet.

**165.6.4.3.** For cuts in gravel roadways the subbase must be scarified and recompact and dressed with a minimum of four (4) inches of suitable road base material.

**165.6.5.** That portion of any Permit fee relating to degradation/restoration costs shall be segregated by the Town into an account to cover general street maintenance and construction.

**165.7. Insurance and Indemnification.**

**165.7.1.** Unless otherwise specified in a franchise agreement between the Permittee and the Town, prior to the granting of any Permit, the Permittee shall file with the Town an insurance policy or certificate in a form satisfactory to the Town with coverage as follows:

**165.7.1.1.** The Permittee shall carry and maintain in full effect at all times a commercial general liability policy, including broad form property damage, completed operations contractual liability, explosion hazard, collapse hazard, underground property damage hazard, commonly known as XCU, for limits not less than one

million dollars (\$1,000,000.00) each occurrence for damages of bodily injury or death to one or more persons; and five hundred thousand dollars (\$500,000.00) each occurrence for damage to or destruction of property.

**165.7.1.2.** Workers compensation insurance as required by State law.

**165.7.1.3.** Town departments shall be relieved of the obligation of submitting a certificate of insurance.

**165.7.2.** Whenever any person has filed with the Town evidence of insurance as required, any additional or subsequent Permit holder in the employ of said initial person may, at the discretion of the Town, be excused from depositing or filing any additional evidence of insurance if such employee is fully covered by the Permittee's insurance policy.

**165.7.3.** Each Permittee shall construct, maintain, and operate its facilities in a manner which provides protection against injury or damage to persons or property.

**165.7.3.1.** The Permittee, for itself and its related entities, agents, employees, subcontractors, and the agents and employees of said subcontractors, shall save the Town harmless, defend, and indemnify the Town, its successors, assigns, officers, employees, agents, and appointed and elected officials from and against all liability or damage and all claims or demands whatsoever in nature unless caused by the negligent or intentional acts of the Town, and reimburse the Town for all its reasonable expenses, as incurred, arising out of the installation, maintenance, operation or any other Work or activity in the public right of way or by the Permittee related to its use thereof, including, but not limited to, the actions of the Permittee, its employees, agents, contractors, related entities, successors and assigns, or the securing of and the exercise by the Permittee of the Permit rights granted in the Permit, including any third party claims, administrative hearings, and litigation; whether or not any act or omission complained of is authorized, allowed, or prohibited by this code or other applicable law.

**165.7.3.2.** The terms of each contract awarded by the Permittee for activities pursuant to a Permit shall contain indemnity provisions whereby the contractor shall indemnify the Town to the same extent as described above.

**165.7.3.3.** Following the receipt of written notification of any claim the Permittee shall have the right to defend the Town with regard to all third party actions, damages and penalties arising in any way out of the exercise of any rights in the Permit. If at any time, however, Permittee refuses to defend, and the Town elects to defend itself with regard to such matters, the Permittee shall pay all reasonable expenses incurred by the Town related to its defense.

**165.7.3.4.** In the event the Town institutes litigation against the Permittee for a breach of the Permit or for an interpretation of this code and the Town is the prevailing party, the Permittee shall reimburse the Town for all costs related hereto, including reasonable attorney's fees. The Permittee shall not be obligated to hold harmless or indemnify the Town for claims or demands to the extent that they are due to the negligence, or any intentional and/or willful acts of the Town or any of its officers, employees, or agents.

**165.7.3.5.** In the event the Permittee is a public entity, the indemnification requirements of this section shall be subject to the provisions of the Colorado Governmental Immunity Act.

**165.8. Performance Bond/Letter of Credit.**

**165.8.1.** Before any Permit required by section 165 shall be issued to an applicant, the applicant shall file with the Director a bond or letter of credit in favor of the Town in an amount equal to the total cost of construction, including labor and materials, or five thousand dollars, whichever is greater. The bond or letter of credit shall be executed by the applicant as principal and by at least one surety upon whom service of process may be had in the state. The bond or letter of credit shall be conditioned upon the applicant fully complying with all provisions of Town codes, ordinances, rules and regulations, and upon payment of all judgments and costs rendered against the applicant for any material violation of Town codes, ordinances or state statutes that may be recovered against the applicant by any person for damages arising out of any negligent or wrongful acts of the applicant in the performance of Work done pursuant to the Permit. The Town may bring an action on the bond or letter of credit on its own behalf or on behalf of any person so aggrieved as beneficiary. The bond or letter of credit must be approved by the Town's Town Manager as to form and as to the responsibility of the surety thereon prior to the issuance of the Permit. However, the Town may waive the requirements of any such bond or letter of credit or may permit the applicant to post a bond without surety thereon upon finding that the applicant has financial stability and assets located in

the state to satisfy any claims intended to be protected against the security required by section 165.8.

165.8.2. A letter of responsibility will be accepted in lieu of a performance bond or letter of credit from all public utilities, and all franchised entities operating within the Town.

165.8.3. The performance bond, letter of credit or letter of responsibility shall remain in force and effect for a minimum of three years after completion and acceptance of the street cut, excavation or lane closure.

165.9. Performance Warranty/Guarantee.

165.9.1. Any warranty made hereunder shall serve as security for the performance of Work necessary to repair the public right of way if the Permittee fails to make the necessary repairs or to complete the Work under the Permit.

165.9.2. The Permittee, by acceptance of the Permit, expressly warrants and guarantees complete performance of the Work in a manner acceptable to the Town and warrants and guarantees all work done for a period of two (2) years after the date of probationary acceptance, and agrees to maintain upon demand and to make all necessary repairs during the two (2) year period. This warranty shall include all repairs and actions needed as a result of:

- 165.9.2.1. Defects in Workmanship.
- 165.9.2.2. Settling of fills or excavations.
- 165.9.2.3. Any unauthorized deviations from the approved plans and specifications.
- 165.9.2.4. Failure to barricade.
- 165.9.2.5. Failure to clean up during and after performance of the Work.
- 165.9.2.6. Any other violation of section 165 or the codes or ordinances of the Town.

165.9.3. The two (2) year warranty period shall run from the date of the Town’s probationary acceptance of the Work. If repairs are required during the three (3) year warranty period, those repairs need only be warranted until the end of the initial two (2) year period starting with the date of probationary acceptance. It is not necessary that a new two (2) year warranty be provided for subsequent repairs after probationary acceptance.

165.9.4. At any time prior to completion of the two (2) year warranty period, the Town may notify the Permittee in writing of any needed repairs. Such repairs shall be completed within twenty four (24) hours if the defects are determined by the Town to be an imminent danger to the public health, safety and welfare. Non-emergency repairs shall be completed within thirty (30) calendar days after notice.

165.9.5. The warranty described in section 165.9. shall cover only those areas of work undertaken by a Permittee, and not directly impacted by the work of any other Permittee or the Town. In the event that a portion of work warranted by Permittee is subsequently impacted by work of another Permittee or the Town during the warranty period, that other Permittee or the Town shall assume responsibility for repair to the subsequently impacted section of right of way.

165.10. Inspections.

A minimum of three inspections shall take place. First, the Permittee shall request that the Town conduct a pre-construction inspection, to determine any necessary conditions for the Permit. Second, the Permittee shall notify the Town immediately after completion of Work operations. The Town shall inspect the completed Work within twenty one (21) days of Permittee’s notification. Probationary acceptance will be made if all Work meets Town and Permit standards. Third, approximately thirty days prior to the expiration of the two-year guarantee, the Town shall conduct a final inspection of the completed Work. If the Work is still satisfactory the bond or letter of credit shall be returned or allowed to expire, with a letter of final acceptance, less any amounts needed to complete Work not done by Permittee. Upon review of the application for a Permit, the Director shall determine how many additional inspections, if any, may be required. For Work that does not involve material disturbance in the rights of way, the Director shall waive the final inspection and the performance bond/letter of credit.

165.11. Public Safety.

The Permittee shall maintain a safe Work area, free of safety hazards. The Town may make any repair necessary to eliminate any safety hazards not performed as directed. Any such Work performed by the Town shall be completed and billed to the Permittee at overtime rates. The Permittee shall pay all such charges within 30 days of the statement date. If the Permittee fails to pay such charges within the prescribed time period, the Town may, in addition to taking other collection remedies, seek reimbursement through the warranty guarantee. The

Town shall not issue any further Permits of any kind to said Permittee, until all outstanding charges (except those outstanding charges that are honestly and reasonably disputed by the Permittee and being negotiated in good faith with the Town) have been paid in full.

**165.12. Time of Completion.**

All Work covered by the Permit shall be completed by the date stated on the application. Permits shall be void if Work has not commenced three months after issuance, unless the Director has granted an extension. Performance bonds, letters of credit or letters of responsibility deposited as a performance/warranty guarantee for individual Permits will be returned after voiding of the Permit, with administrative and any other Town costs deducted.

**165.13. Traffic Control.**

**165.13.1.** When it is necessary to obstruct traffic, a traffic control plan shall be submitted to the Town prior to starting construction. No Permit will be issued until the Town approves the plan. No Permittee shall block access to and from private property, block emergency vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital equipment unless the Permittee provides the Town with written verification of written notice delivered to the owner or occupant of the facility, equipment or property at least 48 hours in advance. If a street closing is desired, the applicant will request the assistance and obtain the approval of the Director. It shall be the responsibility of the Permittee to notify and coordinate all Work in the public way with police, fire, ambulance, other government entities, and transit organizations.

**165.13.2.** When necessary for public safety, the Permittee shall employ flag persons whose duties shall be to control traffic around or through the construction site. The Director may require the use of flag persons.

**165.13.3.** Traffic control devices, as defined in Part VI of the Manual on Uniform Traffic Control Devices, must be used whenever it is necessary to close a traffic lane or sidewalk. Traffic control devices are to be supplied by the Permittee. If used at night, they must be reflectorized and may be required to be illuminated or have barricade warning lights.

**165.13.4.** Oil flares or kerosene lanterns are not allowed as means of illumination. Nighttime work area flood lighting shall not be allowed to spill out of the

construction area in such a way as to disturb, annoy, or endanger the comfort, health or peace of others.

**165.13.5.** Part VI of the Manual on Uniform Traffic Control Devices or any successor publication thereto shall be used as a guide for all maintenance and construction signing. The Permittee shall illustrate on the Permit the warning and control devices proposed for use. At the direction of the Director, such warning and control devices shall be modified.

**165.13.6. Maintenance and Construction Signing.** The Contractor shall be responsible for maintaining all work area signing and barricading during construction operations as well as any signs and barricades that are needed to protect roadway users and pedestrians during non-work hours. During non-work hours, all construction work area signs that are not appropriate shall be removed, covered, or turned around so that they do not face traffic. Any deficiencies noted by the Town shall be corrected immediately by the Contractor. If Contractor is not available or cannot be found, the Town may make such corrections and the Contractor shall pay the actual costs plus a penalty of fifty percent (50%) of the amount thereof.

**165.14. General Rights of Way Use and Construction.**

**165.14.1. Right of Way Meetings.** Permittee will make reasonable efforts to attend and participate in meetings of the Town, of which the Permittee is made aware, regarding right of way issues that may impact its facilities, including, planning meetings to anticipate joint trenching and boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, Permittee shall work with other providers, licensees, Permittees, and franchisees so as to reduce so far as possible the number of right of way cuts within the Town and the amount of pedestrian and vehicular traffic that is obstructed or impeded.

**165.14.2. Minimal Interference.** Work in the right of way, on other public property, near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Permittee's facilities shall be constructed and maintained in such manner as not to interfere with sewers, water pipes, or any other property of the Town, or with any other pipes, wires, conduits, pedestals, structures, or other Facilities that may have been laid in the rights of way by, or under, the Town's authority. The Permittee's Facilities shall be located, erected and maintained so as not to endanger or interfere with the lives of Persons, or to interfere with new improvements

the Town may deem proper to make or to unnecessarily hinder or obstruct the free use of the rights of way or other public property, and shall not interfere with the travel and use of public places by the public during the construction, repair, operation or removal thereof, and shall not obstruct or impede traffic.

**165.14.3. Underground Construction and Use of Poles.**

**165.14.3.1.** When required by general codes, ordinances, resolutions, regulations or rules of the Town or applicable State or federal law, Permittee's Facilities shall be placed underground at no cost to the Town. Placing Facilities underground does not preclude the use of ground-mounted appurtenances.

**165.14.3.2.** Where all Facilities are installed underground at the time of Permittee's construction, or when all such Facilities are subsequently placed underground, all Permittee Facilities shall also be placed underground at no expense to the Town unless funding is generally available for such relocation to all users of the rights of way. Related equipment, such as pedestals, must be placed in accordance with the Town's applicable code requirements and rules.

**165.14.3.3.** For above ground Facilities, the Permittee shall utilize existing poles and conduit.

**165.14.3.4.** Should the Town desire to place its own Facilities in trenches or bores opened by the Permittee, the Permittee shall cooperate with the Town in any construction by the Permittee that involves trenching or boring, provided that the Town has first notified the Permittee in some manner that it is interested in sharing the trenches or bores in the area where the Permittee's construction is occurring. The Permittee shall allow the Town to place its Facilities in the Permittee's trenches and bores, provided the Town incurs any incremental increase in cost of the trenching and boring. Should the Town desire to install Ducts or Conduit for the possible use of other entities, then the Permittee shall allow the Town to place these Facilities in the Permittee's trenches and bores, provided the Town shares proportionally in the cost of trenching and boring. The Town shall be responsible for maintaining its respective Facilities buried in the Permittee's trenches and bores under this section.

**165.14.4.** Use of Conduits by the Town. Unless otherwise restricted by tariff, the Town may install or affix and maintain its own Facilities for Town purposes in or upon any and all of Permittee's ducts, conduits or equipment in the rights of way and other public places, at a charge to be negotiated between the parties, to the

extent space therein or thereon is reasonably available, and pursuant to all applicable ordinances and codes. For the purposes of this section, "Town purposes" includes, but is not limited to, the use of the structures and installations for Town fire, police, traffic, utility, telephone, and/or signal systems.

**165.14.5. Common Users.**

**165.14.5.1.** The rights of way have a finite capacity for containing Facilities. Therefore, whenever the Town determines it is impracticable to permit construction of an underground Conduit system by any other entity which may at the time have authority to construct or maintain Conduits or Ducts in the rights of way, but excluding entities providing services in competition with Permittee, and unless otherwise prohibited by federal or state law or regulations, the Town may require Permittee to afford to such entity the right to use Permittee's Surplus Ducts or Conduits in common with Permittee, pursuant to the terms and conditions of an agreement for use of Surplus Ducts or Conduits entered into by Permittee and the other entity. Nothing herein shall require Permittee to enter into an agreement with such entity if, in Permittee's reasonable determination, such an agreement could compromise the integrity of the Permittee's facilities.

**165.14.5.2.** All Facilities shall meet any applicable local, State, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between Permittee and the other common user. Permittee may, at its option, correct any attachment deficiencies and charge the common user for its costs. Each common user shall pay Permittee for any fines, fees, damages or other costs the common user's attachments cause Permittee to incur.

**165.15. Joint Planning and Construction; Coordination of Excavations.**

**165.15.1.** Excavations in Town rights of way disrupt and interfere with the public use of Town streets and damage the pavement and landscaping. The purpose of this Section is to reduce this disruption, interference and damage by promoting better coordination among Permittees making excavations in Town rights of way and between these Permittees and the Town. Better coordination will assist in minimizing the number of excavations being made wherever feasible, and will ensure the excavations in Town rights of way are, to the maximum extent possible, performed before, rather than after, the resurfacing of the streets by the Town.

**165.15.2.** Any Permittee owning, operating or installing facilities in Town rights of way, providing water, sewer, gas, electric, communication, video or other utility services, shall meet annually with the Director, at the Director's request to discuss Permittee's excavation master plan. At such meeting, to the extent not already in possession of the Town, Permittee shall submit documentation, in a form required by the Director, showing a location of the Permittee's existing facilities in the Town rights of way. Permittee shall discuss with the Director, its excavation master plan, and identify planned major excavation Work in the Town. The Director may make his own record on a map, drawing or other documentation, of each Permittee's planned major excavation Work in the Town; provided, however, that no such document prepared by the Director shall identify a particular entity, or the planned major excavation Work of that particular entity. Permittee shall meet with the Director to discuss an initial excavation master plan no later than sixty (60) days after submitting its first Permit application. Thereafter, each Permittee shall submit annually, on the first regular business day of January, a revised and updated excavation master plan. Such revised and updated plan shall be submitted in both hard copy and digital format. As used in this section, the term "planned major excavation Work" refers to any future excavations planned by the Permittee when the excavation master plan or update is submitted that will affect any Town right of way for more than five (5) days, provided that the Permittee shall not be required to identify future major excavations planned to occur more than three (2) years after the date that the Permittee's master plan or update is discussed. Between the annual meetings to discuss planned major excavation Work, Permittee shall use its best efforts to inform the Director of any substantial changes in the planned major excavation Work discussed at the annual meeting.

**165.15.3.** The Director shall prepare a Repaving Plan showing the street resurfacing planned by the Town. For purposes of Section **165.15.**, the Repaving Plan shall include a landscaping or other right of way improvement plan. The Repaving Plan shall be revised and updated on an annual basis after meeting to discuss the Permittee's and Town Department's master plans and updates. The Director shall make the Town's Repaving Plan available for public inspection. In addition, after determining the street resurfacing Work that is proposed for each year, the Director shall send a notice of the proposed Work to all Permittees that have had an annual meeting with the Director.

**165.15.4.** Prior to applying for a Permit, any Person planning to excavate in the Town's rights of way shall review the Town's Repaving Plan on file with the

Director and shall coordinate, to the extent practicable, with the utility and street Work shown on such plans to minimize damage to, and avoid undue disruption and interference with the public use of such rights of way.

**165.15.5.** In performing location of facilities in the public rights of way in preparation for construction under a Permit, Permittee shall compile all information obtained regarding its or any other facilities in the public rights of way related to a particular Permit, and shall make that information available to the Town in a written and verified format acceptable to the Director. If the Permittee fails to provide the locate information requested by the Town, the Town may obtain this information and charge the Permittee the actual costs for obtaining the information.

**165.15.6.** Prior to undertaking any Work in the rights of way or related landscaping, the Town may notify all Permittees of the Town Work to be performed. Upon such notification, all Permittees shall, within seven (7) days, locate their Facilities in the rights of way in which the Work will be performed, and provide documentation in a format acceptable to the Director of the Permittee's facilities in that right of way.

#### **165.16. Minimizing the Impacts of Work in the Rights of Way.**

**165.16.1.** Relocation and Protection of Utilities. Before beginning excavation in any public way, a Permittee shall contact the Utility Notification Center of Colorado (UNCC) and, to the extent required by C.R.S. §9-1.5-102 et seq., make inquiries of all ditch companies, utility companies, districts, local government departments, and all other agencies that might have facilities in the area of Work to determine possible conflicts. The Permittee shall contact the UNCC and request field locations of all facilities in the area pursuant to UNCC requirements. Field locations shall be marked prior to commencing Work. The Permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus which may be affected by the Work from damage during construction or settlement of trenches subsequent to construction.

**165.16.2.** Noise, Dust, Debris, Hours of Work. Each Permittee shall conduct Work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the Work, the Permittee shall take appropriate measures to reduce noise, dust, and unsightly debris. No Work shall be done between the hours of 8:00 p.m. and 7:00 a.m. nor at any time on Saturday or Sunday, except with the written permission of the Director, or in case of an emergency.

**165.16.3.** Trash and Construction Materials. Each Permittee shall maintain the Work site so that:

**165.16.3.1.** Trash and construction materials are contained so that they are not blown off of the construction site.

**165.16.3.2.** Trash is removed from a construction site often enough so that it does not become a health, fire, or safety hazard or public nuisance.

**165.16.3.3.** Trash dumpsters and storage or construction trailers are not placed in the street without specific approval of the Director.

**165.16.4.** Deposit of Dirt and Material on Roadways. Each Permittee shall utilize their best efforts to eliminate the tracking of mud or debris upon any street or sidewalk. Streets and sidewalks shall be cleaned of mud and debris at the end of each day. All equipment and trucks tracking mud and debris into the Right of Way shall be cleaned of mud and debris at the end of each day or as directed by the Director.

**165.16.5.** Protection of Trees and Landscaping. Each Permittee shall protect trees, landscape, and landscape features as required by the Town. All protective measures shall be provided at the expense of the Permittee.

**165.16.6.** Protection of Paved Surfaces From Equipment Damage. Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles that will damage pavement surfaces are not permitted on paved surface unless specific precautions are taken to protect the surface. The Permittee will be responsible for any damage caused to the pavement by the operation of such equipment and, shall repair such surfaces. Failure to do so will result in the use of the applicant's performance/warranty guarantee by the Town to repair any damage, and, possibly, the requirement of additional warranty(s).

**165.16.7.** Protection of Property. Each Permittee shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The Permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the Work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out Work in the public way.

**165.16.8.** Clean-Up. As the Work progresses, all public rights of way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All clean-up operations shall be done at the expense of the Permittee.

**165.16.9.** Preservation of Monuments. A Permittee shall not disturb any surface monuments, property marks or survey hubs and points found on the line of Work unless approval is obtained from the Director. Any monuments, hubs, and points disturbed will be replaced by a Colorado Registered Land Surveyor at the Permittee's expense.

**165.16.10.** Each Permittee shall make provisions for employee and construction vehicle parking so that neighborhood parking adjacent to a Work site is not impacted.

**165.16.11.** Each Permittee shall maintain an adequate and safe unobstructed walkway around a construction site or blocked sidewalk. Such provision shall be included in the traffic control plan.

**165.16.12.** Each Permittee shall clear all snow and ice hazards from public sidewalks at the Work site by noon following a snowfall in conformance with Town Code.

**165.17. Standards for Repairs and Restoration.**

**165.17.1. Permittee Responsibility.** The Permittee shall be fully responsible for the cost and actual performance of all Work in the public way. The Permittee shall do all Work in conformance with any and all engineering regulations, construction specifications, and design standards adopted by the Town. These standards shall apply to all Work in the public way unless otherwise indicated in the Permit.

**165.17.2.** All restoration shall result in a Work site condition equal to or better than that which existed prior to construction. In addition to the regulations, specifications and standards referred to in section **165.17.1.** the following provisions shall apply to Work in the public rights of way of the Town.

**165.17.2.1.** Pavement cuts shall be filled with compacted select material. Either concrete or asphalt patches will be placed to match the existing street cross section.

**165.17.2.2.** Select fill shall be placed in an excavation to the density required by Town compaction specifications.

165.17.2.3. The type, gradation, placement, compaction, and testing of the granular backfill material shall meet or exceed all requirements specified in design and construction standards adopted by the Town.

165.17.2.4. The new asphalt will be placed in lifts (3 inches maximum) and compacted upon placement. Asphalt depths will be governed the existing cross section of the street but not less than 4 inches of full deep asphalt shall be used to fill a street cut regardless of the existing cross section. Concrete meeting all construction standards of the Town shall be used to replace concrete pavement wherever it occurs.

**165.18. Construction and Restoration Standards for Newly Constructed or Overlaid Streets.**

165.18.1. No person shall cause an open trench excavation or potholing of utilities in the pavement of any public right of way for a period of three years from the completion of construction or resurfacing except in compliance with the provisions of this Section.

165.18.2. Application. Any application for a Permit to excavate in a public right of way subject to the requirements of this section shall contain the following information:

165.18.2.1. A detailed and dimensional engineering plan that identifies and accurately represents the Town rights of way or property that will be impacted by the proposed excavation, as well as adjacent streets, and the method of construction.

165.18.2.2. The street width or alley width including curb and gutter over the total length of each Town block that will be impacted by the proposed excavation.

165.18.2.3. The location, width, length, and depth of the proposed excavation.

165.18.2.4. The total area of existing street or alley pavement in each individual Town block that will be impacted by the proposed excavation.

165.18.2.5. A written statement addressing the criteria for approval.

165.18.3. Criteria for Approval. No Permit for excavation in the right of way of new streets shall be approved unless the Director finds that all of the following criteria have been met:

165.18.3.1. Boring or jacking without disturbing the pavement is not practical due to physical characteristics of the street or alley or other utility conflicts.

165.18.3.2. Alternative utility alignments that do not involve excavating the street or alley are found to be impracticable.

165.18.3.3. The proposed excavation cannot reasonably be delayed until after the three year deferment period has lapsed.

165.18.4. Exemptions for Emergency Operations. Emergency maintenance operations shall be limited to circumstances involving the preservation of life, property, or the restoration of customer service. Persons with prior authorization from the Town to perform emergency maintenance operations within the public rights of way, shall be exempted from this section. Any person commencing emergency maintenance operations shall submit detailed engineering plans, construction methods and remediation plans no later than three Working days after initiating the emergency maintenance operation.

165.18.5. Exemptions for Non-Emergency Operations. A Permittee may apply to the Director for an exemption under this section when the construction is necessary in the public interest or to provide a public service. By way of example, but not by limitation, an exemption could be requested in order to provide services to a part of the Town where no service would be available without construction. If a non- emergency exemption is granted to disturb a public way within the three (3) year period, the Director may, in his sole discretion, impose additional restoration requirements, including but not necessarily limited to, repaving of a larger area, such as an entire block in which the construction occurs.

165.18.6. Construction and Restoration Standards for Newly Constructed or Overlaid Streets and Alleys. The streets shall be restored and repaired in accordance with design and construction standards adopted the Town and guaranteed in accordance with Section 165.10.

**165.19. Relocation of Facilities.**

If at any time the Town requests the Permittee to relocate is Facilities, in order to allow the Town to make any public use of rights of way, or if at any time it shall become necessary because of a change in the grade or for any other purpose by reason of the improving, repairing, constructing, or maintaining of any rights of

way, or reason of traffic conditions, public safety or by reason of installation of any type of structure of public improvement the Town or other public agency or special district, and any general program for the undergrounding of such facilities, to move or change the Permittee's Facilities within or adjacent to rights of way in any manner, either temporarily or permanently, the Town shall notify the Permittee at least 90 days in advance, except in the case of emergencies, of the Town's intention to perform or have such Work performed. The Permittee shall thereupon, at no cost to the Town, accomplish the necessary relocation, removal or change within a reasonable time from the date of the notification, but in no event later than three Working days prior to the date the Town has notified the Permittee that it intends to commence its Work or immediately in the case of emergencies. Upon the Permittee's failure to accomplish such Work, the Town or other public agencies or special district may perform such Work at the Permittee's expense and the Permittee shall reimburse the Town or other agency within 30 days after receipt of a written invoice. Following relocation, all affected property shall be restored to, at a minimum, the condition which existed prior to construction by Permittee at the Permittee's expense. Notwithstanding the requirements of Section 165, a Permittee may request additional time to complete a relocation project. The Director shall grant a reasonable extension if in his sole discretion, the extension will not adversely affect the Town's project.

**165.20. Abandonment and Removal of Facilities.**

**165.20.1. Notification of Abandoned Facilities.**

Any Permittee that intends to discontinue use of any Facilities within the public rights of way shall notify the Director in writing of the intent to discontinue use. Such notice shall describe the Facilities for which the use is to be discontinued, a date of discontinuance of use, which date shall not be less than thirty (30) days from the date such notice is submitted to the Director and the method of removal and restoration. The Permittee may not remove, destroy or permanently disable any such Facilities during said thirty (30) day period without written approval of the Director. After thirty (30) days from the date of such notice, the Permittee shall remove and dispose of such Facilities as set forth in the notice, as the same may be modified by the Director, and shall complete such removal and disposal within six months, unless additional time is requested from and approved by the Director.

**165.20.2. Conveyance of Facilities.**

At the discretion of the Town, and upon written notice from the Director within thirty (30) days of the notice of abandonment, the Permittee may abandon the Facilities in place, and shall further convey full title and ownership of such abandoned Facilities to the Town. The consideration for the conveyance is the Town's permission to abandon the Facilities in place. The Permittee is responsible for all obligations as owner of the Facilities, or other liabilities associated therewith, until the conveyance to the Town is completed.

**165.20.3. Abandonment of Facilities in Place.** At the discretion of the Town, and upon written notice from the Director the Permittee may either:

**165.20.3.1.** Abandon the Facilities in place, and shall further convey full title and ownership of such abandoned Facilities to the Town. The consideration for the conveyance is the Town's permission to abandon the Facilities in place. The Permittee is responsible for all obligations as owner of the Facilities, or other liabilities associated therewith, until the conveyance to the Town is completed.

**165.20.3.2.** Abandon the Facilities in place, but the Permittee still retains the responsibility for all obligations as owner of the Facilities, or other liabilities associated therewith.

**165.21. Emergency Procedures.**

**165.21.1.** Any person maintaining Facilities in the public way may proceed with repairs upon existing facilities without a Permit when emergency circumstances demand that the Work be done immediately. The person doing the Work shall apply to the Town for a Permit on or before the third Working day after such Work has commenced. All emergency Work will require prior telephone notification to the Town Police and the appropriate fire protection agency.

**165.21.2. Notifications.**

If any damage occurs to an underground Facility or its protective covering, the Contractor shall notify the Facility's operator promptly. When the Facility's operator receives a damage notice, the Facility's operator shall promptly dispatch personnel to the damage area to investigate. If the damage results in the escape of any inflammable, toxic, or corrosive gas or liquid or endangers life, health, or property, the Contractor responsible shall immediately notify the Facility's

operator and 911 and take immediate action to protect the public and nearby properties.

**165.22. Revocation of Permits and Stop Work Orders.**

**165.22.1.** Any Permit may be revoked or suspended by the Director, after written notice to the Permittee for:

**165.22.1.1.** Violation of any material condition of the Permit or of any material provision of this code.

**165.22.1.2.** Violation of any material provision of any other code or ordinance of the Town or state law relating to the Work.

**165.22.1.3.** Existence of any condition or performance of any act that the Town determines constitutes or causes a condition endangering life or damage to property.

**165.22.2.** Stop Work Orders. A Stop Work Order may be issued by the Director to any person or persons doing or causing any Work to be done in the Public Way for:

**165.22.2.1.** Working without a Permit except for routine maintenance or emergency repairs to existing Facilities as provided for in this code.

**165.22.2.2.** Doing work in violation of any provisions of this code, or any other code or ordinance of the Town, or state law relating to the work.

**165.22.2.3.** Performing any act, which Town determines constitutes or causes a condition that either endangers life or property.

**165.22.3.** A suspension or revocation by the Director, and a Stop Work Order, shall take effect immediately upon notice to the person performing the Work in the public way, or to the Permittee's last known address.

**165.22.4.** Any suspension or revocation or Stop Work Order may be appealed by the Permittee to the Town Manager by filing a written notice of appeal within five (5) working days of the action.

**165.23. Appeals Procedure.**

Any decision rendered by the Director or Town Manager pursuant to this code may be appealed within thirty (30) days by the Permittee to the Board of Trustees in accordance with the rules and procedures established by that body.

**165.24. Penalty.**

Any person who violates the provisions of this code as aforesaid shall upon conviction, be subject to a fine of not more than Five Hundred Dollars (\$500.00). Each day that such violation shall continue shall constitute a separate and distinct offense.

**165.25. Severability.**

All sections, subsections, provisions and parts of this code shall be severable, and if any section, provision, or portion of this code is declared or ruled invalid or otherwise invalidated by any court or agency of valid jurisdiction, such declaration or ruling shall not affect the validity of any other section, provision or portion of this code, and all other sections, subsections, provisions and portions of this ordinance shall remain in full force and effect.

**165.26. Right of Way Permit Fees.**

**165.26.1. Degradation Costs.**

**165.26.1.1.** The formula for Degradation Costs is provided in Table 1 – 30-year design standard. Table 2 illustrates a hypothetical calculation.

**165.26.1.2.** Degradation Costs will be reviewed and may be changed by Resolution of the Board of Trustees.

**165.26.2. Administrative/Management Cost.**

**165.26.2.1.** The formula for determining that portion of the Permit fee relating to Administrative or Management Costs is as follows:

Labor (X) hours of staff time involved in connection with granting and oversight of permit = Permit Fee for Administrative/Management Costs

**165.26.2.2.** In connection with this formula the following assumptions are made:

- Labor = hourly rate + benefits + indirect costs
- Inspectors are paid \$20 per hour
- Engineers are paid \$65 per hour
- Clerical staff is paid \$15 per hour
- Benefits = 45% of salary
- Indirect costs = 25% of salary

**165.26.2.3.** Administrative/Management Costs will be reviewed and may be changed by Resolution of the Board of Trustees.

165.26.3. TABLE 2 - Recommended Cost of Recovery Method

Cost per Square Yard for Streets, Overlays and Sealcoats  
 X Depreciation Rate X Area of Influence (1)

165.26.4.1. Example

- Assumptions: Street is 16 years old
- Overlay is 5 years old
- Sealcoat is 1 year old
- Area of cut = 3 feet x 3 feet
- Area of influence = 9 feet x 9 feet = 81 square feet = 9 square yards

	Cost per Square Yard	Depreciation Rate	Area of Influence	Degradation Cost
Concrete Street			0.0	\$0.00
Asphalt Street	\$45.00	60%	9.0	\$243.00
Overlay	\$10.00	50%	9.0	\$45.00
Sealcoat	\$1.00	80%	9.0	\$7.20
<b>Total Cost</b>				\$295.20

(SPACE INTENTIONALLY LEFT BLANK)

165.26.4. TABLE 1 - Cost of Recovery Method (30 Year Street Design Standard)

**Cost per Square Yard for Streets, Overlays and Sealcoats**  
 X Depreciation Rate X Area of Influence (1)

**Depreciation Rates**

**Cost Per Square Yard (3)**

<b>Street (2)</b>			
Age	Rate	Age	Rate
0	100%	21	44%
1	99%	22	41%
2	98%	23	37%
3	97%	24	34%
4	96%	25	31%
5	95%	26	28%
6	92%	27	25%
7	89%	28	21%
8	85%	29	18%
9	82%	30	15%
10	79%	31	
11	76%	32	
12	73%	33	
13	69%	34	
14	66%	35	
15	63%	36	
16	60%	37	
17	57%	38	
18	53%	39	
19	50%	40	
20	47%		

<b>Overlays</b>	
Age	Rate
1	90%
2	80%
3	70%
4	60%
5	50%
6	40%
7	30%
8	20%
9	10%
10	0%

<b>Sealcoats</b>	
Age	Rate
1	80%
2	60%
3	40%
4	20%
5	0%

Type	Cost
Concrete Reconstruction	
Asphalt Reconstruction	\$45.00
Overlays	\$10.00
Sealcoats	\$1.00

- (1) Area of influence is equal to area of the cut plus 3.0 feet on each side (expressed in sq. yds.)
- (2) Depreciation rates are based on a 30-year street design standard. Depreciation for the first 5 years is 1.0% per year, followed by straight line depreciation less 15.0% for the remaining street design standard (25 years). Depreciation can occur at 1.0% per year after this time for up to 15 years or street reconstruction, whichever occurs first.



**170 - EMPLOYEES**

**171 - Pay Roll Claims**

**171.1. MAYOR.**

**MAYOR AND TOWN CLERK TO ISSUE WARRANTS.**  
 The Mayor and Town Clerk be, and they are, hereby authorized to issue warrants, on or about the first and fifteenth days of each month, in payment of salaries and wages earned by town employees during the preceding pay period; the pay due to each employee to be certified in writing, to said officials by the head of such employees' department. All claims paid as aforesaid shall be included in the first Clerk's report of bills paid thereafter published.



**172 - Social Security**

**172.1. Authority.**

The 38th General Assembly of the State of Colorado, in regular session, enacted a statute, known as House Bill No. 291, which is the enabling Act provided for in Section 218 of Public Law 734, 81st Congress, which designated the Department of Employment Security, State of Colorado, to act as the Department to implement the coverage of employees and officers under the said Old Age and Survivors' Insurance System. The Town of Limon is hereby authorized to execute and deliver to the Department of Employment Security, State of Colorado, a plan, or plans, and agreement required under Section 5 of said enabling Act and the Social Security Act, to extend coverage to employees and officers of the Town of Limon and do all other necessary things to effectuate coverage of employees and officers under the Old Age and Survivors' Insurance System.

**172.2. Town Clerk to Establish Deduction System.**

The Clerk is hereby authorized to establish a system pay roll deduction to be matched by payments by the Town of

Limon to be made into the Contribution Fund of the Social Security Act through the Department of Employment Security, and to make charges of this tax to the fund or funds, from which wage or salary payments are issued to employees of the Town of Limon. Such payments are to be made in accordance with the provisions of Section 1400 of the Federal Insurance Contribution Act on all services which constitute employment within the meaning of that Act. Payments made to the Department of Employment Security, State of Colorado, shall be due and payable on or before the 18th day of the month immediately following the completed calendar quarter, and such payments which are delinquent shall bear interest at the rate of 1/2 of 1% per month until such time as payments are made.

**172.3. Appropriation – Agreement with the Department of Employee Security.**

Appropriation is hereby made from the proper fund, or funds, of the Town of Limon in the necessary amount to pay into the contribution fund as provided in Section 3(c)(1) of the enabling Act and in accordance with the Plan, or Plans and Agreement. Authority is hereby given to the Mayor and the Clerk of the Town of Limon to enter into an agreement with the Department of Employment Security, State of Colorado, which agreement shall be in accordance with House Bill No. 291 and with paragraph 218 of the Social Security Act. Such plan and agreement shall provide that the participation of this Town of Limon shall be in effect as of April 3, 1958.



**173 - Sick Leave; Vacation**

**173.1. Pay Allowance While Absent from Duty.**

No employee in any department of the Town of Limon shall be allowed pay for any working day on which he was absent from his duties except as hereinafter provided, to wit:

**173.1.1.** Every regular employee shall be entitled to two (2) weeks vacation, annually, with pay, provided he has been in the continuous employment of the Town for not less than one (1) year, but such vacation time shall not be cumulative except by special arrangement with the head of the department employing the individual, which arrangement shall be subject to the approval of the Town Board.

173.1.2. In case of confining illness, any employee shall be entitled to one (1) day's absence from work, with pay for each month of continuous service as an employee of the Town up to thirty (30) months of such service and thereafter sick leave shall accumulate at the rate of one half (1/2) day per month of service but in no event shall any employee be entitled to more than sixty (60) days of sick leave with pay.

173.1.3. Every employee shall file with the head of his department a doctor's certificate stating that the absence of the employee was due to house confining illness, before he shall be entitled to pay for any day or days of absence, and such absence shall be charged to and deducted from the accumulated sick leave time of the employee.



180 - Annexation and Subdivisions

181 - Annexation

HISTORY: 1958 Municipal Code; Repealed by Ordinance No. 376 adopted on June 2, 1994 where Land Development Code addresses and supercedes. See Land Development Code for additional information.



182 - Subdivisions of Land Within the Town of Limon

HISTORY: 1958 Municipal Code-Amendments noted where applicable; Repealed by Ordinance No. 376 adopted on June 2, 1994 where Land Development Code addresses and supercedes. See Land Development Code for additional information.

182.1. General Requirements.

The following shall be considered minimum requirements, and shall apply, except when specifically permitted to deviate therefrom by the Town Board.

182.1.1. Property Lines.

Monuments of iron pipe, stone, or concrete shall be set at tangent points of street intersections, at alley

intersections and at such other points as may be required by the Town Board to make the retracing of the lines as shown on the final plat reasonably convenient.

182.1.2. Streets and Alleys.

182.1.2.1. Dead-end streets shall have a turn-around at the end with a minimum radius of 45 feet.

182.1.2.2. No irrigation ditches shall be permitted on public roads except where acquired by vested rights or where crossing public roads.



183 - Costs

HISTORY: Added May 5, 1983 by Ordinance No. 293; Repealed by Ordinance No. 376 adopted on June 2, 1994 where Land Development Code addresses and supercedes. See Land Development Code for additional information.



184 - Flood Conditions

HISTORY: Added October 4, 1984 by Ordinance No. 306. Amended by Ordinance No. 330, dated November 3, 1988 and Ordinance No. 346, dated November 15, 1990. Repealed by Ordinance No. 376 adopted on June 2, 1994 where Land Development Code addresses and supercedes. Amended on June 6, 1996 by Ordinance No. 398.

184.1. Background.

184.1.1. Statutory Authorization.

The Legislature of the State of Colorado has by statute delegated the responsibility of local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Trustees of the Town of Limon, Colorado, does ordain as follows:

184.1.2. Findings of Fact.

184.1.2.1. The flood hazard areas of the Town of Limon are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services,

extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

**184.1.2.2.** These flood losses are caused by cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas, Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

**184.1.3. Statement of Purpose.**

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

- 184.1.3.1.** To protect human life and health;
- 184.1.3.2.** To minimize expenditure of public money for costly flood control projects;
- 184.1.3.3.** To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 184.1.3.4.** To minimize prolonged business interruptions;
- 184.1.3.5.** To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- 184.1.3.6.** To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- 184.1.3.7.** To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- 184.1.3.8.** To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

**184.1.4. Methods of Reducing Flood Losses.**

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

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

**184.2. Definitions.**

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

- 184.2.1. Appeal:** a request for a review of the Town Manager's interpretation of any provisions of this code or a request for a variance.
- 184.2.2. Area of Special Flood Hazard:** the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
- 184.2.3. Base Flood:** the flood having a one percent chance of being equaled or exceeded in any given year.
- 184.2.4. Development:** any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

**184.2.5. Existing Manufactured Home Park or Manufactured Home Subdivision:** a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of floodplain management regulations adopted by the Town of Limon.

**184.2.6. Expansion to an Existing Mobile Home Park or Mobile Home Subdivision:** the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

**184.2.7. Flood or Flooding:** a general and temporary condition of partial or complete inundation of normally dry land areas from:

**184.2.7.1.**The overflow of inland or tidal waters and/or

**184.2.7.2.**The unusual and rapid accumulation or runoff of surface waters from any source.

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

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

**184.2.10. Historic Structure:** any structure that is:

**184.2.10.1.** listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

**184.2.10.2.** certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

**184.2.10.3.** individually listed on a state inventory of historic places.

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

**184.2.12. Manufactured Home:** a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". The term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**184.2.13. Manufactured Home Park or Subdivision:** a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**184.2.14. New Construction:** for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of November 5, 1977, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of November 5, 1977 and includes any subsequent improvements to such structures.

**184.2.15. New Manufactured Home Park or Subdivision:** a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the Town of Limon.

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

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

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

**184.2.19. Substantial Damage:** damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**184.2.20. Substantial Improvement:** any reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

**184.2.20.1.** Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

**184.2.20.2.** Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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

**184.3. General Provisions:**

**184.3.1. Lands to Which this Code Applies.**

This code shall apply to all areas of special flood hazards within the jurisdiction of the Town of Limon, Colorado.

**184.3.2. Basis for Establishing the Areas of Special Flood Hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Limon, Colorado" dated May 1, 1984, with an accompanying Flood Insurance Rate Map Firm is hereby adopted by reference and declared to be apart of this code. The Flood Insurance Study and Firm are on file at the Limon Town Hall, 100 Civic Center Drive, Limon, Colorado.

**184.3.3. Compliance.**

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this code and other applicable regulations.

**184.3.4. Abrogation and Greater Restrictions.**

This code is not intended to repeal, abrogate, or impair any existing easement, covenants, or deed restrictions. However, where this code and another code or ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**184.3.5. Interpretation.**

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

**184.3.5.1.** Considered as minimum requirements;

**184.3.5.2.** Liberally construed in favor of the governing body; and

**184.3.5.3.** Deemed neither to limit nor repeal any other powers granted under state statutes.

**184.3.6. Warning and Disclaimer of Liability.**

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

**184.4. Administration.**

**184.4.1. Establishment of Development Permit.**

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 184.3.2. Application for a Development Permit shall be made on forms furnished by the Town Manager and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

184.4.1.1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

184.4.1.2. Elevation in relation to mean sea level to which any structure has been flood proofed;

184.4.1.3. Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 184.5.2.2.; and

184.4.1.4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**184.4.2. Designation of the Town Superintendent.**

The Town Manager is hereby appointed to administer and implement this code by granting or denying development permit applications in accordance with its provisions.

**184.4.3. Duties and Responsibilities of the Town Manager.**

Duties of the Town Manager shall include, but not be limited to:

**184.4.3.1. Permit Review.**

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

184.4.3.1.2. Review all development permits to determine that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required.

184.4.3.1.3. Review all development permits to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For purposes of this code, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point.

**184.4.3.2. Use of Other Base Flood Data.** When base flood elevation data has not been provided in accordance with Section 184.3.2., the Town Administration shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, as criteria for requiring that new construction, substantial improvements, or other development in Zone A of the FIRM are administered in accordance with Section 184.5.2.

**184.4.3.3. Information to be Obtained and Maintained.**

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

184.4.3.3.2. For all new or substantially improved flood proofed structures:

184.4.3.3.2.1. verify and record the actual elevation (in relation to mean sea level) to which the structure has been flood proofed.

184.4.3.3.2.2. maintain the flood-proofing certifications required in Section 184.4.1.3.

184.4.3.3.3. Maintain for public inspection all records pertaining to the provisions of this code.

**184.4.3.4. ALTERATION OF WATERCOURSES.**

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

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

184.4.3.5. Interpretation of Firm Boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards

184.4.3.5.1. Example: where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 184.4.4.

**184.4.4. Variance Procedure.**

**184.4.4.1. Appeal Board.**

184.4.4.1.1. The Board of Adjustment as established by the Town of Limon under Ordinance No. 188 shall hear and decide appeals and requests for variances from the requirements of this code.

184.4.4.1.2. The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Town Administration in the enforcement or administration of this code.

184.4.4.1.3. Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decisions to the District Court, as provided in Rule 106 of the Colorado Rules of Civil Procedure and any other statute of the State of Colorado which provides for review of the acts of any inferior tribunal.

184.4.4.1.4. In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this code, and:

184.4.4.1.4.1. the danger that materials may be swept onto other lands to the injury of others;

184.4.4.1.4.2. the danger to life and property due to flooding or erosion damage;

184.4.4.1.4.3. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

184.4.4.1.4.4. the importance of the services provided by the proposed facility to the community;

184.4.4.1.4.5. the necessity to the facility of a waterfront location, where applicable;

184.4.4.1.4.6. the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;

184.4.4.1.4.7. the compatibility of the proposed use with the existing and anticipated development;

184.4.4.1.4.8. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

184.4.4.1.4.9. the safety of access to the property in times of flood for ordinary and emergency vehicles;

184.4.4.1.4.10. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

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

184.4.4.1.5. Upon consideration of the factors of Section 184.4.4.1.4. and the purposes of this code, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of the code.

184.4.4.1.6. The Town Administration shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

**184.4.4.2. Conditions for Variances.**

**184.4.4.2.1.** Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, provided in Section **184.4.4.1.4.** have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.

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

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

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

**184.4.4.2.5.** Variances shall only be issued upon:

**184.4.4.2.5.1.** a showing of good and sufficient cause;

**184.4.4.2.5.2.** a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

**184.4.4.2.5.3.** a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section **184.4.4.1.4.**, or conflict with existing local laws or ordinances.

**184.4.4.2.6.** Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

**184.5. Provisions for Flood Hazard Reduction.**

**184.5.1. General Standards.**

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

**184.5.1.1. Anchoring.**

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

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

**184.5.1.1.2.1.** over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at the intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;

**184.5.1.1.2.2.** Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;

**184.5.1.1.2.3.** All components of the anchoring system be capable of carrying a force of 4,800 pounds; and,

**184.5.1.1.2.4.** Any additions to the manufactured home be similarly anchored.

**184.5.1.2. Construction materials and Methods.**

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

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

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

**184.5.1.3. Utilities.**

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

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

**184.5.1.3.3.** On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**184.5.1.4. Subdivision Proposals.**

**184.5.1.4.1.** All subdivision proposals shall be consistent with the need to minimize flood damage;

**184.5.1.4.2.** All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

**184.5.1.4.3.** All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

**184.5.1.4.4.** Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

**184.5.1.5. Encroachments.** The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

**184.5.2. Specific Standards.** In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section **184.3.2.** or Section **184.4.3.2.**, the following provisions are required:

**184.5.2.1. Residential Construction.** New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.

**184.5.2.2. Non-Residential Construction.** New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement,

elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

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

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

**184.5.2.2.3.** Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section **184.4.3.2.**

**184.5.2.3. Manufactured Homes.**

**184.5.2.3.1.** Manufactured homes shall be anchored in accordance with Section **184.5.1.1.2.**

**184.5.2.3.2.** Manufactured homes that are placed or substantially improved within Zones A1-30, AO and AE, on sites that are (i) outside of a manufactured home park or subdivision, (ii) inside a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation.

**184.5.2.3.3.** Manufactured homes that are placed or substantially improved on sites in existing manufactured home parks or subdivisions within Zones A1-30, AH, AO and AE that are not subject to the provisions of the previous paragraph shall be elevated so that either (a) the lowest floor of the manufactured home is at or above the base flood elevation, or (b) the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than thirty-six (36) inches in height above grade.

**184.5.2.3.2.1.** stands or lots are elevated or compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;

**184.5.2.3.2.2.** adequate surface drainage and access for hauler are provided; and,

**184.5.2.3.2.3.** in the instance of elevations on pilings, that:

**184.5.2.3.2.3.1.** Lots are large enough to permit steps,

**184.5.2.3.2.3.2.** Piling foundations are placed in stable soil no more than ten feet apart, and

**184.5.2.3.2.3.3.** Reinforcement is provided for pilings more than six feet above the ground level.

**184.5.2.3.3.** No mobile home shall be placed in a floodway, except in an existing mobile home park or existing mobile home subdivision.



