ORDINANCE NO. 2023-2

AN ORDINANCE AMENDING WHITE SULPHUR SPRINGS CODE OF ORDINANCE TO ALTER LANGUAGE IN §1.7.1, §1.7.7, §4.4.2, §8.1.2, §8.1.4, §8.1.14, §8.1.19, §8.1.20, §8.1.24, §8.1.29, §8.1.32, §8.1.24, §8.1.29, §8.2.2, §8.2.4, §8.2.5, §8.2.6, §8.2.7, §8.2.9, §8.2.10, §8.3.1, §8.3.2, §8.3.3, §8.3.4, §8.3.5, §8.3.10, §8.5.2, §8.5.6, §8.5.10, TO CHANGE THE WORD “SUPERINTENDENT” AS USED THEREIN TO “SUPERVISOR” OR “PUBLIC WORKS SUPERVISOR” OR MAKE OTHER ADJUSTMENTS CONSISTENT WITH THIS CHANGE TO CONFORM TO THE CITY’S CURRENT JOB DESCRIPTION AND USAGE FOR THIS POSITION; AND REVISE THE DUTIES ASSIGNED TO THE PUBLIC WORKS SUPERVISOR UNDER §1.7.7, AND MAKING AMENDMENTS AS TO STYLE AND FORM FOR PURPOSES OF REFERENCE AND CODIFICATION.

**WHEREAS**, the City of White Sulphur Springs review of the recently revised and codified Code of Ordinances revealed varying titles for the senior position within the Public Works Department; and

**WHEREAS**, the current applicable job description for this position identifies the senior position as “Public Works Supervisor” rather than “Superintendent” or Public Works Superintendent”; and

**WHEREAS**, these inaccurate titles create confusion and the various ordinances using this job title require correction to eliminate the confusion; and

**WHEREAS**, the duties described specifically in §1.7.7 are not consistent with the current job description and should be amended to be consistent with the duties actually assigned;

**NOW, THEREFORE**, **BE IT ORDAINED** by the City Commission of the City of White Sulphur Springs Montana, that Title 1, Chapter 7; Title 4, Chapter 4; Title 8, Chapter 1; Title 8, Chapter 2, Title 8, Chapter 3, and Title 8, Chapter 5 of the Code of Ordinance be amended as follows:

**Section 1**

That Title 1, Chapter 7, Section 7 be renamed as follows:

Section 1.7.7 Public Works ~~Superintendent~~ *Supervisor*

**Section 2**

That the Code of Ordinance, Title 1, Chapter 7 be amended as follows:

**§ 1.7.1  POLICY ON OVERTIME.**

   (A)   It is the policy of the City that none of its employees shall perform any work which results in overtime or compensation time without the prior approval of the Mayor. The exceptions to this policy under which no approval from the Mayor is required are as follows.

~~(B)~~ *(1)* The ~~City Superintendent~~ *Public Works Supervisor* and any employee in the department need not seek the Mayor’s prior approval when there is a substantial emergency with regard to the water system, for example a break in a water main.

~~(C)~~  *(2)* One City employee, either the ~~City Superintendent~~ *Public Works Supervisor* or an employee in the department, may check the water reservoir, chlorination facility or water well once on Saturdays and once on Sundays without the Mayor’s prior approval.

   (~~D~~ *B*)   A copy of this policy shall be distributed to all employees of the City. Failure of any employee to follow the terms of this policy may, at the option of the City, result in immediate dismissal from employment without prior warning or reprimand.

**§ 1.7.7  PUBLIC WORKS ~~SUPERINTENDENT~~.**

   (A)   *Appointment*  The Mayor may appoint, with the approval of the Council, a Public Works ~~Superintendent~~ *Supervisor* who shall hold office for the duration of their appointment or until such time as they shall be removed by the Mayor.

   (B)   *Duties.*

      (1)   The Public Works ~~Superintendent~~ *Supervisor* shall have charge of all City works as follows.

         (a)   *Streets and alleys.* They shall supervise the grading, surfacing, repair and maintenance of all streets and alleys.

         (b)   *Sewer.* They shall supervise the installation and maintenance of all sewer lines in the City, except the installation of sewer projects which are accomplished by contract.

         (c)   *Water.* They shall supervise the installation and maintenance of all water mains and water services, except the installation of water mains so accomplished by contract.

      (2)   They shall supervise ~~the repair and maintenance of~~ all City ~~electrical work~~ *equipment and Public Works employees*.

         (a)   *Equipment.* They shall have charge of and supervise the repair and upkeep of all public works equipment.

         (b)   *Employment and supervision.* They may employ with prior consent of the Mayor and the Council such help as is needed to carry on the work of the City such help to be directly under their supervision.

      (3)   ~~The Superintendent shall be ex officio Sewer and Drainage Commissioner.~~

~~(4)~~   The ~~Superintendent~~ *Public Works Supervisor* shall present to the Council, at its regular meeting each month, a report, whether oral or written, as to the public work accomplished each month and, as far as can be foreseen, public work planned for the current month.

**Section 3**

That the Code of Ordinance, Title 4, Chapter 4, Section 2 be amended as follows:

**§ 4.4.2  CONTAINERS AND DISPOSAL OF OTHER ITEMS.**

   No owner or occupant of any public or private premises shall permit to accumulate upon their premises any garbage or refuse except in covered containers approved by the ~~Superintendent~~ ~~of Sanitation~~ *Public Works Supervisor or Mayor* or other designated officer. Such containers shall be strong, not easily corrodible, rodent- proof, with two handles, a capacity of not more than 30 gallons, with tight covers, which shall be in place at all times except when depositing or removing garbage therefrom. Such containers shall be maintained in a sanitary condition at all times and shall be kept in a rack or device as to prevent them from being overturned by animals. In the event that garbage and one or more types of refuse are disposed of separately, separate containers must be had if required by the ~~Superintendent~~ ~~of Sanitation~~ *Public Works Supervisor, the Mayor* or by order of the City Council. Boxes, papers, tree cuttings and all odd articles shall be crushed and/or bundled in lengths no to exceed five feet and not to exceed 50 pounds in weight, except articles taken in special hauls.

**Section 4**

That the Code of Ordinance, Title 8, Chapter 1 be amended as follows:

**§ 8.1.2  APPLICATION AND FEE FOR TAPS TO MAINS.**

   (A)   Applications for the use of water, or sewer, must be made to the office of the ~~Superintendent~~ *Public Works Supervisor* or the City Clerk on printed forms furnished for that purpose.

   (B)   The application must be made by the agent or owner of the property to be benefitted, describing the lot, block and street where water is desired, and shall state fully all the purposes for which the water may be required; and the applicant or their duly authorized agent, upon making the application, shall pay to the City Clerk/Treasurer a minimum fee pursuant to a fee schedule adopted by resolution plus the cost of a City-approved water flow meter.

   (C)   In cases where the applicant desires a larger line than three-quarters of an inch, the applicant shall first obtain City approval of line size and shall agree in said contract to pay to the City, upon demand, the difference in cost to the City between the three-quarter inch line and the large line requested by the applicant, in addition to the minimum fee set forth above by the same fee schedule referenced above.

   (D)   No taps will be made to the mains until the applicant for whom such connection is to be made has signed the contract mentioned herein, a plumber’s permit has been issued authorizing the plumber to lay such pipes and make such connections as will conform to the application, and the applicant has paid all required fees.

   (E)   Any extension of the water system (mains) at the request of a property owner(s) or developer and not at the initiation of the City based on a capital improvement plan approved by the City Council shall be at the expense of the property owner(s) or developer or development making the request.

**§ 8.1.4  DISCONTINUANCE; NOTICE FILED.**

   Should it be desired to discontinue the use of water, or if any residence or commercial property to which City water is supplied shall be vacant for a period of 60 days or more, written notice thereof shall be filed in the office of the City Clerk by the property owner and all arrears paid, and rates shall be charged until such notice is given. Within 72 hours of receipt of such notice, the City ~~Superintendent~~ *Public Works Supervisor or designee* shall shut off water service to the residence or commercial property for which there is a fee pursuant to a fee schedule adopted by resolution.

**§ 8.1.14  CONTRACTORS OR BUILDERS DESIRING WATER.**

   Contractors, builders or others desiring water for building purposes must make application to the ~~Superintendent of the waterworks~~ *Public Works Superintendent*, who will issue a permit therefor. The amount to be paid shall be based upon the actual cost to the City for providing water service. Contractors shall pay said fee in advance or shall post a bond for said costs.

**§ 8.1.19  INSPECTION AUTHORIZED.**

   The ~~Superintendent of the City waterworks~~ *Public Works Supervisor* or other authorized officer or employee of the City shall be permitted to enter the premises or buildings of consumers at any reasonable time, upon 48 hours’ notice, to examine the water pipes, water meters and fixtures and the manner in which the water is used, except that the provisions concerning time and notice are waived in the event of an emergency. Failure of a property owner to allow entry of authorized personnel for purposes of inspection shall subject the owner to immediate shut off of services and shall be assessed corresponding fees and costs.

**§ 8.1.20  REPLACEMENT AND REPAIR AUTHORIZED.**

   The ~~Superintendent of the City waterworks~~ *Public Works Supervisor* or other officer or employee of the ~~waterworks~~ *Public Works Department* shall be permitted to enter the premises or buildings of consumers at any reasonable time, upon 48 hours’ notice, to repair or replace the City water meters, except that the provisions concerning time and notice are waived in the event of an emergency. Failure of a property owner to allow entry of authorized personnel for purposes of effecting replacement or repair of City fixtures shall subject the owner to immediate shut off of services and shall be assessed corresponding fees and costs.

**§ 8.1.24  APPLICATION; NECESSARY FEES.**

   (A)   The application for permission to make such connection shall require the applicant to pay to the City the necessary fees therefor, which shall be determined by the City Clerk, who shall figure the area of the property owned by the applicant and use the assessment levied against the property of said special improvement district to which connection is desired upon the same basis as used to assess property within the district at the time of its creation, and this amount must be paid at the time of such application.

   (B)   The application for a connection shall include the number of meters needed. Such meters shall be provided for installation and shall be deemed active 30 days after delivery and minimum fees shall be charged thereafter, whether or not a request for the water to be turned on has been made. If delivery of the meters is to be staggered, as in the case of a subdivision or other multiple-dwelling installation, the request in the application shall so state and delivery shall be coordinated with the City Clerk or the ~~Superintendent~~ *Public Works Supervisor*.

**§ 8.1.29  MAYOR MAY ENACT REGULATIONS.**

   (A)   The Mayor or the ~~Superintendent of~~ Public Works *Supervisor* shall have the power to enact seasonal regulations or restrictions on the amount or purpose of water use by Municipal Water Users. This power shall include, but is not limited to, restrictions on time, place or amount of water use for lawn or other irrigation. The City Clerk shall be notified immediately of the enactment of any such regulations and/or restrictions.

   (B)   Upon enacting such regulations or restrictions, the City Clerk shall cause the posting of such regulations or restrictions in the same manner as is provided for posting of special meetings. Additionally, such postings shall be made on-line at the City website and may be included in the water bills, space permitting. When such regulations or restrictions are lifted or expire, the postings shall be removed from the City website, the water bills and such other locations as may be found.

**§ 8.1.32  ENTRY ONTO PREMISES.**

   The ~~Superintendent~~ ~~of the City waterworks (water system)~~ *Public Works Supervisor* or other officer or employee of the ~~waterworks~~ *Public Works Department* shall be permitted to enter the premises or buildings of consumers attached to the City water system at any reasonable time, upon 48 hours’ notice, to examine, repair or replace the water meters as indicated in the notice, and examine the manner in which the water or meter is used, except that the provisions concerning time and notice are waived in the event of an emergency.

**Section 5**

That the Code of Ordinance, Title 8, Chapter 2 be amended as follows:

**§ 8.2.2  APPLICATION, INVESTIGATION AND PERMIT.**

   (A)   Any person desiring to drill, dig or excavate for a water well within the corporate limits of the City must first apply to the ~~City Superintendent~~ *Public Works Department* for a permit therefor and must advise the City of the exact location of the proposed water well.

   (B)   The application for such permit must contain:

      (1)   A description of the purpose for the proposed well, such as domestic, lawn and garden, commercial, industrial or other use; and

      (2)   A statement of whether the municipal water system is currently serving or available to the property where the well is proposed.

   (C)   If granted, the well permit shall contain the following:

      (1)   This authorization to construct a water well has been granted pursuant to Title 4 of the City code, and is subject to the conditions within this permit and any conditions imposed by the Montana Department of Natural Resources and Conservation (DNRC), the Montana Department of Environmental Quality (DEQ), Meagher County, any other government agency or entity with jurisdiction, and any other applicable law;

      (2)   The applicant specifically agrees to be bound by the following condition:

         (a)   The applicant agrees this well and associated water right will be made available as needed upon the written consent of the water well applicant, to the City of White Sulphur Springs if necessary for mitigation, permitting and/or change authorizations related to future expansion or upgrade of the City of White Sulphur Springs municipal water supply system, which may include curtailment or retirement of this well; and

         (b)   This is not a water right, certificate or permit authorizing the withdrawal, diversion or right to pump and use water. Applicants must complete necessary water right notices, forms and/or permitting procedures with DNRC by contacting the appropriate DNRC office, currently located at 613 NE Main St. E, Lewistown, MT 59457, phone (406) 538-7459, <http://dnrc.mt.gov/divisions/water/water-rights/water-right-forms>.

      (3)   A plan whereby a reduced pressure backflow preventer will be installed on the applicant’s distribution line;

      (4)   An agreement by the permittee that a water sample will be submitted to the Environmental Laboratory of the Montana Department of Public Health and Human Services, or a laboratory approved by them, for the purpose of determining the potability of the water, and pay any applicable fee to the State of Montana for the test; and if the water is certified as not potable by the State Department of Health and Environmental Sciences, the permittee must post a sign at the well indicating that the water is not potable;

      (5)   An agreement by the permittee that an annual water sample be submitted to the Environmental Laboratory of the Montana Department of Public Health and Human Services and that the permittee (or owner) pay any applicable fee to the State of Montana for the test;

      (6)   The permittee must submit to an inspection of the well by the ~~City Superintendent~~ *Public Works Supervisor* or other City employee at any reasonable time, upon prior notice, except that the provisions concerning time and notice are waived in the event of an emergency. Such inspection may include an inspection to determine whether the well is being used in accordance with the terms of the permit issued; and

      (7)   Before it is put into operation, the ~~City Superintendent~~ *Public Works Supervisor or designee* will inspect the well to determine that the backflow preventer has been properly installed.

**§ 8.2.4  PERMIT FEE.**

   A fee pursuant to a fee schedule adopted by resolution shall be paid by the applicant upon submission of the application and plans prior to the ~~City Superintendent’s~~ *Public Works Supervisor’s* review.

**§ 8.2.5  WITHDRAWAL OF PERMIT.**

   In the event the ~~City Superintendent~~ *Public Works Supervisor* determines the requirements of the chapter or the original plans are not being met, a notice shall be sent to the applicant/permittee and the owner of the property advising the permit is out of compliance and subject to withdrawal. The reasons for determining non-compliance shall be outlined in the notice. The notice may originate from the ~~City Superintendent~~ *Public Works Supervisor* or the City Clerk. The applicant/permittee and the owner shall have 30 days to remedy the non-compliance, unless extended by the ~~City Superintendent~~ *Public Works Supervisor*. If the non-compliance is not remedied at the conclusion of the 30 days, then the permit is deemed withdrawn and the well must be disabled. If the applicant/permittee and/or the owner have not disabled the well and the City has to come on the property, the applicant/permittee and the owner shall pay the costs of rendering the well disabled.

**§ 8.2.6  REVIEW.**

   The ~~City Superintendent~~ *Public Works Supervisor* shall review the application and attached plans to determine if the plans submitted conforms to the requirements of this chapter. Any refusal of the ~~City Superintendent~~ *Public Works Supervisor* to grant approval of any application or to issue a permit for a water well is subject to review by the Mayor.

**§ 8.2.7  APPEAL.**

   In the event the ~~City Superintendent~~ *Public Works Supervisor* denies or refuses to grant approval of the application for a well permit, the applicant may submit the matter to the City Council for review by filing a written request with the Clerk. The matter shall be scheduled for the next regular meeting of the City Council. As part of the written request, the applicant shall state the basis for the need for a water well permit. An appeal fee shall be paid at the time of filing pursuant to a fee schedule adopted by resolution.

**§ 8.2.9  MARKING AND INSPECTION.**

   The issuance of a water well permit may be conditioned on marking the water well in a manner to be designated by the ~~City Superintendent~~ *Public Works Supervisor* for the purposes of identification or location, or for inspection at such times as may be reasonably required. All water wells within the City may be inspected by the ~~City Superintendent~~ *Public Works Supervisor* or other City employee at any reasonable time, upon prior notice, except that the provisions concerning time and notice are waived in the event of an emergency.

**§ 8.2.10  CROSS-CONNECTIONS.**

   No water well may be maintained within the City which has any cross-connection with the public water supply system unless equipped with a reduced pressure backflow preventer which is in conformity with the requirements of this chapter. Such cross-connection shall be registered with the ~~City Superintendent~~ *Public Works Supervisor*. Failure to register shall constitute a violation of this provision.

**Section 6**

That the Code of Ordinance, Title 8, Chapter 3 be amended and reordered, as required, as follows:

**§ 8.3.1  DEFINITIONS.**

   For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. …

***~~SUPERINTENDENT~~*** *PUBLIC WORKS SUPERVISOR****.*** The ~~Superintendent of the wastewater facilities~~ *supervisor of the public works (streets, water, wastewater and other services)* of the City, or an authorized deputy, agent or representative; and ~~the use of “Superintendent” or “City Superintendent” may~~ refer*s* to the head of the Public Works Department or the authorized representative of the City designated by the Mayor.

**§ 8.3.2  USE OF PUBLIC SEWERS REQUIRED.**

   (A)   It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.

   (B)   It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

   (C)   Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

   (D)   The owner(s) of all houses, buildings, mobile home parks or courts, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer is hereby required, at the owner’s expense, to submit plans to install suitable plumbing facilities therein for each commercial or multiple use facility and for individual dwelling unit(s) and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within 60 days of written notice by the ~~Superintendent~~ *Public Works Supervisor* and shall have 120 days to complete unless an extension of not more than six months is granted by the ~~Superintendent~~ *Public Works Supervisor* or greater extension is granted by the City Council; provided that said public sewer is within 200 feet of the property line.

   (E)   The installation of a connection to the public sewer shall be subject to the same requirements for application as the connection to the water system, and the charge for a tap to the main shall be pursuant to a fee schedule adopted by resolution. All fees shall be paid at the time of installation unless a payment agreement is authorized by the Mayor as provided in this title.

   (F)   Any extension of the public sewer at the request of a property owner(s) or developer and not at the initiation of the City based on a capital improvement plan approved by the City Council shall be at the expense of the property owner(s) or developer or development making the request.

**§ 8.3.3  PRIVATE WASTEWATER DISPOSAL.**

   (A)   Where a public sanitary and combined sewer is not available under the provisions of § 8.3.2(D), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

   (B)   Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the ~~Superintendent~~ *Public Works Supervisor*. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as is deemed necessary by the ~~Superintendent~~ *Public Works Supervisor*. A permit and inspection fee as set by City Council pursuant to a fee schedule adopted by resolution shall be paid to the City Clerk at the time the application is filed.

   (C)   A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the proper authority or County Sanitarian. The proper authority or County Sanitarian shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the proper authority or County Sanitarian when the work is ready for the final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of receipt of the notification by the proper authority or County Sanitarian or as soon thereafter as may be.

   (D)   The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations or requirements of the Department of Public Health and Human Services of the State of Montana. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than 2,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

   (E)   At such time as public sewer becomes available to a property served by a private wastewater disposal system, as provided in § 8.3.2(D), the property owner shall submit plans for connection to the public sewer and disconnection from the private system within 60 days of written notice by the ~~Superintendent~~ *Public Works Supervisor* and shall have 120 days to complete unless an extension not to exceed six months is granted by the ~~Superintendent~~ *Public Works Supervisor* or a greater extension is granted by the City Council in compliance with this chapter.

      (1)   A connection plan inspection fee shall be charged pursuant to a fee schedule adopted by resolution. Any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material. Such actions in compliance with this section shall be at the property owner’s expense.

      (2)   This section shall be suspended in situations where there is evidence the connection is physically or economically impractical (as defined in the Administrative Rules of the State of Montana) to the City or the property owner until such time as the property owner and the ~~Superintendent~~ *Public Works Supervisor and/or the Mayor* can arrive at a solution to the issue which is financially feasible to all parties.

   (F)   The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City.

   (G)   No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County Health Officer.

**§ 8.3.4  SANITARY SEWERS, BUILDING SEWERS AND CONNECTIONS.**

   (A)   No unauthorized person shall uncover, connect with or open, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the ~~Superintendent~~ *Public Works Supervisor*.

   (B)   (1)   There shall be three classes of building sewer permits:

          (a)   Residential;

          (b)   Commercial; and

          (c)   Industrial.

       (2)   In any case, the owner or their agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the ~~Superintendent~~ *Public Works Supervisor*. A permit and inspection fee shall be paid to the City Clerk pursuant to a fee schedule adopted by resolution by the City Council at the time the application is filed. Any application which is returned for additional information may be subject to a resubmission fee pursuant to the same fee schedule.

   (C)   All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

   (D)   A separate and independent building sewer shall be provided for every building; exceptions shall be considered on a case-by-case basis by the Mayor or other official; but the City does not and will not assume any obligation or responsibility for damage caused by or resulting from any single connection or failure of said connection.

   (E)   Old building sewers may be used in connection with new buildings only when they are found, on examination and testing by the ~~Superintendent~~  *Public Works Supervisor*, to meet all requirements of this chapter.

   (F)   The size, slope, alignment, materials of construction of all sanitary sewers, including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City. In the absence of suitable code provisions, the appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9, or current edition, shall apply.

   (G)   Whenever possible, the building sewer shall be brought to 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 public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

   (H)   No person shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff, or groundwater to building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

   (I)   The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9, or current edition. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the ~~Superintendent~~ *Public Works Supervisor* before installation.

   (J)   The applicant for the building sewer permit shall notify the ~~Superintendent~~ *Public Works Supervisor* when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the ~~Superintendent~~ *Public Works Supervisor* or their representative.

   (K)   All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

**§ 8.3.5  USE OF PUBLIC SEWERS.**

   (A)   No person shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any sewer, except storm water runoff from limited areas, which storm water may be polluted at times, may be discharged to the sanitary sewer by permission of the ~~Superintendent~~ *Public Works Supervisor*.

   (B)   Storm water, other than that exempted under division (A) above, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the ~~Superintendent~~ *Public Works Supervisor* and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the ~~Superintendent~~ *Public Works Supervisor*, to a storm sewer, combined sewer or natural outlet.

   (C)   No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

      (1)   Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

      (2)   Any waters containing toxic or poisonous solids, liquids, gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system, to injury or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in, or have an adverse effect on the waters receiving any discharge from the treatment works;

      (3)   Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works; or

      (4)   Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers and the like, or personal hygiene products, either whole or ground by garbage grinders.

   (D)   The following described substances, materials, waters or wastes shall be limited in discharge to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limbs, public property or constitute a nuisance.

      (1)   The ~~Superintendent~~ *Public Works Supervisor* may set limitations lower than the limitations established in the regulations below if, in the ~~Superintendent’s~~ *Public Works Supervisor’s* opinion, such more severe limitations are necessary to meet the above objectives. In forming this opinion as to the acceptability, the ~~Superintendent~~ *Public Works Supervisor* will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewer, materials of construction of the sewers, the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other pertinent factors.

      (2)   The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the ~~Superintendent~~ *Public Works Supervisor* are as follows:

         (a)   Wastewater having a temperature higher than 150°F (65°C);

         (b)    Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or products of mineral oil origin;

         (c)    Wastewater from industrial plants containing floatable oils, fats or grease;

         (d)   Any garbage that has not been properly shredded (see § [8.3.1](https://codelibrary.amlegal.com/codes/whitesulphurspringsmt/latest/whitesulphursprings_mt/0-0-0-10085#JD_8.3.1)). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers;

         (e)   Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the ~~Superintendent~~ *Public Works Supervisor* for such materials;

         (f)   Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the ~~Superintendent~~ *Public Works Supervisor* in compliance with applicable state or federal regulations;

         (g)   Quantities of flow, concentrations or both which constitute a “slug” as defined herein;

         (h)    Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters; and

         (i)   Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

   (E)   (1)   If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in division (D) above, and which in the judgment of the ~~Superintendent~~ *Public Works Supervisor* may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the ~~Superintendent~~ *Public Works Supervisor* may:

         (a)   Reject the wastes;

         (b)   Require pretreatment to an acceptable condition for discharge to the public sewers;

         (c)   Require control over the quantities and rates of discharge; and/or

         (d)   Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of division (J) below.

      (2)   When considering the above alternatives, the ~~Superintendent~~ *Public Works Supervisor* shall give consideration to the economic impact of each alternative on the discharger.

      (3)   If the ~~Superintendent~~ *Public Works Supervisor* permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the ~~Superintendent~~ *Public Works Supervisor*.

   (F)   Grease, oil and sand interceptors shall be provided when, in the opinion of the ~~Superintendent~~ *Public Works Supervisor*, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in division (D)(2)(c) above, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the ~~Superintendent~~ *Public Works Supervisor*, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates and means of disposal, which are subject to review by the ~~Superintendent~~ *Public Works Supervisor*. Any removal and hauling of the collected materials not performed by the owner’s personnel must be performed by currently licensed waste disposal firms.

   (G)   Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operations by the owner at their expense.

   (H)   When required by the ~~Superintendent~~ *Public Works Supervisor*, the owner of any property serviced by the building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurements of the wastes. Such structures, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the ~~Superintendent~~ *Public Works Supervisor*. The structure shall be installed by the owner at their expense and shall be maintained by them so as to be safe and accessible at all times.

   (I)   The ~~Superintendent~~ *Public Works Supervisor* may require a user of sewer services to provide information needed to determine compliance with this chapter. These requirements may include:

      (1)   Wastewaters discharge peak rate and volume over a specified time period;

      (2)   Chemical analyses of wastewaters;

      (3)   Information on raw materials, processes and products affecting wastewater volume and quality;

      (4)   Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control;

      (5)   A plot plan of sewers on the user’s property showing sewer and pretreatment facility location;

      (6)   Details of wastewater pretreatment facilities; and

      (7)   Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

   (J)   All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association. Sampling methods, locations, time, durations and frequencies are to be determined on an individual basis subject to approval by the ~~Superintendent~~ *Public Works Supervisor*.

   (K)   No statement contained in this section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment.

**§ 8.3.10  POWERS AND AUTHORITY OF INSPECTORS.**

   (A)   The ~~Superintendent~~ *Public Works Supervisor* and other duly authorized employees of the City, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the community system, in accordance with the provisions of this chapter.

   (B)   The ~~Superintendent~~ *Public Works Supervisor* or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered proprietary. The industry may establish that the revelation to the public of the information in question might result in an advantage to competitors.

   (C)   While performing the necessary work on private properties referred to in division (A) above, the ~~Superintendent~~ *Public Works Supervisor* or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury, death or property damage asserted against the company growing out of the gauging and sampling operation which may be the result of any negligence arising from the City or City employee in the performance of such work.

   (D)   The ~~Superintendent~~ *Public Works Supervisor* and other duly authorized employees of the City, bearing proper credentials and identification, shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with terms of the duly negotiated easement pertaining to the private property involved.

**Section 7**

That the Code of Ordinance, Title 8, Chapter 5 be amended as follows:

**§ 8.5.2  VEHICLE MUST BE CAPABLE OF HAULING WASTEWATER.**

   No person or entity shall be allowed to utilize City streets or alleys or transport wastewater loads to City wastewater treatment facilities without first having furnished the ~~Superintendent~~ *Public Works Supervisor* of the City*’s* wastewater treatment facility or the ~~Superintendent’s~~ *Public Works Supervisor’s* designee with satisfactory evidence that the vehicle to be utilized for hauling wastewater is satisfactorily capable of both hauling and unloading wastewater without leakage, spills or other public health concerns about transportation of wastewater in the vehicle.

**§ 8.5.6  AUTHORITY TO REQUIRE LABORATORY ANALYSIS OF WASTEWATER PRIOR TO DISCHARGE.**

   Prior to granting wastewater discharge approval for a specific wastewater discharge, the *Public Works Supervisor of the* City*’s* wastewater treatment facility ~~Superintendent~~ or the ~~Superintendent’s~~ *Public Works Supervisor* designee is empowered to require wastewater haulers to provide a laboratory analysis of the wastewater, which laboratory analysis shall be performed by a laboratory independent of the source of the wastewater and independent of the wastewater hauler, which laboratory must be acceptable to the *Public Works Supervisor of the* City*’s* wastewater treatment facility ~~Superintendent~~.  The cost of any laboratory analysis requested pursuant to this section shall be paid for by either the generator of the wastewater or the wastewater hauler. The City*’s* wastewater treatment facility staff may also take samples for laboratory test purposes either before or after the wastewater is discharged.

**§ 8.5.10  AUTHORIZATION TO ACCEPT NONDOMESTIC INDUSTRIAL WASTE IN SPECIAL EXCEPTIONAL CIRCUMSTANCES.**

   (A)   The ~~Wastewater Superintendent~~ *Public Works Supervisor* or designee may, in special exceptional circumstances in the general public interest, authorize acceptance of nondomestic waste if the ~~Superintendent~~ *Public Works Supervisor* finds that:

      (1)   The industrial user is located in an area where proper treatment of its generated waste is not available or economically feasible;

      (2)   Acceptance of the nondomestic waste is determined to be the best alternative to minimize or prevent an adverse impact on the surface or groundwater in the area; or

      (3)   A situation arise*s* where a one-time acceptance is needed in order to provide an adequate alternative for treatment of a nondomestic waste.

   (B)   Acceptance of such nondomestic waste must comply with all federal, state and local pretreatment regulations and any guidelines set forth by the wastewater treatment facility.

**Section 8**

**Repealer.** All resolutions, ordinances, and sections of the White Sulphur Springs Municipal Code and parts thereof in conflict herewith are hereby repealed.

**Section 9**

**Savings Provision.** This ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this ordinance. All other provisions of the White Sulphur Springs Code of Ordinance not amended by this Ordinance shall remain in full force an effect.

**Section 10**

**Severability.** If any provisions of this ordinance, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

**Section 11**

**EFFECTIVE DATE**. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

**Section 12**

**CODIFICATION**. Upon Final Passage and Adoption, the City Clerk is authorized to publish the foregoing ordinance, making amendments as to referenced code sections, notations, and grammar as well as style to be consistent with the ordinance as passed. All references within the White Sulphur Springs Code of Ordinance shall be revised as necessary to be consistent with and reflect the changes in this ordinance. The Clerk, and through the Clerk the entity maintaining the Code of Ordinance, shall insert this ordinance and shall remove the prior provisions inconsistent with the current ordinance, as passed and adopted, in any official publication or on-line version of the White Sulphur Springs Municipal Code.

PASSED by the City Council and the City of White Sulphur Springs, Montana, on first reading at a regular session thereof held on the \_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_, 2023.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Rick Nelson, Mayor

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Michelle Stidham, City Clerk

PASSED, ADOPTED, AND APPROVED by the City Council and the City of White Sulphur Springs, Montana, on second reading at a regular session thereof held on the \_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_, 2023.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Rick Nelson, Mayor

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Michelle Stidham, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Attorney