

CHAPTER 26

Water

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ARTICLE I

In General

Sec. 26-1. Shutting off water.

When water shall have been turned off from any consumer, he or she shall not turn it on nor permit it to be turned on without the written consent of the City Manager. (1949 Comp., §13.0309; Ord. 1058, §2)

Sec. 26-2. Proper use of fixtures, liability.

All persons using water shall keep all hydrants, taps, hose, water closets, urinals, bath or other fixtures allotted to their use closed, except when obtaining water for use, and shall be responsible for any damage or injury that may result to others from the improper use of the water. (1949 Comp., §13.0307)

Sec. 26-3. Use of water hose.

It shall be unlawful to use or permit a water hose or irrigation system to be used without a nozzle or choke, and the nozzle or choke shall not exceed three-sixteenths ($\frac{3}{16}$) inch in diameter at its place of discharge; and all hose and system apparatus used shall be kept in good repair and free from leaks. (Ord. 613, §1)

Sec. 26-4. Protection of pipes.

Water consumers shall keep their own service pipes and attachments in good order from freezing. (1949 Comp., §13.0332)

Sec. 26-5. Damage of waterworks equipment.

No person shall willfully or carelessly break, injure, deface, interfere with or disturb any building, machinery, apparatus, fixture, attachment or appurtenances to the waterworks of the City or any public or private hydrant, hose or water trough or stopcock, meter, water supply or service pipe or any part thereof. Nor shall any person deposit anything in any stopcock box or commit any act tending to obstruct or impair the intended use of any of the above-mentioned property without permission of the City Manager or except in cases otherwise regulated by ordinance. (1949 Comp., §13.0333; Ord. 1058, §2)

Sec. 26-6. Use of fire hydrants.

All hydrants erected in the City for the purpose of extinguishing fire are hereby declared to be public hydrants and no persons, other than members of the Fire Department or person especially authorized by the City Council or City Manager, and then only in the exercise of the authority delegated by the City Council or City Manager, shall open any of the hydrants or attempt to draw water from the same or at any time uncover or remove any portion from any of the hydrants or in any manner interfere with them. (1949 Comp., §13.0334; Ord. 1058, §2)

Sec. 26-7. Wrenches for opening hydrants.

No person authorized to open hydrants shall delegate his or her authority to another or let out or suffer any person to take the wrenches furnished him or her, or suffer the same to be taken from any house in the City, except for purposes strictly connected with the Fire Department or to accompany hose carts on occasions of fire. (1949 Comp., §13.0335)

Sec. 26-8. Sprinkling during time of fire.

It shall be unlawful for any person to sprinkle or use water outside the house during the time of fire or during the time fire pressure is maintained in the water system. (Ord. 613, §2)

Sec. 26-9. Waste or leakage.

It shall be unlawful for any person to commit or permit waste, leakage or unnecessary profusion in the use of water, and whosoever shall be convicted thereof shall be subject to the penalties prescribed in Section 26-24. In addition, the City Manager or his or her designee shall, in accordance with Section 26-12, have the authority to discontinue service in the event of a violation hereof. (Ord. 613, §3; Ord. 1058, §2)

Sec. 26-9.5. Water Works and Distribution Enterprise.

(a) The undertaking and completion of the Southern Pipeline Project are hereby authorized.

(b) The Council of the City shall serve as the Board of the Water Works and Distribution Enterprise, and the officers of the Council and of the City shall serve as officers of the Board and the Enterprise.

(c) The Enterprise shall have and in connection with the undertaking and completion of the Project may exercise the following powers: to hold meetings concurrently with regular or special meetings of the Council, to adopt ordinances in the manner in which City ordinances may be adopted, to issue revenue bonds in the manner in which City revenue bonds may be issued without voter approval in advance, to pledge any revenues of the Water Works and Distribution System to the payment of such revenue bonds and to pay such revenue bonds therefrom, to enter into contracts relating to the System in the manner in which City contracts may be entered into, to make representations, warranties and covenants on behalf of the City relating to the System and to bind the City to perform any obligation relating to the System other than any multiple-fiscal year direct or indirect debt or other financial obligation whatsoever without adequate present cash reserves pledged irrevocably and held for payments in all future years.

(d) Any inconsistency between the ordinance codified herein and the statutes of the State is intended by the Council. The ordinance codified herein is enacted pursuant to Art. XX, Sec. 6 of the Colorado Constitution and, to the extent of any such inconsistency, the ordinance codified herein shall supersede such statutes.

(e) All action not inconsistent with the provisions of the ordinance codified herein heretofore taken by the City or its officers and otherwise directed toward the authorization of the Enterprise to

have and in connection therewith to exercise certain powers is hereby ratified, approved and confirmed.

(f) All ordinances, resolutions, bylaws, orders and other instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw, order or other instrument, or part thereof, heretofore repealed. (Ord. 788)

ARTICLE II

Water Utility

Sec. 26-10. Waterworks established and owned by City.

(a) A system of waterworks for fire and domestic purposes shall be erected and constructed by the City Council of such capacity, extent and magnitude as the City Council may deem necessary for the needs of the inhabitants of the City, such system to be owned, managed and operated by the City.

(b) In keeping with its obligation under law to provide for the residents of the City and users of municipal water a safe, reliable, adequate supply of potable water, and the questionable present and future quality and potability of its current source of water, the City has invested substantial public assets in water rights and two (2) stages of a pipeline system to provide users with mountain water of superior quality. However, unless the current underground supply shall be officially declared to be unsafe or inadequate or otherwise inappropriate for drinking, washing, etc., the City Council is, by the provisions of this Section, committed to hold an election, either at a general or special election, on the question of its extension before an extension of the Southern Water Supply pipeline is constructed from its location near Platteville, Colorado, to the City. (1949 Comp., §13.0101; People's Ord. 1 (1995))

Sec. 26-11. Rules and regulations; part of contracts.

The rules, regulations and water rates set out in this Article shall be taken and held to be a part of the contract with every person who is supplied with water through the waterworks of the City, and every such person by taking water shall be considered and held to consent to be bound thereby. (1949 Comp., §13.0301)

Sec. 26-12. Administrative remedies.

When any of the provisions of this Chapter or any other ordinance, or any rules, regulations and rates adopted pursuant thereto pertaining to the use and consumption of water are violated, in addition to any other fines and penalties provided in such case, the City Manager shall have authority to discontinue service. Once service is so discontinued, it shall not be resumed except by order of the City Manager, after payment of the actual expenses or costs for such discontinuance and resumption of service, and upon compliance with such terms and conditions as shall be necessary to assure that there will be no further cause for complaint against the offending consumer. (Ord. 613, §4; Ord. 1058, §2)

Sec. 26-13. Application for water generally.

Every person desiring a supply of water must make application therefor to the City Manager, upon blanks to be furnished by him or her for that purpose. (1949 Comp., §13.0302; Ord. 1058, §2)

Sec. 26-14. Statement of use intended.

The application for water must state fully and truly all the uses to which the water is to be applied, and no different or additional use will be allowed except by the City Manager, given in writing. (1949 Comp., §13.0302; Ord. 1058, §2)

Sec. 26-15. Special permits.

Not more than one (1) house will be supplied from one (1) water tap, except by special permission from the City Manager, and all permits therefor must be in writing. (1949 Comp., §13.0302; Ord. 1058, §2)

Sec. 26-16. Right of entry.

Every person taking water through the water system of the City shall permit the City Manager or his or her duly authorized agent, at all reasonable hours of the day, to enter his or her premises or buildings to examine the pipes and fixtures and the manner in which the water is used, and must at all times, frankly and without concealment, answer all questions relative to its consumption. (1949 Comp., §13.0310; Ord. 1058, §2)

Sec. 26-17. Tapping water mains, construction and excavation.

The tapping of water mains for the purpose of attaching supply pipes thereto, and the laying of such supply pipes, digging the trenches therefor from the main to the sidewalk and placing stops therein, whenever the same shall be required, shall be done only by the employees of the City engaged for that purpose. No contract shall be made with or permission given to any person or company to tap the water mains or lay the supply pipes, or to run or operate the waterworks otherwise than as provided in this Article. All taps shall be made between 8:00 a.m. and 4:00 p.m. of the day and at no other time, and pipes must in all cases be tapped at or near the top and not in any case nearer than fifteen (15) inches of either end of the pipe. (1949 Comp., §§13.0108, 13.0328)

Sec. 26-18. Turning on water.

Water shall not be turned into any house or private service pipe, except upon the order of the City Manager or his or her duly authorized agent, nor until the applicant shall have paid the water rent due for the current term as set out in Section 26-39, and plumbers are strictly prohibited from turning the water into any service pipe, except on the order or permission of the City Manager or his or her duly authorized agent. This rule shall not be construed to prevent any plumber admitting water to test pipes and for that purpose only. (1949 Comp., §13.0304; Ord. 1058, §2)

Sec. 26-19. Use of water by consumer only.

No consumer shall supply water to other families nor suffer others to take water from his or her premises. (1949 Comp., §13.0305)

Sec. 26-20. Additional taps.

After water is introduced into any building or upon any premises, it shall be unlawful for any person to make, or employ any plumber or other person to make, any tap or connection with the pipe upon the premises for alteration, extension or attachment, without permission of the City Manager first had in writing. (1949 Comp., §13.0305; Ord. 1058, §2)

Sec. 26-21. Restrictions on outside use of water.

(a) It shall be unlawful and an offense for any person to allow municipally supplied water for outside sprinkling or irrigation or other outside usages to be run or used at hours and days other than permitted by the provisions of this Chapter as then in effect as provided by Resolution of the Council.

(b) Any person who violates the restrictions imposed by this Section shall be punished by a fine of not less than fifty dollars (\$50.00), but not more than one thousand dollars (\$1,000.00) for each offense. Fines shall be progressive for repeat offenders with a prior conviction or convictions after September 1, 2002.

(c) By Resolution or Resolutions passed from time to time, the Council may declare a Response to the then-existing conditions concerning future water supplies and implement one (1) of the following Staged Responses.

Stage 0. No restrictions on outside watering, whether by hose or some other form of automated sprinkler system.

Stage 1. Outside watering, whether by hose or some form of automated sprinkler system, is limited to three (3) days per week in accordance with the following schedule:

All premises, residential, commercial and public buildings, bearing even-numbered street addresses, shall water only on Tuesday, Thursday and Saturday;

All premises, residential, commercial and public buildings, bearing odd-numbered street addresses, shall water only on Wednesday, Friday and Sunday;

No outdoor watering shall be allowed on Monday;

Properties without specific addresses may water only on Wednesday, Friday and Sunday.

From June 1 to August 31 of the calendar year, customers may water only before 9:00 a.m. and after 6:00 p.m. in accordance with the foregoing schedule; before June 1 and after August 31, customers may water at any time during their designated watering days.

Stage 2. Outside watering, whether by hose or some form of automated sprinkler system, shall be limited to three (3) days per week in accordance with the following schedule:

All premises, residential, commercial and public buildings, bearing even-numbered street addresses, shall water only on Tuesday, Thursday and Saturday;

All premises, residential, commercial and public buildings, bearing odd-numbered street addresses shall water only on Wednesday, Friday and Sunday;

No outdoor watering shall be allowed on Monday;

Properties without specific addresses may water only on Wednesday, Friday and Sunday.

Total watering time for each address shall be limited to three (3) hours each watering day and must occur before 9:00 a.m. or after 6:00 p.m. (from June 1 to August 31) on the designated watering days. Drip irrigation systems, bubblers or soaker hoses may be used for up to two (2) additional hours for each address on the same day and hours designated for hand or sprinkler outdoor watering.

Stage 3. Outside watering, whether by hose or some form of automated sprinkler system, shall be limited to three (3) days per week in accordance with the following schedule:

All premises, residential, commercial and public buildings, bearing even-numbered street addresses, shall water only on Tuesday, Thursday and Saturday;

All premises, residential, commercial and public buildings, bearing odd-numbered street addresses, shall water only on Wednesday, Friday and Sunday;

No outdoor watering shall be allowed on Monday;

Properties without specific addresses may water only on Wednesday, Friday and Sunday.

Total watering time for each address shall be limited to two (2) hours each watering day and must occur before 9:00 a.m. or after 6:00 p.m. (from June 1 to August 31) on the designated watering days. Drip irrigation systems, bubblers or soaker hoses may be used for up to one (1) additional hour for each address on the same day and hours designated for hand or sprinkler outdoor watering.

Other restrictions: Personal vehicles may be washed only on the watering day designated for the address of the registered owner. Vehicle fleets and vehicles in auto dealerships may not be washed more than once each week. The washing of sidewalks, driveways, patios or similar hardscapes with water is prohibited, unless required by public health regulations. Restaurants may only serve water upon request. Failure to shut off or repair a leaking irrigation system within one (1) hour shall result in a violation.

Stage 4. No outside watering of lawns or turf. No outdoor fountains or residential pools may be filled. Trees, shrubs, perennials and vegetable gardens may be watered by hand or through a drip irrigation system only three (3) days per week in accordance with the Stage 3 Schedule and time restrictions. *Hand watering* means holding a hose in hand or doing watering with a watering can; it does not allow any form of sprinkling. Other restrictions shall be the same as Stage 3.

Stage 5. No outside use of water for any purpose.

(d) A nonrenewable special exemption permit to use municipally supplied water to sprinkle newly seeded or newly sodded grass lawns each day before 9:00 a.m. or after 6:00 p.m. for twenty (20)

consecutive days may be issued by the City Manager or his or her designee. For such permit a fee in the amount of twenty-five dollars (\$25.00) shall be charged to reimburse the City for its expenses in issuing such permit.

(e) Publicly or privately owned buildings and grounds, swimming pools, parks, golf courses and cemeteries or other large sites shall be exempt from the watering restrictions imposed under Stages 1, 2, 3 and 4 of Subparagraph (c) hereof, irregardless of the source of water supplied by the City, provided that appropriate watering restrictions are adopted for such properties by the owners thereof. Such restrictions may be more or less restrictive than those in effect under Subparagraph (c) hereof and shall be approved by the City Manager.

(f) Warnings to persons found to be in violation of this Section may be issued by a law enforcement officer, a code enforcement officer or other persons employed by the City. At least one (1) warning shall be issued to a specific property address before a Summons is issued. A Summons or a Summons and Complaint shall only be issued by a law enforcement officer or a code enforcement officer of the Fort Morgan Police Department.

(g) If there are continuing violations of any of the provisions of this Section, in addition to the fines provided for in such cases, the City Manager may order that a flow restrictor be installed on the water supply line to the property or that water service to the property be discontinued as provided in Section 26-12. Once service is restricted or discontinued, it shall not be fully restored except by order of the City Manager, after payment of the actual expenses or costs for such restriction or discontinuance and resumption of service, and upon compliance with such terms and conditions as shall be necessary to assure that there will be no further cause for complaint against the offending consumer. (Ord. 956, §1; Ord. 981, §1; Ord. 1058, §2)

Sec. 26-22. Water line responsibilities.

(a) Municipal water users are responsible for any problems to their water line, including frozen pipes from the meter to the house or building served by any given tap. The City will be responsible for the water line from the main to the meter and including the meter.

(b) Any time a water line is frozen or requires a form of maintenance and City staff is called out to thaw or maintain the section for which the City is responsible, the first request for service shall be done at no cost to the customer for any given six-month period. Thereafter, the City Manager shall assess a reasonable charge for the cost of thawing, defrosting and otherwise maintaining the portion of water line for which the City is responsible. (Ord. 1052; Ord. 1058, §2)

Sec. 26-23. Reserved.

Sec. 26-24. General penalty for continuing violations.

(a) Whenever in this Chapter any act is prohibited or declared to be unlawful or an offense or misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or misdemeanor, where no specific penalty is provided therefor, any person who shall be convicted of the violation of any provision or section of this Chapter shall be punished by a fine of not more than three hundred dollars (\$300.00).

(b) Every day any violation of this Chapter shall occur or shall continue shall constitute a separate offense. (Ord. 613, §8)

ARTICLE III

Rates

Sec. 26-25. Charges established.

All water rents, rates and charges shall be payable as from time to time established by resolution of the City Council and shall be payable, billed and collected in such manner and upon such terms as in such resolution shall be provided. (1949 Comp. §13.0303; Ord. 464 §3; Ord. 869 §3)

Sec. 26-26. Building purposes.

Water rents and rates for building purposes shall be payable on demand. (1949 Comp. §13.0303)

Sec. 26-27. Measured by meter.

When water is measured by meter, bills therefor must be paid monthly. (1949 Comp. §13.0303)

Sec. 26-28. Charges and fees established.

Charges for the supply of water service shall be, from time to time, established by resolution of the City Council. (Ord. 1069)

Sec. 26-29. No reduction for frozen pipe.

No reduction in rates or charges for water shall be made for the time any service pipe may be frozen or out of use from any cause. (1949 Comp. §13.0332)

Sec. 26-30. Reduction of rates for disconnected pipe.

If any part of the service pipe or fixture is not wanted for use, the consumer shall notify the City Manager at once and have the same disconnected and shall pay the expense of so doing, and a proper reduction in rates shall be made from that date. (1949 Comp. §13.0332; Ord. 1058, §2)

Sec. 26-31. Penalty for failure to pay.

Ten percent (10%) of the amount due on the water rents and rates shall be added if the rents and rates are not paid within five (5) days after the same became due. All officers of the City are expressly prohibited from allowing credit to anyone. (1949 Comp. §13.0303; Ord. 464 §5; Ord. 896)

Sec. 26-32. Owner's liability.

The owner of every building, lot, house or other premises shall be liable for payment of all water rents and rates and penalties for all water delivered to or taken and used upon his or her premises; provided, however, that in case any tenant in possession of the premises shall pay the water rents and

rates and the penalties, the owner shall not be required to pay the same, but the City shall not be required to demand of or seek payment from any other persons whomsoever except the owner of the premises for the payment of the water rents and rates. (1949 Comp. §13.0303)

Sec. 26-33. Lien on property.

All rents and rates for the use of water, and all other charges in connection therewith, shall be a charge and lien upon the real estate to which the water was delivered, from the date the same became due until paid. (1949 Comp. §13.0303)

Sec. 26-34. Collection.

Water rents, rates and charges levied pursuant to the provisions of this Article shall be charged against the property owner, or with the consent of the property owner, any tenant in possession of the premises. In addition to the right of disconnection and discontinuance of such water service, upon the failure or refusal of any owner or tenant of the property to pay when due the water rents, rates, charges or penalties levied pursuant to this Article, the City Clerk may, after ten (10) days' written notice to the owner of the property, certify such unpaid charges to the County Treasurer, to be placed by him or her on the tax list for the current year, to be collected in the same manner as other taxes are collected, with ten percent (10%) of the amount thereof and penalties due thereon in addition thereto to defray the cost of collection. The lien of such delinquent water rents, rates, charges and penalties when so certified by the City Clerk as aforesaid shall be on a parity with the lien of the general taxes on the property. (1949 Comp. §13.0303; Ord. 869 §4)

Sec. 26-35. Refunds.

No rebates, refunds or transfers shall be made of any water rents or rates paid by either the owner of property or a tenant therein in advance and no credit shall be given on account of the vacancy of any property. (1949 Comp. §13.0303; Ord. 464 §6)

Sec. 26-36. Controlling water user responsible.

In case one (1) service pipe is used to supply two (2) or more distinct premises or tenements, and only one (1) stop is used, the person controlling the same must pay the water rent of all parties thus supplied and separate bills shall not be made. (1949 Comp. §13.0308)

Sec. 26-37. Metered users.

The following business establishments and persons shall be metered for the use of their water:

- (1) Restaurants and lunch counters;
- (2) Drugstores, with fountains;
- (3) Greenhouses;
- (4) Hotels;
- (5) Laundries;

- (6) Filling stations;
- (7) Garages – when demanded by City;
- (8) Creameries; and
- (9) All persons outside corporate limits. (1949 Comp. §13.0330)

Sec. 26-38. Determination of meter rates.

The amount of water used when measured by meter shall determine the amount payable monthly, provided that no rent or rate shall be less than the flat yearly rates and rents prorated as provided in Section 26-39. (1949 Comp. §13.0303)

Sec. 26-39. Tariff of rates generally.

The tariff and rate for the consumption of water purchased from the City waterworks shall be as is from time to time established and made effective by resolution of the City Council; provided that the City shall, at all times, post a schedule of such tariff or rates in a conspicuous place for public inspection in or about the City Hall. (1949 Comp. §13.0330; Ord. 464 §7; Ord. 504 §1)

Sec. 26-40. Certain rates fixed by City Council.

When water is used for purposes not specified in the preceding Section, the rate shall be fixed by the City Council. (1949 Comp., §13.0330; Ord. 464, §8)

Sec. 26-41. Meters set by City or user.

(a) The City reserves the right to set meters at the expense of the user, meter any water delivery to such user and charge for service at the applicable meter rate whenever any user shall have been adjudged in the Municipal Court guilty of waste or leakage under the provisions of Section 26-9, or guilty of unlawful sprinkling under the provisions of Section 26-21 or 26-22, whenever the City Manager, independently of a court adjudication, has established waste, leakage or sprinkling or other use contrary to the provisions of this Code.

(b) Any water consumer shall have the right to take water through a meter upon furnishing an approved meter paid for by the user and paying the cost of setting the same. (Ord. 613, §9; Ord. 1058, §2)

ARTICLE IV

Water Systems Cross-Connection and Backflow Control

Sec. 26-42. Adoption of code.

That certain document, one (1) copy of which is on file in the office of the City Clerk, marked and designated *Water Distribution Cross-Connection and Backflow Control Code of Fort Morgan, Colorado*, 2005 Edition, published by the City, is hereby adopted as the applicable code of the City to

protect the public water systems from the possibility of contamination or pollution by isolating within its customer's internal distribution system(s) or its customers' private water system(s), such contaminants or pollutants which could backflow or back siphon into the public water system. To promote the elimination or control of existing cross-connections, actual or potential, between its customers' in-plant potable water system(s) and non-potable water systems, plumbing fixtures and industrial piping systems. To provide for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of the potable water systems. (Ord. 679, §1(part); Ord. 1036)

Sec. 26-43. Violations and penalties.

(a) Any person violating any provision of the *Water Systems Cross-Connection and Backflow Control Code of Fort Morgan, Colorado*, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed three hundred dollars (\$300.00) or by imprisonment not to exceed ninety (90) days or both fine and imprisonment. Each separate day or any portion thereof, during which any violation of said code occurs or continues, shall be deemed to constitute a separate offense and, upon conviction thereof, shall be punishable as herein provided. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of said code. No permit presuming to give authority to violate or cancel the provisions of said code shall be valid, except insofar as the work or use which it authorized is lawful.

(b) The issuance or granting of a permit or approval of plans shall not prevent the City Manager or his or her duly authorized representative from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on thereunder when in violation of said code or of any certificate of approval when issued in error. (Ord. 679, §1(part); Ord. 1058, §2)