

**TOWN OF MEEKER
ORDINANCE ____-2015**

AN AMENDED WATERSHED PROTECTION DISTRICT ORDINANCE

WHEREAS, C.R.S. § 31-15-707 gives municipalities the right to enact watershed protection ordinances and regulations for the purpose of maintaining and protecting local waterworks from injury and water from pollution; and

WHEREAS, C.R.S. § 31-15-707 grants municipalities jurisdiction over the stream or source from which the water in their waterworks is taken- as set forth in the attached Watershed District map marked as Exhibit A for five miles surrounding the point from which it is taken; this jurisdiction necessarily extends to groundwater underneath properties within the five-mile area that finds its way into streams in the watershed; and

WHEREAS, the Board of Trustees of the Town of Meeker deems it to be in the public interest to adopt pass a-an amended watershed protection ordinance to protect its water sources and system to maintain and protect the integrity, quality and safety of the Town's municipal water supply for the citizens of the Town of Meeker; and

WHEREAS, the intent of the protection effort is not to prohibit normal agricultural practices such as burning ditches, haying fields, grazing livestock, applying pesticides or herbicides in prescribed manners. The Town's intent is to address threats to the water quality through County project referrals or observation/reporting of potentially damaging activities, not to require excessive permitting and regulation unless such activities are identified and pose a credible threat to the water quality due to such threat.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MEEKER THAT THE TOWN'S WATERSHED PROTECTION ORDINANCE IS HERBY AMENDED AND RE-ENACTED AS FOLLOWS:

Section 1. Creation of District; Intent of District. There is hereby created the Meeker Watershed Protection District ("Watershed District") as further described in this ordinance.

- a.) The purpose for which this Watershed District is established is the full exercise of the powers of the Town in maintaining and protecting the Town's waterworks from injury and water supply from pollution or from activities that will create a hazard to health and water quality or a danger of pollution to the water supply of the Town. This Watershed District is created under the authority granted in C.R.S. § 31-15-707 (1)(b), and other applicable laws. Further, this Watershed District and the following regulations are created for the purpose of protecting the Town's water and waterworks only, and not for purpose of regulating land use activities. The Town's authority herein shall be for the purpose of reviewing and restricting certain activities any activity within the Watershed District, that which-creates a foreseeable risk of damage or injury to the Town's water supply and waterworks, or pollution of the Town's water supply. The Town's review authority within the District shall, therefore, be concurrent with the authority of Rio Blanco County and the U.S. Forest Service to review and/or require permits for the same activity as the Town may regulate. Compliance with this ordinance shall be in addition to compliance with any Town land use regulations, 1041 regulations, or other regulations or ordinances regarding the activity subject hereto.

Section 2. Jurisdiction and Map. The jurisdiction of the Watershed District shall extend over the territory occupied by the Town of Meeker waterworks and all reservoirs, streams, trenches, pipes, and drains used in and necessary for the construction, maintenance, and operation of the same, and all water sources, including ground water, tributary thereto for five miles above the points at the treatment plant at which water is diverted for use by the Town of Meeker. The Watershed District Map, which accompanies this Ordinance

and is attached as Exhibit A, established the boundaries of the Watershed District, and with all notations, references, and other information shown thereon, is incorporated herein as part of this Ordinance.

Section 3. Definitions. Whenever the following words or phrases are used in this ordinance, they shall have the following meanings:

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

- a.) "Best management practice" means the most effective means of preventing or reducing harmful effects of certain activities to a level compatible with Meeker's standards.
- b.) ~~"Discharge area" means that portion, generally described as the Southeasterly part of the Watershed District, including everything south of the line between Township 14 South and Township 15 South.~~
- e.) ~~b.)~~ "Excavating" means the artificial movement of earth leaving any cut bank over three feet in vertical height or a movement of material in excess of ~~fiftyten~~ cubic yards.
- d.) ~~c.)~~ "Filling" means the artificial movement of earth leaving a fill earth bank over two feet in vertical height or filled earth over two feet deep, or, artificial addition of earth above a line sloping up at a grade of one vertical to five horizontal from the ground.
- e.) ~~d.)~~ "Foreseeable risk" means the reasonable anticipation that harm or injury may result from acts or omissions.
- e.) "Grading" means the artificial movement of over ~~fiftyfive~~ cubic yards of material; or movement of any earth or material affecting or creating a drainage channel; or pioneering of roads, meaning the artificial movement of trees and shrubbery creating a roadway or driveway in excess of twenty-five feet in length.
- f.) ~~"OWTS" shall mean "On-site Wastewater Treatment System" and shall have the same meaning as set forth in C.R.S. § 25-10-103(12): "an absorption system of any size or flow or a system or facility for treating, neutralizing, stabilizing, or dispersing sewage generated in the vicinity, which system is not part of or connected to a sewage treatment works" (prior to 2013, this term was formally known as an "Individual Sewage Disposal System" or "ISDS" under applicable State of Colorado statutes and regulations).~~
- g.) "Person" means any individual, corporation, business trust, estate, trust, partnership, association or other legal entity.
- h.) "Pollution" means the man-made, man-induced, or natural alteration of the physical, chemical, biological and radiological integrity of water.
- i.) ~~"Recharge area" means that portion, generally described as the SoutheasterlyNorthwesterly part of the Watershed District, and includes all of the Watershed District which is not in the "Discharge Area" described above.~~
- i.) "Primary Watershed Protection Area" means the area indicated on Exhibit B that is immediately proximate to the Town's wells.
- j.) "Removing vegetation" means the artificial cutting, chemical killing or any other manner of removing any tree greater than fifteen feet in height, any shrubs or trees covering an area of more than one hundred square feet or any grasses covering an area of more than one thousand square feet.

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- k.) "Seismic damage" refers to the effect of blasting for construction or other purposes causing the opening of fractures and the onset of water flowing from the historic springs aquifer.
- l.) "Sewage disposal system" means a septic tank or other facility designed and constructed for the purpose of receiving and disposing of sewage.
- m.) "Subdivided areas" means any land area for which a subdivision plat has been approved, and includes areas for which grading plans have been approved, by the appropriate department or agency of the Town of Meeker, or by Rio Blanco County.
- n.) "Surfacing" means any action resulting in the hardening or covering of the pre-existing ground in an area greater than ~~20,000~~~~one hundred~~ square feet such that rain striking the area will accumulate or run off the surface to a greater extent than prior to the hardening or covering of said pre-existing ground. Surfacing includes, but is not limited to, such things as compacting the surface of the earth, placing gravel, concrete or like substances on the surface of the earth, or the placement of structures upon the ground.
- ~~o.) "Exercise of water rights" includes without limitation the diversion, exchange or storage of water for beneficial use pursuant to vested or conditionally decreed water rights, any changes of the points of diversion or exchange or changes of the places of storage for vested or conditionally decreed water rights as approved by the Water Court, all operation, maintenance and construction activities relating to the diversion, exchange or storage of water for beneficial use pursuant to vested or conditionally decreed water rights or any changes of such water rights approved by the Water Court, and all operation, maintenance and construction activities relating to the construction, repair, relocation or reconstruction of existing or future facilities required for the diversion, exchange or storage of water for beneficial use pursuant to vested or conditionally decreed water rights or any changes thereof approved by the Water Court.~~
- ~~p.) "Exercise of rights to withdraw groundwater" includes without limitation the construction, repair, reconstruction or relocation of existing or future wells or other facilities consistent with vested or conditionally decreed rights or changes to vested or conditionally approved rights to groundwater approved by the Water Court and pursuant to permits as may be required from the State Engineer and all activities related thereto: the pumping, withdrawal or storage of groundwater for beneficial use through such wells or facilities; and all operation, maintenance and construction activities relating to such wells or facilities and relating to the pumping, withdrawal or storage of groundwater pursuant to vested or conditionally decreed rights to groundwater or changes to vested or conditionally approved rights to groundwater approved by the Water Court and pursuant to permits as may be required from the State Engineer.~~

Section 4. Activities Requiring Permit, Activities Requiring Written Notification, and Notice of Other Activities.

- a.) It shall be unlawful for any person to engage in any of the following activities within the Watershed District, which activities ~~the Town Board of Trustees finds~~ pose a potential or actual threat of damage or injury to the Town's waterworks and of pollution to the Town's water supply as determined by a report from the Town's water quality expert or engineer, unless such person shall, prior to undertaking such activity, obtain a permit for such activity under the provisions of this Ordinance:
 - 1) Constructing or installing an OWTS ~~septic disposal systems located~~ anywhere within the Primary source Watershed Protection Area as set forth on Exhibit BA attached hereto.

- 2) ~~Constructing or installing a sewage disposal system, except one which is connected to a municipal sewer system.~~
- 3) Excavating, grading, or filling ~~or surfacing~~, within the Primary Watershed Protection Area, except within subdivided areas.
- ~~3)4) Surfacing, except within subdivided areas.~~
- 4)5) Removing vegetation on more than one acre.
- ~~5)6) Timber harvesting ~~excluding the removal of dead trees for firewood or domestic purposes.~~~~
- ~~6)7) Altering water drainage courses.~~
- 7)8) Surface and subsurface mining operations.
- ~~8)9) Spraying or using fertilizers, herbicides, ~~or~~ pesticides, rodenticides and insecticides within the Primary Watershed Protection area, except in normal households or gardens of less than one acre.~~
- 9)10) Using, handling, storing, or transmitting toxic or hazardous substances, including, but not limited to, radioactive materials, except for customary domestic or agricultural purposes or within vehicular fuel storage tanks and except the transportation of such materials in accordance with requirements of the Colorado and United States Departments of Transportation, or by licensed PUC or Interstate Commerce carriers along State or Federal highways or along main public thoroughfares.
- ~~10)11) Using, handling, storing, or transmitting flammable or explosive materials except for customary domestic or agricultural purposes or within vehicular fuel storage tanks, and except the transportation of such materials in accordance with requirements of the Colorado and United States Departments of Transportation or, by licensed PUC or Interstate Commerce carriers along State or Federal highways or along main public thoroughfares.~~
- ~~11)12) Drilling operations, or any method of constructing or modifying any well or spring within the Primary Watershed Protection Area.~~
- ~~12) Subsurface mining operations.~~
- 13) The use of explosives or blasting for construction excavation or other purposes within the Primary Watershed Protection Area.

- b.) In the event that ~~activity any act or omission~~ not set forth in this Section 4 is being conducted in such a manner that ~~poses. Town staff finds that~~ a foreseeable risk of pollution or other injury to the Town's waterworks or water supply exists from such act or omission as determined by a report from the Town's water quality expert or engineer, the person responsible for such act shall be notified by the Town staff of such finding and the Town staff may require that such act cease and desist until such person obtains a permit for such act under the provisions of this Ordinance, or the Town may require such person to act to prevent damage or injury to the Town waterworks or pollution of the Town's water supply.

Section 5. Permit and Hearing Procedure. An applicant for a ~~Meeker~~ Watershed District Permit shall submit the following to the Town no later than 120 days prior to the commencement of ~~any proposed~~ activity specified in Section 4.a:

- a.) A completed application in the form prescribed by the Town. If the applicant is not the owner of the subject property, the owner shall also sign such application and the applicant shall set forth its interest in the proposed activity. An application will not be deemed to be complete until all information required by the Town has been submitted to the Town, and all fees and cost deposits have been paid to the Town.
- b.) A complete description of the proposed activity for which a permit is sought, including, if applicable, a discussion of any future activity anticipated by the applicant with respect to the subject property for which a permit may be required hereunder.
- c.) Two sets of plans and specifications which shall contain the following information:
 - 1) A vicinity sketch or other data indicating the site location and legal description of the subject property.
 - 2) Boundary lines of the property for which the permit is sought, if applicable.
 - 3) Location of any buildings, structures, or roads within fifty (50) feet of the proposed activity.
 - 4) Accurate contours establishing the topography of the existing ground.
 - 5) Elevations, dimensions, location, extent and the slopes of all proposed excavating, grading, filling, or surfacing shown by contours and/or other means.
 - 6) Details of all drainage devices in connection with the proposed activity.
 - 7) A statement of the amount and location of any matter proposed to be deposited in areas other than that shown on the plans.
 - 8) Nature and location of existing vegetation and a statement as to the effect of the proposed activity on such vegetation.

~~d.) Identification of any activity that may present or create a foreseeable risk of injury or damage to the Town waterworks or pollution of the water supply of the Town along with a specific description of the measures, including best management practices, that will be employed by applicant to obviate such risks.~~

e.) Any and all additional information that may be specifically requested by the Town, including but not limited to, the following:

- ~~• A map showing the drainage pattern and estimated runoff of the area of the proposed activity.~~
- 1) Revegetation and reclamation plans and specifications.
- 2) A soils analysis, including the nature, distribution, and strength of existing soils, and recommendations for earth moving procedures and other design criteria.
- 3) A geologic analysis of the site and adjacent areas and its impact on the proposed activity.
- 4) An operational and maintenance analysis of the proposed activity.
- 5) Water use analysis, including legal basis, source, quality, amount of consumptive use, impact on ground water, and discharge characteristics.

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f.) The applicant shall submit a Watershed District Permit application fee to the Town at the time of filing such application. The application shall be assessed a fee sufficient to cover the costs of

publication, hearing, processing, administration, inspection and enforcement of such requested permit. In the event the fee charged The Town at the time of application is determined to be insufficient to cover the Town's costs, the Town shall have the right to charge the additional fee prior to the issuance or denial of any permit. An application shall not be considered complete until the executed agreements and deposit, if required, have been delivered to the Town. No Watershed District Permit shall be issued until all fees and costs have been paid.

Section 6. Review, Analysis, and Risks

- a.) Within sixty (60) days following receipt of a completed application, Town staff shall review the same, perform a site inspection, if permitted by weather conditions and if determined necessary to an understanding of the matters set forth in the application, and prepare an analysis of the proposed activity, including a discussion of any factor that may present or create a foreseeable risk of injury or damage to the waterworks or pollution of the Town's water supply ~~of the Town of Meeker~~ along with an analysis of the measures, including best management practices, if any that are proposed by the applicant to obviate such risks and submit such analysis to the Town Board of Trustees.
- b.) In undertaking the analysis of any proposed activity, the following factors, among any other that may be deemed relevant, shall be considered by Town staff:
- Nature and extent of the proposed activity;
 - Proximity to existing water courses;
 - Drainage patterns and control measures;
 - Soil criteria;
 - Slope steepness and stability;
 - Effects of denudation;
 - Geologic hazards, including but not limited to, avalanche paths, flood plains, high water tables, fault zones, and similar factors;
 - Point source effluent and emissions into air or water;
 - Ambient and non-point source effluent and emissions into air or water;
 - Vehicular and motorized activity; and
 - Fire hazards.

Section 7. Hearing. Upon receipt of the analysis from the Town staff, the Town Board of Trustees shall conduct a public hearing to review the application and analysis and shall render a decision regarding the issuance or denial of a Watershed District Permit to such applicant within 90 days after receipt of staff's analysis, except that if the activity requires approval of permits from any agency of the County, State, or Federal government and those permit procedure timelines exceed the time requirements of this Ordinance, then, and in that event, the Town shall have an additional sixty (60) days following the final decision of such County, State, or Federal government approval or permit procedure to conduct the public hearing required hereunder and render a decision regarding the issuance or denial of a Watershed District Permit to such applicant. The Town Board of Trustees may require additional information from any applicant, in which event the public hearing and decision may be delayed or continued until receipt of such additional information.

Section 8. Standards for Issuance of Permit. A ~~Meeker~~ Watershed District Permit shall be issued if the Town Board of Trustees finds that the applicant has sustained the burden of proof that the proposed activity including best management practices, if any, does not present or create a foreseeable risk of damage or injury to or pollution of the Town of Meeker waterworks and all reservoirs, streams, trenches, pipes, and drains used in and necessary for the construction, maintenance, and operation of the same, and all water sources tributary thereto for five miles above the points from which water is diverted for use by the Town of Meeker. A Watershed District Permit shall be denied if the Town Board of Trustees finds that the applicant has not sustained such burden of proof.

Section 9. Permit Conditions. The Town Board of Trustees in issuing any ~~Meeker~~ Watershed District Permit may prescribe any conditions it may deem necessary to effect the intent of this ~~O~~rdinance. The Town Board of Trustees may require any applicant to post a surety bond, letter of credit, or cash in an amount sufficient to ensure compliance with the Permit, including but not limited to, the cost of maintenance, operation, revegetation, reclamation, or other requirements related to the proposed activity or permit. The Town Board of Trustees may release to the applicant portions of any such bond, letter of credit, or cash from time to time when it determines that such portions are no longer necessary to ensure compliance with the Watershed District Permit.

Section 10. Duration of Permit. If any proposed activity for which a ~~Meeker~~ Watershed District Permit is issued is not commenced within nine (9) months from the date of issuance of such permit, the permit shall expire and become void.

Section 11. Notice of Hearing. Notice of any public hearing hereunder shall be given at least ten (10) days in advance of the public hearing by posting at the designated Town Posting Place or by publication in a newspaper of general circulation within the Town of Meeker, and by notice to the applicant by mail.

Section 12. Joint Review Processes. Any permit required hereunder may be reviewed and issued pursuant to a joint review process with any other government entity or agency charged with the review and approval of the same activity or activities.

Article III – Violation, Enforcement, Severability and Repeal

Section 13. Enforcement.

- a.) Right of Entry: Whenever necessary to make an inspection to enforce any provision of this ~~O~~rdinance or any permit issued hereunder, Town staff may go upon any land at any reasonable time to inspect the same or to perform any duty imposed hereunder after making a reasonable effort to locate the applicant or other persons having control of such land to notify them of such entry.
- b.) Stop Work Order; Whenever any work, activity, or other act or omission is being done contrary to the provisions of this ~~O~~rdinance, or in violation of the terms of any Watershed District Permit issued hereunder, Town staff may order the work activity or act be stopped by notice in writing served on the applicant or any person engaged in or causing such activity to be done, and any such person shall cease such activity until authorized by the Town to proceed. Town Staff may order the applicant or any person to take such action as necessary to comply with this ~~O~~rdinance or any permit issued hereunder. Any permit issued pursuant to this ~~O~~rdinance may be revoked or suspended if work is not done in accordance with the terms and conditions of the permit.

Section 14. Regulations. The Town Board of Trustees may issue regulations providing guidelines and criteria to carry out the purposes of this ~~O~~rdinance.

Section 15. Activity in Progress. The lawful use of any buildings, structure, or land existing at the time of the enactment of this ~~O~~rdinance may be continued even though it does not conform to the requirements of this ordinance. Ordinary repairs and maintenance of any existing building, structure, or land shall be allowed. Any change, expansion, alteration, or enlargement of such existing lawful use shall be subject to all requirements of this ordinance.

Section 16. Severability. If any provision of this ~~O~~rdinance or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of this ~~O~~rdinance which can be given effect without the invalid provision or application, and to this end the provisions of this ~~O~~rdinance are declared to be severable.

EFFECTIVE DATE

This Ordinance shall take effect thirty days after its publication as provided in Section ~~31-16-10530-15-405~~ C.R.S.

INTRODUCED, PASSED, APPROVED AND ADOPTED on _____, 2015, by a vote of ___ for and ___ against.

TOWN OF MEEKER

Regas Halandras, Mayor

ATTEST:

Lisa Cook, CMC
Town Clerk