



BOARD OF TRUSTEES
February 8, 2022
6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

Regular Meeting Agenda

Individuals that attend the meeting in person will be required to wear a face covering while in attendance.

Individuals wishing to make public comments must attend the meeting in person or may submit comments by sending an email to euckerkk@wellingtoncolorado.gov. The email must be received by 4:00 p.m. Tuesday February 8, 2022. The comments will be provided to the Trustees and added as an addendum to the packet. Emailed comments will not be read during the meeting.

The Zoom information below is for online viewing and listening only.

Please click this URL to join.

<https://us06web.zoom.us/j/88018401475?pwd=REJkbmlkR2t4QWxBdFo2eHdhRjIwQT09>

Passcode: 685102

Webinar ID: 880 1840 1475

Or One tap mobile:

+17207072699,,88018401475# US (Denver)

+13462487799,,88018401475# US (Houston)

Or join by phone:

US: +1 720 707 2699 or +1 346 248 7799 or +1 253 215 8782

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Amendments to Agenda
4. Conflict of Interest

B. COMMUNITY PARTICIPATION

1. Public Comment

C. ACTION ITEMS

1. Resolution No. 07-2022 - A Resolution Amending the Red Flag Policy for the Town of Wellington

- Presentation: Patti Garcia, Town Administrator
2. Ordinance 03-2022 - An Ordinance Establishing Fees to be Charged by the Town of Wellington, Colorado, for Sewer Utility Services
 - Presentation: Meagan Smith, Deputy Director of Public Works
 3. Ordinance No. 04-2022 - An Ordinance Concerning the Town of Wellington Planning Commission
 - Presentation: Dan Sapienza, March & Olive, LLC, Town Attorney

D. REPORTS

1. Town Attorney
2. Town Administrator
3. Staff Communications
4. Board Reports

E. ADJOURN

The Town of Wellington will make reasonable accommodations for access to Town services, programs, and activities and special communication arrangements. Individuals needing special accommodation may request assistance by contacting at Town Hall or at 970-568-3380 ext. 110 at least 24 hours in advance.



Board of Trustees Meeting

Date: February 8, 2022
Submitted By: Patti Garcia, Town Administrator
Subject: Resolution No. 07-2022 - A Resolution Amending the Red Flag Policy for the Town of Wellington

- **Presentation: Patti Garcia, Town Administrator**

EXECUTIVE SUMMARY

Pursuant to federal law, the Federal Trade Commission (FTC) adopted Identity Theft Rules requiring policies to address discrepancy, detection, prevention and mitigation of identity theft. The Town of Wellington adopted Resolution No. 7-2009 for this purpose on April 18, 2009. Staff has discovered that the body of the resolution referred to the Town of Severance and we are requesting to adopt a revised resolution referencing the Town of Wellington. There have been no changes to the policy (Attachment A) other than changing references from Town Board to Board of Trustees, Manager to Administrator and Town Clerk to Finance Director.

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

Move to adopt Resolution 07-2022 Amending the Red Flag Policy for the Town of Wellington

ATTACHMENTS

1. Resolution 07-2022 - Amending Red Flag Policy
2. EXHIBIT A - Red Flag Policy and Identity Theft Prevention Program
3. Resolution 7-2009 - Red Flag Policy

TOWN OF WELLINGTON

RESOLUTION NO. 07-2022

A RESOLUTION ADOPTING THE RED FLAG POLICY AND ESTABLISHING AN IDENTITY THEFT PREVENTION PROGRAM FOR THE TOWN OF WELLINGTON

WHEREAS, pursuant to federal law, in 2009 the Federal Trade Commission (the “FTC”) adopted Identify Theft Rules requiring the creation of certain policies relating to the use of consumer reports, address discrepancy and the detection, prevention and mitigation of identity theft.

WHEREAS, the Town of Wellington adopted Resolution No. 7-2009, A Resolution Adopting a Red Flag Policy and Establishing an Identity Theft Prevention Program for the Town of Wellington on April 18, 2009 which refers to the Town of Severance;

WHEREAS, this resolution is to supercede Resolution No. 7-2009;

WHEREAS, the FTC regulations, adopted as 16 CFR § 681.2, require creditors, as defined by 15 U.S.C. § 1681a(r)(5), to adopt red flag policies to prevent and mitigate identity theft with respect to covered accounts;

WHEREAS, 15 U.S.C. § 1681a(r)(5) cites 15 U.S.C. § 1681a which defines a creditor as a person that extends, renews or continues credit, and defines ‘credit’ in part as the right to purchase property or services and defer payment therefore;

WHEREAS, the FTC regulations include utility companies in the definition of creditor;

WHEREAS, the Town of Wellington (the “Town”) is a creditor with respect to 16 CFR § 681.2 by virtue of providing utility services or by otherwise accepting payment for municipal services in arrears;

WHEREAS, the FTC regulations define ‘covered account’ in part as an account that a creditor provides for personal, family or household purposes that is designed to allow multiple payments or transactions and specifies that utility account is a covered account;

WHEREAS, the FTC regulations require each creditor to adopt an Identify Theft Prevention Program which will use red flags to detect, prevent and mitigate identity theft related to information used in covered accounts;

WHEREAS, the Town provides water and sewer services for which payment may be made after the produce is consumed or the service has otherwise been provided which by virtue of being utility accounts are covered accounts;

WHEREAS, the FTC regulations adopted a 16 CFR § 681.1, require users of consumer credit reports to develop policies and procedures relating to address discrepancies between information provided by a consumer and information provided by a consumer credit company;

WHEREAS, the duly elected governing authority of the Town of Wellington is the Mayor and Board of Trustees thereof.

NOW, THEREFORE, be it resolved by the Board of Trustees for the Town of Wellington, Colorado:

Section 1: The Red Flag Policy attached as Exhibit A is hereby adopted and approved.

Section 2: This resolution shall be in full force and effect upon its passage and adoption.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 8th day of February, 2022.

TOWN OF WELLINGTON, COLORADO

By: _____
Troy Hamman, Mayor

ATTEST:

Krystal Eucker, Town Clerk

Red Flag Policy and Identity Theft Prevention Program

Purpose

To establish an Identity Theft Prevention Program designed to detect, prevent and mitigate identity theft in connection with the opening of a covered account or an existing covered account and to provide for continued administration of the Program in compliance with Part 681 of Title 16 of the Code of Federal Regulations implementing Sections 114 and 315 of the Fair and Accurate Credit Transactions Act (FACTA) of 2003.

Definitions

1. Covered Account means:

- a. An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account; and
- b. Any other account that the Town offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.

2. Credit means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefore.

3. Creditor means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications companies.

4. Customer means a person that has a covered account with a creditor.

5. Identity theft means a fraud committed or attempted using identifying information of another person without authority.

6. Notice of address discrepancy means a notice sent to a user by a consumer reporting agency pursuant to 15 U.S.C. § 1681(c)(h)(I), that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer.

7. Person means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

8. Personal Identifying Information means a person's credit card account information, debit card information, bank account information and drivers' license information and for a natural person includes their social security number, mother's birth name, and date of birth.

9. Red flag means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

10. Service provider means a person that provides a service directly to the Town.

11. Town means the Town of Wellington.

Findings

1. The Town is a creditor pursuant to 16 CFR § 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.
2. Covered accounts offered to customers for the provision of Town services include utility accounts and development review accounts
3. The process of opening a new covered account and making payments on such accounts have been identified as potential processes in which identity theft could occur.
4. The Town limits access to personal identifying information to those employees responsible for or otherwise involved in opening covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the Town's computer system and is not otherwise recorded.
5. The Town determines that there is a low risk of identity theft occurring in the following ways:
 - a. Use by an applicant of another person's personal identifying information to establish a new covered account; and
 - b. Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account or accounts.

Process of Establishing a Covered Account

As a precondition to opening a covered account in the Town, each applicant shall provide the Town with a valid government issued identification card containing a photograph of the applicant. The identifying number of card shall be recorded on the application for service.

Access to Covered Account Information

1. Access to customer accounts shall be password protected and shall be limited to authorized Town personnel.
2. Any unauthorized access to or other breach of customer accounts is to be reported immediately to the Town Clerk and the password changed immediately.
3. Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the Town Clerk.

Credit Card Payments

1. In the event that credit card payments that are made over the Internet are processed through a third party service provider, such third party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.

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2. All credit card payments made over the telephone or the Town's web site shall be entered directly into the customer's account information in the computer database.
3. Account statements and receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

Sources and Types of Red Flags

All employees responsible for or involved in the process of opening a covered account or accepting payment for a covered account shall check for red flags as indicators of possible identity theft and such red flags may include:

1. Alerts from consumer reporting agencies, fraud detection agencies or service providers. Examples of alerts include but are not limited to:
 - a. A fraud or active duty alert that is included with a consumer report;
 - b. A notice of credit freeze in response to a request for a consumer report;
 - c. A notice of address discrepancy provided by a consumer reporting agency;
 - d. Indications of a pattern of activity in a consumer report that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
 - i. A recent and significant increase in the volume of inquiries;
 - ii. An unusual number of recently established credit relationships;
 - iii. A material change in the use of credit, especially with respect to recently established credit relationships; or
 - iv. An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.
2. Suspicious documents. Examples of suspicious documents include:
 - a. Documents provided for identification that appear to be altered or forged;
 - b. Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;
 - c. Identification on which the information is inconsistent with information provided by the applicant or customer;
 - d. Identification on which the information is inconsistent with readily accessible information that is on file with the creditor, such as the application for service; or
 - e. An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.
3. Suspicious personal identification, such as suspicious address change. Examples of suspicious identifying information include:
 - a. Personal identifying information that is inconsistent with external information sources used by the financial institution or creditor. For example:
 - i. The address does not match any address in the consumer report; or
 - ii. The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.

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- b. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth.
 - c. Personal identifying information or a phone number or address, is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the financial institution or creditor.
 - d. Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, is associated with fraudulent activity.
 - e. The SSN provided is the same as that submitted by other applicants or customers.
 - f. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.
 - g. The applicant or customer fails to provide all required personal identifying information on W1 application or in response to notification that the application is incomplete.
 - h. Personal identifying information is not consistent with personal identifying information that is on file with the financial institution or creditor.
 - i. The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.
4. Unusual use of or suspicious activity relating to a covered account. Examples of suspicious activity include:
- a. Shortly following the notice of a change of address for an account, Town receives a request for the addition of authorized users on the account.
 - b. A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example:
 - i. The customer fails to make the first payment or makes an initial payment but no subsequent payments.
 - c. An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:
 - i. Nonpayment when there is no history of late or missed payments;
 - ii. A material change in purchasing or spending patterns;
 - d. An account that has been inactive for a long period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).
 - e. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.
 - f. The Town is notified that the customer is not receiving paper account statements.
 - g. The Town is notified of unauthorized charges or transactions in connection with a customer's account.
 - h. The Town is notified by a customer, law enforcement or another person that it has opened a fraudulent account for a person engaged in identity theft.

5. Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts.

Prevention and Mitigation of Identity Theft

1. In the event that any Town employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the Town Clerk. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the Town Clerk, who may in his or her discretion determine that no further action is necessary. If the Town Clerk in his or her discretion determines that further action is necessary, a Town employee shall perform one or more of the following responses, as determined to be appropriate by the Town Clerk:
 - a. Contact the customer;
 - b. Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:
 - i. change any account numbers, passwords, security codes, or other security devices that permit access to an account; or
 - ii. close the account;
 - c. Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;
 - d. Notify a debt collector within [select time frame, for example, 24 hours] of the discovery of likely or probable identity theft relating to a customer account that has been sold to such debt collector in the event that a customer's account has been sold to a debt collector prior to the discovery of the likelihood or probability of identity theft relating to such account;
 - e. Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or
 - f. Take other appropriate action to prevent or mitigate identity theft.
2. In the event that any Town employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect to an application for a new account, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report

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such red flags to the Town Clerk. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the Town Clerk, who may in his or her discretion determine that no further action is necessary. If the Town Clerk in his or her discretion determines that further action is necessary, a Town employee shall perform one or more of the following responses, as determined to be appropriate by the Town Clerk:

- a. Request additional identifying information from the applicant;
- b. Deny the application for the new account;
- c. Notify law enforcement of possible identity theft; or
- d. Take other appropriate action to prevent or mitigate identity theft.

Updating the Program

The Town Board shall annually review and, as deemed necessary by the Board, update the Identity Theft Prevention Program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the Town and its covered accounts from identity theft. In so doing, the Town Board shall consider the following factors and exercise its discretion in amending the program:

1. The Town's experiences with identity theft;
2. Updates in methods of identity theft;
3. Updates in customary methods used to detect, prevent, and mitigate identity theft;
4. Updates in the types of accounts that the Town offers or maintains; and
5. Updates in service provider arrangements.

Program Administration

The Town Clerk is responsible for oversight of the program and for program implementation. The Town Administrator is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the Town Administrator, to address changing identity theft risks and to identify new or discontinued types of covered accounts. Any recommended material changes to the program shall be submitted to the Town Board for consideration by the Board.

1. The Town Clerk will report to the Town Administrator at least annually, on compliance with the red flag requirements. The report will address material matters related to the program and evaluate issues such as:
 - a. The effectiveness of the policies and procedures of Town in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
 - b. Service provider arrangements;
 - c. Significant incidents involving identity theft and management's response; and
 - d. Recommendations for material changes to the Program.

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2. The Town Clerk is responsible for providing training to all employees responsible for or involved in opening a new covered account or accepting payment for a covered account with respect to the implementation and requirements of the Identity Theft Prevention Program. The Town Clerk shall exercise his or her discretion in determining the amount and substance of training necessary.

Outside Service Providers

In the event that the Town engages a service provider to perform an activity in connection with one or more covered accounts the Town Clerk shall exercise his or her discretion in reviewing such arrangements in order to ensure, to the best of his or her ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.

Treatment of Address Discrepancies

Pursuant to 16 CFR § 681.1, this establishes a process by which the Town will be able to form a reasonable belief that a consumer report relates to the consumer about whom it has requested a consumer credit report when the Town has received a notice of address discrepancy. In the event that the Town receives a notice of address discrepancy, the Town employee responsible for verifying consumer addresses for the purpose of providing the municipal service or account sought by the consumer shall perform one or more of the following activities, as determined to be appropriate by such employee:

1. Compare the information in the consumer report with:
 - a. Information the Town obtains and uses to verify a consumer's identity in accordance with the requirements of the Customer Information Program rules implementing 31 U.S.C. § 5318(1);
 - b. Information the Town maintains in its own records, such as applications for service, change of address notices, other customer account records or tax records; or
 - c. Information the Town obtains from third-party sources that are deemed reliable by the relevant Town employee; or
2. Verify the information in the consumer report with the consumer.

Furnishing Consumer's Address to Consumer Reporting Agency

1. In the event that the Town reasonably confirms that an address provided by a consumer to the Town is accurate, the Town is required to provide such address to the consumer reporting agency from which the Town received a notice of address discrepancy with respect to such consumer. This information is required to be provided to the consumer reporting agency when:
 - a. The Town is able to form a reasonable belief that the consumer report relates to the consumer about whom the Town requested the report;
 - b. The Town establishes a continuing relation with the consumer; and

EXHIBIT A

- c. The Town regularly and in the ordinary course of business provides information to the consumer reporting agency from which it received the notice of address discrepancy.
3. Such information shall be provided to the consumer reporting agency as part of the information regularly provided by the Town to such agency for the reporting period in which the Town establishes a relationship with the customer.

Methods of Confirming Consumer Addresses

The Town employee charged with confirming consumer addresses may, in his or her discretion, confirm the accuracy of an address through one or more of the following methods:

1. Verifying the address with the consumer;
2. Reviewing the Town's records to verify the consumer's address;
3. Verifying the address through third party sources; or
4. Using other reasonable processes.

RESOLUTION NO. 7-2009

**A RESOLUTION ADOPTING A RED FLAG POLICY AND ESTABLISHING AN
IDENTITY THEFT PREVENTION PROGRAM FOR THE TOWN OF WELLINGTON**

WHEREAS, pursuant to federal law the Federal Trade Commission (the "FTC") adopted Identity Theft Rules requiring the creation of certain policies relating to the use of consumer reports, address discrepancy and the detection, prevention and mitigation of identity theft;

WHEREAS, the FTC regulations, adopted as 16 CFR § 681.2, require creditors, as defined by 15 U.S.C. § 1681a(r)(5), to adopt red flag policies to prevent and mitigate identity theft with respect to covered accounts;

WHEREAS, 15 U.S.C. § 1681a(r)(5) cites 15 U.S.C. § 1691a, which defines a creditor as a person that extends, renews or continues credit, and defines 'credit' in part as the right to purchase property or services and defer payment therefore;

WHEREAS, the FTC regulations include utility companies in the definition of creditor;

WHEREAS, the Town of Severance (the "Town") is a creditor with respect to 16 CFR § 681.2 by virtue of providing utility services or by otherwise accepting payment for municipal services in arrears;

WHEREAS, the FTC regulations define 'covered account' in part as an account that a creditor provides for personal, family or household purposes that is designed to allow multiple payments or transactions and specifies that a utility account is a covered account;

WHEREAS, the FTC regulations require each creditor to adopt an Identity Theft Prevention Program which will use red flags to detect, prevent and mitigate identity theft related to information used in covered accounts;

WHEREAS, the Town provides water and sewer services for which payment may be made after the product is consumed or the service has otherwise been provided which by virtue of being utility accounts are covered accounts;

WHEREAS, customer accounts for development review and other services for which payment is made after the product is consumed or the service has otherwise been provided may be covered accounts by virtue of being for household purposes and allowing for multiple payments or transactions;

WHEREAS, the FTC regulations, adopted as 16 CFR 681.1, require users of consumer credit reports to develop policies and procedures relating to address discrepancies between information provided by a consumer and information provided by a consumer credit company;

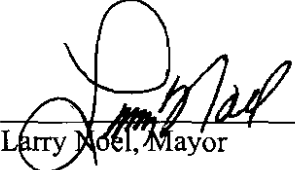
WHEREAS, the duly elected governing authority of the Town of Severance is the Mayor and Board of Trustees thereof.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO:

Section 1. The Red Flag Policy attached as Exhibit A is hereby adopted and approved.

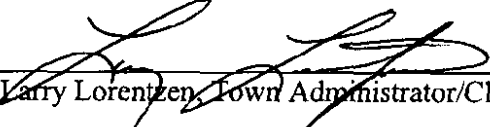
Section 2. This Resolution shall be in full force and effect upon its passage and adoption.

INTRODUCED, PASSED, APPROVED AND ADOPTED THIS 18TH DAY OF APRIL, 2009.



Larry Noel, Mayor

ATTEST:



Larry Lorenzen, Town Administrator/Clerk

EXHIBIT A

Red Flag Policy and Identity Theft Prevention Program

Purpose

To establish an Identity Theft Prevention Program designed to detect, prevent and mitigate identity theft in connection with the opening of a covered account or an existing covered account and to provide for continued administration of the Program in compliance with Part 681 of Title 16 of the Code of Federal Regulations implementing Sections 114 and 315 of the Fair and Accurate Credit Transactions Act (FACTA) of 2003.

Definitions

1. **Covered Account** means:
 - a. An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account; and
 - b. Any other account that the Town offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.
2. **Credit** means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefore.
3. **Creditor** means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications companies.
4. **Customer** means a person that has a covered account with a creditor.
5. **Identity theft** means a fraud committed or attempted using identifying information of another person without authority.
6. **Notice of address discrepancy** means a notice sent to a user by a consumer reporting agency pursuant to 15 U.S.C. § 1681(c)(h)(1), that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer.
7. **Person** means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.
8. **Personal Identifying Information** means a person's credit card account information, debit card information, bank account information and drivers' license information and for

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a natural person includes their social security number, mother's birth name, and date of birth.

9. **Red flag** means a pattern, practice, or specific activity that indicates the possible existence of identity theft.
10. **Service provider** means a person that provides a service directly to the Town.
11. **Town** means the Town of Wellington.

Findings

1. The Town is a creditor pursuant to 16 CFR § 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.
2. Covered accounts offered to customers for the provision of Town services include utility accounts and development review accounts.
3. The process of opening a new covered account and making payments on such accounts have been identified as potential processes in which identity theft could occur.
4. The Town limits access to personal identifying information to those employees responsible for or otherwise involved in opening covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the Town's computer system and is not otherwise recorded.
5. The Town determines that there is a low risk of identity theft occurring in the following ways:
 - a. Use by an applicant of another person's personal identifying information to establish a new covered account; and
 - b. Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account or accounts.

Process of Establishing a Covered Account

As a precondition to opening a covered account in the Town, each applicant shall provide the Town with a valid government issued identification card containing a photograph of the applicant. The identifying number of card shall be recorded on the application for service.

Access to Covered Account Information

1. Access to customer accounts shall be password protected and shall be limited to authorized Town personnel.

EXHIBIT A

2. Any unauthorized access to or other breach of customer accounts is to be reported immediately to the Town Clerk and the password changed immediately.
3. Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the Town Clerk.

Credit Card Payments

1. In the event that credit card payments that are made over the Internet are processed through a third party service provider, such third party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.
2. All credit card payments made over the telephone or the Town's web site shall be entered directly into the customer's account information in the computer database.
3. Account statements and receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

Sources and Types of Red Flags

All employees responsible for or involved in the process of opening a covered account or accepting payment for a covered account shall check for red flags as indicators of possible identity theft and such red flags may include:

1. Alerts from consumer reporting agencies, fraud detection agencies or service providers. Examples of alerts include but are not limited to:
 - a. A fraud or active duty alert that is included with a consumer report;
 - b. A notice of credit freeze in response to a request for a consumer report;
 - c. A notice of address discrepancy provided by a consumer reporting agency;
 - d. Indications of a pattern of activity in a consumer report that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
 - i. A recent and significant increase in the volume of inquiries;
 - ii. An unusual number of recently established credit relationships;
 - iii. A material change in the use of credit, especially with respect to recently established credit relationships; or
 - iv. An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.
2. Suspicious documents. Examples of suspicious documents include:
 - a. Documents provided for identification that appear to be altered or forged;

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- b. Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;
 - c. Identification on which the information is inconsistent with information provided by the applicant or customer;
 - d. Identification on which the information is inconsistent with readily accessible information that is on file with the creditor, such as the application for service; or
 - e. An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.
- 3. Suspicious personal identification, such as suspicious address change. Examples of suspicious identifying information include:
 - a. Personal identifying information that is inconsistent with external information sources used by the financial institution or creditor. For example:
 - i. The address does not match any address in the consumer report; or
 - ii. The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.
 - b. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth.
 - c. Personal identifying information or a phone number or address, is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the financial institution or creditor.
 - d. Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, is associated with fraudulent activity.
 - e. The SSN provided is the same as that submitted by other applicants or customers.
 - f. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.
 - g. The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
 - h. Personal identifying information is not consistent with personal identifying information that is on file with the financial institution or creditor.
 - i. The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.
- 4. Unusual use of or suspicious activity relating to a covered account. Examples of suspicious activity include:
 - a. Shortly following the notice of a change of address for an account, Town receives a request for the addition of authorized users on the account.
 - b. A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example:

EXHIBIT A

- i. The customer fails to make the first payment or makes an initial payment but no subsequent payments.
 - c. An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:
 - i. Nonpayment when there is no history of late or missed payments;
 - ii. A material change in purchasing or spending patterns;
 - d. An account that has been inactive for a long period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).
 - e. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.
 - f. The Town is notified that the customer is not receiving paper account statements.
 - g. The Town is notified of unauthorized charges or transactions in connection with a customer's account.
 - h. The Town is notified by a customer, law enforcement or another person that it has opened a fraudulent account for a person engaged in identity theft.
5. Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts.

Prevention and Mitigation of Identity Theft

1. In the event that any Town employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the Town Clerk. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the Town Clerk, who may in his or her discretion determine that no further action is necessary. If the Town Clerk in his or her discretion determines that further action is necessary, a Town employee shall perform one or more of the following responses, as determined to be appropriate by the Town Clerk:
 - a. Contact the customer;
 - b. Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:
 - i. change any account numbers, passwords, security codes, or other security devices that permit access to an account; or
 - ii. close the account;

EXHIBIT A

- c. Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;
 - d. Notify a debt collector within [select time frame, for example, 24 hours] of the discovery of likely or probable identity theft relating to a customer account that has been sold to such debt collector in the event that a customer's account has been sold to a debt collector prior to the discovery of the likelihood or probability of identity theft relating to such account;
 - e. Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or
 - f. Take other appropriate action to prevent or mitigate identity theft.
2. In the event that any Town employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect an application for a new account, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the Town Clerk. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the Town Clerk, who may in his or her discretion determine that no further action is necessary. If the Town Clerk in his or her discretion determines that further action is necessary, a Town employee shall perform one or more of the following responses, as determined to be appropriate by the Town Clerk:
 - a. Request additional identifying information from the applicant;
 - b. Deny the application for the new account;
 - c. Notify law enforcement of possible identity theft; or
 - d. Take other appropriate action to prevent or mitigate identity theft.

Updating the Program

The Town Board shall annually review and, as deemed necessary by the Board, update the Identity Theft Prevention Program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the Town and its covered accounts from identity theft. In so doing, the Town Board shall consider the following factors and exercise its discretion in amending the program:

1. The Town's experiences with identity theft;
2. Updates in methods of identity theft;
3. Updates in customary methods used to detect, prevent, and mitigate identity theft;
4. Updates in the types of accounts that the Town offers or maintains; and
5. Updates in service provider arrangements.

EXHIBIT A

Program Administration

The Town Clerk is responsible for oversight of the program and for program implementation. The Town Manager is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the Town Manager, to address changing identity theft risks and to identify new or discontinued types of covered accounts. Any recommended material changes to the program shall be submitted to the Town Board for consideration by the Board.

1. The Town Clerk will report to the Town Manager at least annually, on compliance with the red flag requirements. The report will address material matters related to the program and evaluate issues such as:
 - a. The effectiveness of the policies and procedures of Town in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
 - b. Service provider arrangements;
 - c. Significant incidents involving identity theft and management's response; and
 - d. Recommendations for material changes to the Program.
2. The Town Clerk is responsible for providing training to all employees responsible for or involved in opening a new covered account or accepting payment for a covered account with respect to the implementation and requirements of the Identity Theft Prevention Program. The Town Clerk shall exercise his or her discretion in determining the amount and substance of training necessary.

Outside Service Providers

In the event that the Town engages a service provider to perform an activity in connection with one or more covered accounts the Town Clerk shall exercise his or her discretion in reviewing such arrangements in order to ensure, to the best of his or her ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.

Treatment of Address Discrepancies

Pursuant to 16 CFR § 681.1, this establishes a process by which the Town will be able to form a reasonable belief that a consumer report relates to the consumer about whom it has requested a consumer credit report when the Town has received a notice of address discrepancy. In the event that the Town receives a notice of address discrepancy, the Town employee responsible for verifying consumer addresses for the purpose of providing the municipal service or account sought by the consumer shall perform one or more of the following activities, as determined to be appropriate by such employee:

1. Compare the information in the consumer report with:

EXHIBIT A

- a. Information the Town obtains and uses to verify a consumer's identity in accordance with the requirements of the Customer Information Program rules implementing 31 U.S.C. § 5318(l);
 - b. Information the Town maintains in its own records, such as applications for service, change of address notices, other customer account records or tax records; or
 - c. Information the Town obtains from third-party sources that are deemed reliable by the relevant Town employee; or
2. Verify the information in the consumer report with the consumer.

Furnishing Consumer's Address to Consumer Reporting Agency

1. In the event that the Town reasonably confirms that an address provided by a consumer to the Town is accurate, the Town is required to provide such address to the consumer reporting agency from which the Town received a notice of address discrepancy with respect to such consumer. This information is required to be provided to the consumer reporting agency when:
 - a. The Town is able to form a reasonable belief that the consumer report relates to the consumer about whom the Town requested the report;
 - b. The Town establishes a continuing relation with the consumer; and
 - c. The Town regularly and in the ordinary course of business provides information to the consumer reporting agency from which it received the notice of address discrepancy.
2. Such information shall be provided to the consumer reporting agency as part of the information regularly provided by the Town to such agency for the reporting period in which the Town establishes a relationship with the customer.

Methods of Confirming Consumer Addresses

The Town employee charged with confirming consumer addresses may, in his or her discretion, confirm the accuracy of an address through one or more of the following methods:

1. Verifying the address with the consumer;
2. Reviewing the Town's records to verify the consumer's address;
3. Verifying the address through third party sources; or
4. Using other reasonable processes.



Board of Trustees Meeting

Date: February 8, 2022
Submitted By: Meagan Smith, Deputy Public Works Director
Subject: Ordinance 03-2022 - An Ordinance Establishing Fees to be Charged by the Town of Wellington, Colorado, for Sewer Utility Services

- **Presentation: Meagan Smith, Deputy Director of Public Works**

EXECUTIVE SUMMARY

A presentation of proposed Ordinance No. 03-2022, an ordinance to adjust sewer utility rates.

BACKGROUND / DISCUSSION

The Town of Wellington created a municipal water and wastewater utility in the 1960's and established separate Water and Wastewater Enterprise Funds in 2001. A municipally owned utility allows residents to align utility services with Town goals, ensure Town viability into the future, and creates local accountability.

In response to aging infrastructure issues and rapid community growth, in 2020 both the Water and Wastewater Utilities embarked on the design process for much needed treatment plant expansion projects. The main water treatment plant expansion project and the wastewater treatment plant expansion project are nearing completion of their design phases, with construction expected to begin in mid-2022. Both projects will be funded partially through State Revolving Fund (SRF) loans and partially through cash reserves.

To maintain financial health in the Water and Wastewater Enterprise funds, regular review of rates is necessary. Not only is regular review a sound fiscal practice, but it is a requirement for the town to qualify for the wastewater treatment plant expansion loan. Regular review and adjustments to utility rates are needed to keep up with inflation, address ever-increasing regulatory compliance requirements, and to accommodate growth.

To minimize the impact of rate increases on Wellington residents, the Board of Trustees instructed staff to amend the 2022 budget to direct the maximum allowable General Fund dollars to the Water and Wastewater Enterprise Funds. Additionally, in November 2021 the Board of Trustees approved dedication of Tranche 1 of the American Rescue Plan Act (ARPA) to the Water Fund. The Board of Trustees has expressed their intention to direct Tranche 2 of the American Rescue Plan Act dollars to the Water Fund, as well. Each Tranche is just over \$1.3M.

WATER RATES

Staff recommends that water rate and/or tier adjustments be postponed until a Utility Rates Study can be completed. Maintaining existing water rates and tiers will result in a deficit to 2022 projected revenue. However, this deficit can be overcome with the anticipated General Fund transfer to the Water Fund in combination with bringing forward 2021 Water Fund operational budget savings to the 2022 Water Fund Budget.

SEWER RATES

With the commitment of a General Fund transfer into the Wastewater Fund for 2022, staff recommends the proposed stepped increase to the sewer base and usage rates. Only the increase for 2022 will be adopted at this



time. The need for subsequent rate increases will be reviewed and determined on a regular basis in advance of future annual budget adoption. Current wastewater rates include a \$20.63 base rate and \$6.50 usage rate per thousand gallons. The proposed rates are shown below:

Proposed Stepped Sewer Rate Increase Comparison			
Effective Date	Current Rate	April 1, 2022	January 1, 2023
Base Rate (0-3K gal)	\$20.63	\$31.00	\$44.00
Usage Rate (4K+ gal)	\$6.50/1K gal	\$10.00/1K gal	\$13.00/1K gal
Avg Sewer Bill (4K gal)	\$27.13	\$41.00	\$57.00

ONGOING EFFORTS

Staff anticipates starting a utility rate study in early Spring 2022, with the expectation of rate recommendations by September 2022. The rate study will address residential and non-residential water rates and tier structures, residential and non-residential wastewater rates, and residential and non-residential stormwater rates. Utility impact fees will also be reviewed and updated as necessary.

STAFF RECOMMENDATION

Move to approve Ordinance 03-2022 - An Ordinance Establishing Fees to be Charged by the Town of Wellington, Colorado, for Sewer Utility Services

ATTACHMENTS

-
1. 2022-02-08_BOT_WW_Rates
 2. Ordinance No. 03-2022_Sewer Rate Adjustments

Sewer Rate Adjustments

February 8, 2022





Background

Town of Wellington Water and Sewer Utilities



Wellington Water/Sewer Utility – An Overview

- Water and Sewer utility created in the 1960's
 - Allows residents to align water utility services with Town goals
 - Ensures Town viability into the future
 - Creates local accountability
- Established separate Water and Wastewater Enterprise Funds - 2001
- Treatment plant expansions are planned in anticipation of growth
 - Capacity must always exceed demand
 - Demand increases with current and future growth
 - Comprehensive Plan and Utility Masterplans are closely aligned
 - Long range planning is a must!



Wellington Water/Sewer Utility – An Overview

- Utilities function like a non-profit
 - Must be self-sustaining
 - Funding sources
 - Rates paid by current customers
 - Impact fees paid by developers and homebuilders
 - Loans and grants
 - Expenses
 - Operations and maintenance
 - Capital improvements
- Financial health of the Utility is critical
 - Fund balance policies
 - Rigorous accounting practices
 - Continuous monitoring
 - Regular periodic rate and impact fee adjustments

Water Treatment Plant Expansion Project

- Town goals for the project
 - Eliminate liquid discharge (required by the State)
 - Improve taste & odor
 - Increase capacity for future growth
- Design philosophy for both expansion projects
 - Take the long view – Avoid future surprises
 - Design for future expansion now to prevent wasted dollars later
 - Align with Town Strategic Plan, Comprehensive Plan, and other Utility Masterplans



Wastewater Treatment Plant Expansion Project

- Town goals for the project
 - Capacity must align with Water Treatment Plant Expansion
 - Meet newer, more stringent compliance standards
 - 2020 C.R.S 25-5-608: subject to civil penalties up to \$54,833/day/violation





Water Rates

Historical

Postpone Water Rate Adjustments

Recent Water Rate Adjustments			
	2016 - 2020	October 2020	January 2021
Base Rate	\$18.86	\$35.00	\$66.00
Tier 1 (\$/1,000 gal)	\$3.65	\$4.56	\$4.56
Tier 2 (\$/1,000 gal)	\$3.93	\$5.70	\$5.70
Tier 3 (\$/1,000 gal)	\$4.94	\$7.72	\$7.72

- Maintain existing rates and tiers
 - Will reduce 2022 projected Water Fund revenues
- Overcome projected Water Fund revenue shortfall
 - General Fund transfer to Water Fund - \$653K
 - 2021 Water Fund Operational Savings - ~\$400K
 - Continue to identify operational efficiencies and cost saving opportunities



Sewer Rates

Historical and Proposed

Outreach – Sewer Rates/Plant Expansion



Events

Sewer Rate Open House
Budget Boo-nanza



Engagement

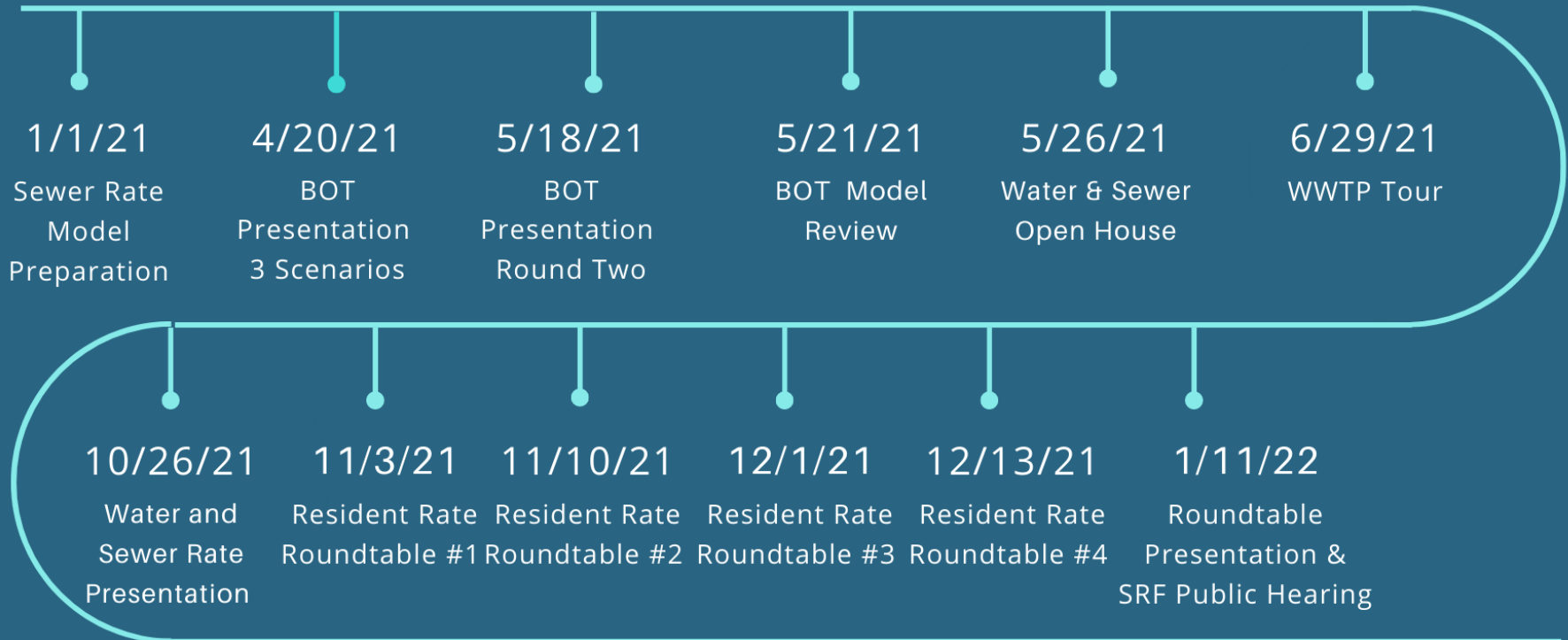
Resident Rate Roundtable
SRF Loan Public Hearing
Update presentations to
the Board of Trustees



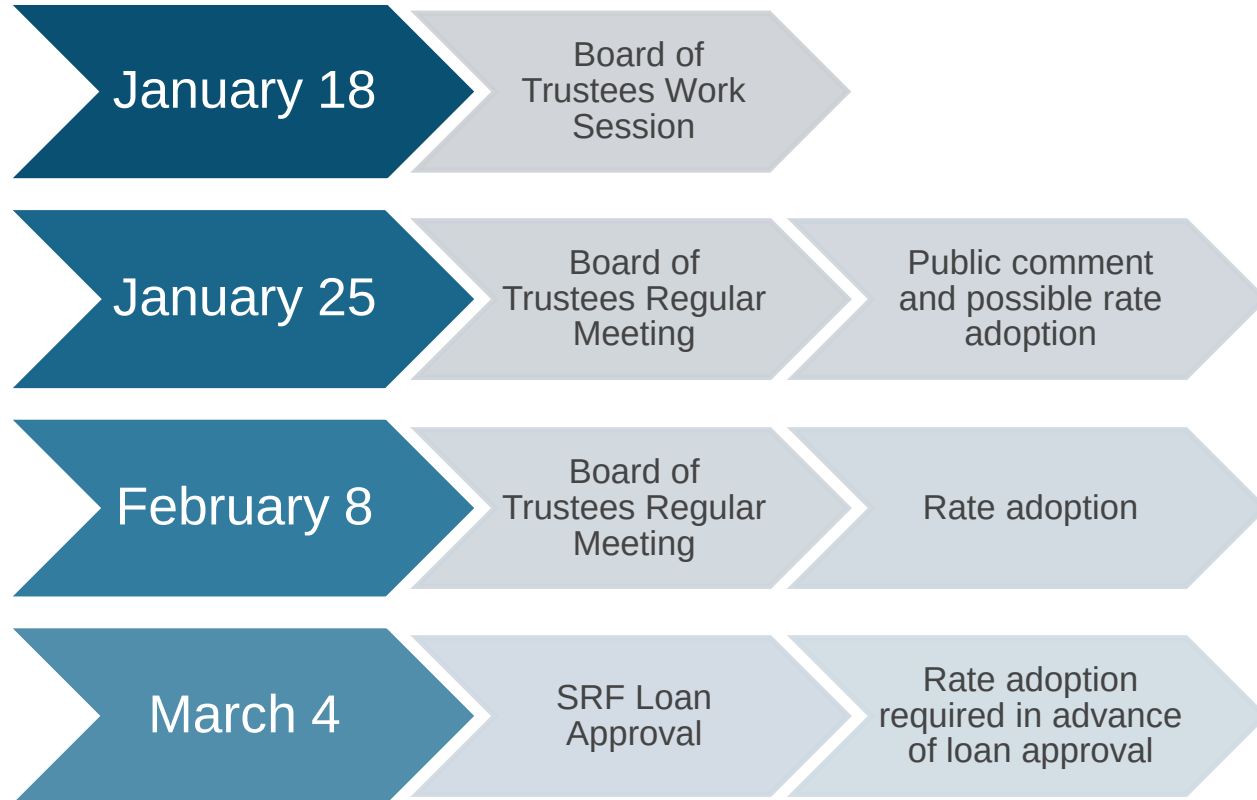
Communication

Social media updates
Newsletter
Webpage resources
WWTP Expansion/SRF
Loan video

Sewer Rate Adjustment Timeline



2022 Rate Adoption Timeline



Historical Sewer Rates

- 2016 – Ordinance No. 08-2016
 - Last increase to base or usage rate
- July 2021 – Ordinance No. 06-2021
 - Increased Sewer Impact Fee \$7,500→\$9,700

Historical Sewer Base and Usage Rates		
Year	Base Rate (0-3K gal)	Usage Rate (4K+ gal)
2016 - 2021	\$20.63	\$6.50
2015	\$19.63	\$6.25
2012 - 2014	\$17.98	\$5.30
2011	\$15.63	\$4.25
2007 - 2010	\$13.61	\$3.75

Proposed Sewer Rates

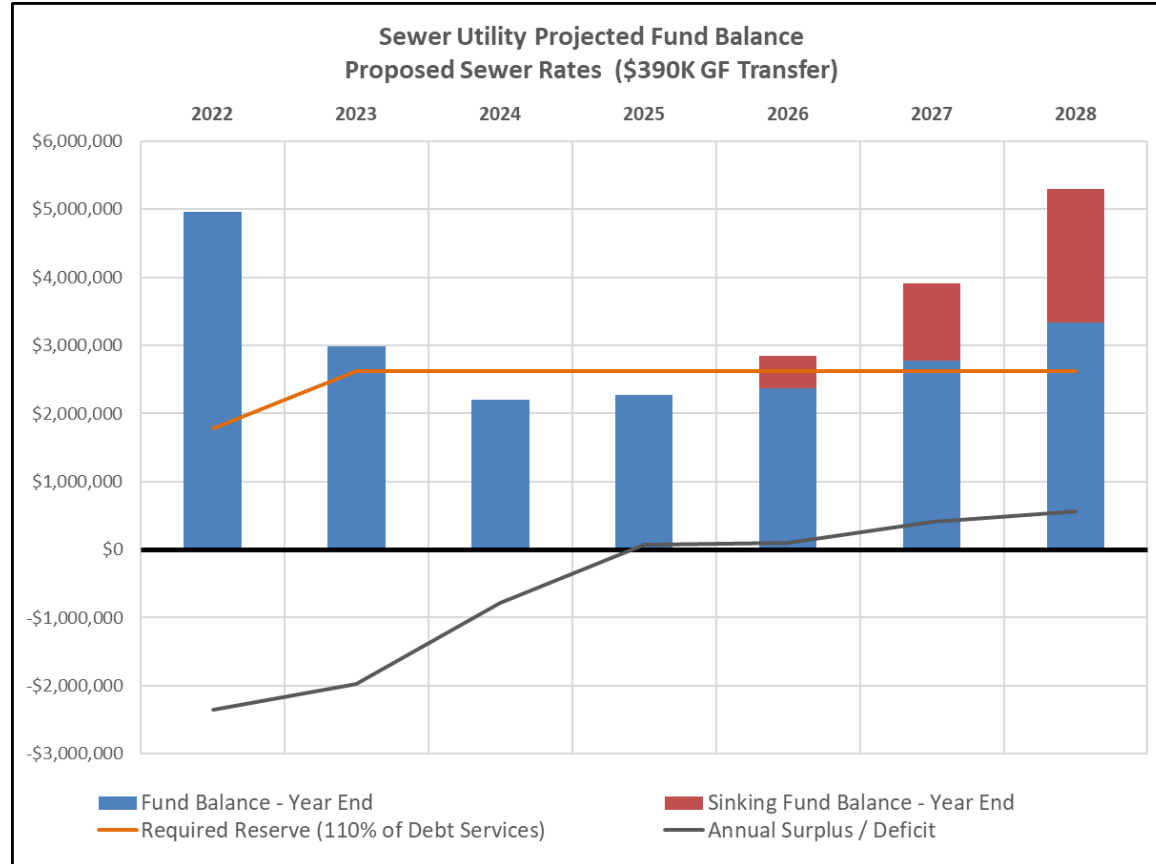
Assumptions

- \$48M loan; 30-yr loan term*; 2.25% interest rate
- Stepped base and usage rate increase* to Year 1 and Year 2
- 5% annual increase to base and tier rates for subsequent 3 years
- Shortfall in Town fund balance reserve policy* (110% of annual debt service)
- ARPA Tranche II to Water Fund

Proposed Sewer Rates

- One-time \$390K General Fund transfer to Sewer Fund*
- Year 1 - Base rate increase to \$31.00; Usage rate increase to \$10.00
- Year 2 rate projection - Base rate increase to \$44.00; Usage rate increase to \$13.00
- Year 2 rate will be further evaluated as part of upcoming utility rate study

Proposed Stepped Sewer Rate Increase Comparison			
Effective Date	Current Rate	April 1, 2022	January 1, 2023
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Avg Sewer Bill (4K gal)	\$27.13	\$41.00	\$57.00



Sample Bill

Town of Wellington
P.O. BOX 127
Wellington, CO 80549



Billing Date	
Due Date	
Account Number	

WELLINGTON CO 80549

Meter Readings		Total Gallons Used (Thousands)
Previous	Current	

93	96	4
----	----	---

Water Charges	Amount
---------------	--------

Water Base Rate Charge	66.00
Water Usage Charge	18.24

Notes:

TWO EASY WAYS TO PAY!

ONLINE AT: www.xpressbillpay.com

BY PHONE: 1-833-862-1409 (TOLL-FREE)

Name
Service Address
Billing Cycle 11/01/2021 to 11/30/21

Description	Amount
PREVIOUS BALANCE	
Current Period Payment Amount	
Adjustments	.00
Balance Forward (Past Due)	.00
Current Billings:	
Water	84.24
Sewer	20.63
TOW Storm Drainage	5.00
AUTH Storm Drainage	6.33

PAY THIS AMOUNT 116.20

Resident Utility Bill Comparisons - Winter

Current Rates - Winter

Current Rates - Avg Winter Use (4K gallons)	
Description	Amount
PREVIOUS BALANCE	0.00
Current Period Payment Amount	0.00
Adjustments	0.00
Balance Forward (Past Due)	0.00
Current Billings:	
Water	84.24
Sewer	27.13
TOW Storm Drainage	5.00
AUTH Storm Drainage	6.33
PAY THIS AMOUNT	122.70

Proposed Sewer Rates - Winter

Proposed Sewer Rates - Avg Winter Use (4K gallons)	
Description	Amount
PREVIOUS BALANCE	0.00
Current Period Paymnet Amount	0.00
Adjustments	0.00
Balance Forward (Past Due)	0.00
Current Billings:	
Water	84.24
Sewer	41.00
TOW Storm Drainage	5.00
AUTH Storm Drainage	6.33
PAY THIS AMOUNT	136.57

Resident Utility Bill Comparisons - Summer

Current Rates - Summer

Current Rates - Avg Summer Use (10K gallons)	
Description	Amount
PREVIOUS BALANCE	0.00
Current Period Paymnet Amount	0.00
Adjustments	0.00
Balance Forward (Past Due)	0.00
Current Billings:	
Water	111.60
Sewer	27.13
TOW Storm Drainage	5.00
AUTH Storm Drainage	6.33
PAY THIS AMOUNT	150.06

Proposed Sewer Rates - Summer

Proposed Sewer Rates - Avg Summer Use (10K gallons)	
Description	Amount
PREVIOUS BALANCE	0.00
Current Period Paymnet Amount	0.00
Adjustments	0.00
Balance Forward (Past Due)	0.00
Current Billings:	
Water	111.60
Sewer	41.00
TOW Storm Drainage	5.00
AUTH Storm Drainage	6.33
PAY THIS AMOUNT	163.93



Ongoing Efforts

- Prepare a new Rate Study for the Enterprise Funds
 - Engage consultant to prepare comprehensive rate study in 2022
 - Water and Sewer usage rates and impact fees
 - Evaluate indirect costs *
 - Ensure equitable impact to residential and non-residential customers *
 - Plan annual review and updates into the future *
- Support and Promote Hardship Utility Grant (HUG) *
 - Program is funded in 2022
- Continuous Community Involvement and Engagement *
 - Continue engagement of Resident Rate Roundtable
- Continue to Implement the Water Efficiency Program *
- Continue the Search for other Financial Solutions *

* Indicates action recommended by the Resident Rate Roundtable



Proposed Motion:

Move to approve Ordinance No. 03-2022 – An Ordinance
Establishing Sewer Rate Adjustments



Questions

Thank you!

TOWN OF WELLINGTON

ORDINANCE NO. 03-2022

ORDINANCE ESTABLISHING FEES TO BE CHARGED BY THE TOWN OF
WELLINGTON, COLORADO, FOR SEWER UTILITY SERVICES

WHEREAS, the Wellington Town Code and Colorado statute provides that the Board of Trustees of the Town of Wellington shall set sewer rates for services provided by the Town by ordinance; and

WHEREAS, the Board previously set fees, including by ORDINANCE 8-2016; and

WHEREAS, sewer rates must be established at this time in order to meet requirements for the State Revolving Fund loan for the Town of Wellington wastewater treatment plant expansion; and

WHEREAS, the Town Board of Trustees wishes to adopt sewer rates by ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Town Board of Trustees of the Town of Wellington, Colorado, that fees charged by the Town shall be established as follows:

1. Utility Fees. The Town shall charge fees for utility services as follows:

Sewer Rates. All buildings or premises connected to the Town sewer facilities shall be held and deemed to be occupied, including those where service has been terminated by the Town or the property owner, and sewer usage charges collected thereon. Effective for any billing period that begins more than 30 days from the date of publication of this ordinance, and each billing thereafter, the following rates shall be assessed and charged against all taps for the use of the Town's sewer facilities. Residential charges shall apply to all single family and multifamily residential uses. Non-residential charges shall apply to commercial and industrial uses, including hotels, rooming houses, and similar uses.

<u>Sewer Usage Charge</u>	
Residential and Non-residential	
4,000 gallons or more of average metered water use during the winter quarter (January, February, March)	\$10.00/1,000 gallons

<u>Classification of User</u>	<u>Sewer Charge Monthly (4" Tap)</u>
Residential	
¾" – 2" Tap	\$31.00
Each additional residential user on a single tap	\$31.00
Non-residential	
¾" Tap	\$31.00
1" Tap	\$31.00
1 ½" Tap	\$31.00

2" Tap	\$31.00
> 2" Tap	Negotiate
Each additional nonresidential user on a single tap	\$31.00
Other	
Inactive taps (Only applicable if inactive water tap)	\$6.00
Irrigation taps	N/A
Wellington Fire Protection District	No usage charge
All taps outside the Town's Corporate limits	1.5 multiplied by rate for in-Town same tap size

2. The Board of Trustees declares that, should any provision, section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.
3. All the provisions of the Wellington Municipal Code as heretofore adopted that conflict with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

PASSED AND ADOPTED by the Board of Trustees of the Town of Wellington, Colorado and ordered published this 8th day of February, 2022 and ordered to become effective 30 days thereafter.

TOWN OF WELLINGTON, COLORADO

By: _____
Troy Hamman, Mayor

ATTEST:

Krystal Eucker, Town Clerk



Board of Trustees Meeting

Date: February 8, 2022
Submitted By: Dan Sapienza
Subject: Ordinance No. 04-2022 - An Ordinance Concerning the Town of Wellington Planning Commission

- **Presentation:** Dan Sapienza, March & Olive, LLC, Town Attorney

EXECUTIVE SUMMARY

Following work session discussions by the Town of Wellington Board of Trustees, Town staff is recommending modifying the makeup of various boards and commissions, including the Planning Commission. The intent of the changes is to make portions of the Town Code more uniform, to ensure that members of the Town's vital governing bodies represent the needs of the Town, and to reduce potential conflicts of interest.

BACKGROUND / DISCUSSION

In late Summer/early Fall 2021, the Town Board held a work session looking at all of the various boards and commissions of the Town, with a goal of standardizing membership requirements, language about meetings, and vacancies/appointments. Of particular importance was the goal of removing trustees from voting roles on all boards and commissions. For some boards, this would lead to the inclusion of a trustee as a non-voting liaison member. For the planning commission, staff recommended removal of trustees altogether, in order to avoid potential conflicts in their various roles.

In the attached ordinance, there are a number of changes to the Town Code that wouldn't create significant changes to the operations of the Planning Commission. There are two notable changes, however:

- **Membership** – 7 members, who must be residents of the Town of Wellington, none of whom are Trustees.
- **Co-membership** – This ordinance allows, but does not require, members of the Planning Commission to serve simultaneously on the Board of Adjustments. Overlap is not required, but this would allow the Town to explore the option of having the same membership on both boards, in order that the members' expertise could be best utilized and to fill difficult-to-fill seats.

The attached ordinance would go into effect in April, 2022, following the 2022 municipal election.

On January 10, 2022, staff presented the draft ordinance to the Planning Commission for discussion. Members of the Planning Commission provided valuable insights, especially regarding the process for potential membership changes going forward.

STAFF RECOMMENDATION

Move to approve Ordinance No. 04-2022 - An Ordinance Concerning the Town of Wellington Planning Commission

ATTACHMENTS



1. Ordinance - Planning Commission

TOWN OF WELLINGTON

ORDINANCE NO. 04-2021

AN ORDINANCE CONCERNING THE TOWN OF WELLINGTON PLANNING COMMISSION

WHEREAS, the Town of Wellington Planning Commission is the duly authorized body to have the power and authority concerning the application and enforcement of the Wellington Town Code, pursuant to C.R.S. § 31-23-202; and

WHEREAS, currently three of seven members of the Planning Commission are the Mayor and two Trustees; and

WHEREAS, the Planning Commission has an important role for the Town of Wellington, and it is desirable for membership on the Planning Commission to represent a broad range of interests and constituencies; and

WHEREAS, allowing all seven members of the Planning Commission to be appointed from among interested non-Trustee residents of the Town of Wellington would allow and encourage increased civic participation in Town planning operations; and

WHEREAS, it may be deemed beneficial for some or all members of the Planning Commission to have co-existing membership on the Town of Wellington Board of Adjustments; and

WHEREAS, the Board of Trustees desires to standardize code language for the various boards and commissions of the Town of Wellington.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, AS FOLLOWS:

1. Article 10 of Chapter 2 of the Wellington Municipal Code is hereby repealed and replaced as follows:

ARTICLE 10 - Planning Commission

Sec. 2-10-10. - Creation.

Pursuant to state law, there is hereby created a Planning Commission for the Town.

Sec. 2-10-20. - Purpose.

The Planning Commission is created for the following purposes:

- (1) To prepare and maintain, subject to periodic revision as necessary, a Master Plan as described by state statutes.
- (2) To implement the provisions of Chapters 16 and 17 of this Code, and to perform all functions and powers referred to it in said chapters where reference is made.

- (3) To study and recommend to the Board of Trustees amendments to the Zoning Map of the Town.
- (4) To study and recommend appropriate zoning classifications for all annexations to the Town.
- (5) To exchange information with the various governmental agencies charged with planning and zoning responsibilities and with the Board of Adjustment.
- (6) To have all other duties and powers incidental to the above and any and all powers and duties set out by state statute, except that nothing herein shall permit the Planning Commission to make amendments or changes in the zoning of the Town, such powers expressly being reserved by the Board of Trustees.

Sec. 2-10-30. – Membership; terms; qualifications; vacancies

- (a) The Planning Commission shall consist of seven (7) members who shall be residents of the Town and who shall serve without pay.
- (b) The members of the Planning Commission shall be appointed as members at large by the Mayor and confirmed by a majority vote of the Board of Trustees. Members shall be appointed to serve staggered terms of four (4) years.
- (c) Members of the Planning Commission may be removed from office for inefficiency, neglect of duty or malfeasance, upon written notice and after public hearing held during a regular or special Board of Trustees meeting. The removal of any Planning Commission member shall require the affirmative vote of a majority of the Board of Trustees members participating in the public hearing.
- (d) No voting member of the Planning Commission shall be eligible to serve on any other board or commission of the Town during that member's tenure on the Planning Commission, except members of the Planning Commission may serve on the Board of Adjustments.
- (e) The Mayor, with confirmation by majority vote of the Board of Trustees, shall make such appointments as necessary to fill the unexpired terms of vacancies which may occur on the Planning Commission.

Sec. 2-10-40. - Duties and powers.

- (a) The Planning Commission shall prepare plans and conduct hearings and shall be governed by and have the responsibilities as provided for in Sections 31-23-201 et seq., C.R.S., 31-23-301 et seq., C.R.S., and other applicable statutes and ordinances.
- (b) Members of the Planning Commission shall have the power to vote on matters brought before the Planning Commission.

Sec. 2-10-70. - Officers.

At the first regular meeting of the Planning Commission each calendar year, the Planning Commission shall select a Chair and a Vice Chair for the year. The Chair shall preside at all meetings. The Vice-Chair shall preside in the absence of the Chair.

Sec. 2-10-80. - Meetings.

- (a) The Planning Commission shall hold a minimum of one (1) regular meeting each month, unless cancelled at the request of the Planning Commission Chair

- (b) Special meetings of the Planning Commission may be called by the mayor, or the chairperson of the Planning Commission with proper notice posted and given to all Planning Commission members.
 - (c) The Planning Commission shall adopt bylaws and rules for transaction of business, and the Town Clerk shall keep a public record of its resolutions, transactions, findings and determinations.
2. The Board of Trustees declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.
3. All the provisions of the Wellington Municipal Code as heretofore adopted that conflict with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

PASSED AND ADOPTED by the Board of Trustees of the Town of Wellington, Colorado and ordered published this 8th day of February, 2022 and ordered to become effective April 19, 2022.

TOWN OF WELLINGTON, COLORADO

By: _____
Troy Hamman, Mayor

ATTEST:

Krystal Eucker, Town Clerk