

**ORDINANCE NO. 641 - 08**

**AN ORDINANCE OF THE TOWN OF FOWLER, COLORADO ESTABLISHING THE  
“TOWN OF FOWLER STORM SEWER ENTERPRISE”**

WHEREAS, the Town of Fowler, Colorado (“Town”) is a statutory Town and political subdivision of the State of Colorado, duly organized and operating under the constitution and laws of the State of Colorado; and

WHEREAS, C.R.S. § 31-15-709 (2008) authorizes municipalities to construct and keep in repair culverts and drains; and

WHEREAS, it is necessary for the health, safety and welfare of the citizens of the Town that the Town construct and maintain culverts and drains in the form of a storm sewer system for the purpose of transporting storm waters away from the Town to avoid property damage and nuisances resulting from standing water; and

WHEREAS, the Board of Trustees of the Town desire to establish various fees and charges for the removal of said storm waters; and

WHEREAS, the Town has heretofore determined and undertaken to acquire and develop certain properties and facilities for the collection, transportation and disposition of said storm water and now desires to operate, maintain and expand said facilities as a utility and income producing project; and

WHEREAS, it is the intent of the Town to continue the operation of the storm sewer system as a storm sewer enterprise;

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FOWLER,  
COLORADO:**

1. **Establishment of Enterprise.** There is hereby established a Storm Sewer Enterprise (“Enterprise”). The Enterprise shall consist of the storm sewer system (“System”) which is the business represented by all the Town’s storm sewer facilities and properties, now owned or hereinafter acquired, whether situated within or without the Town boundaries, or additions thereof or thereto. The Enterprise shall have all of the authority, powers, rights, obligations and duties as may be provided or permitted by Colorado law and the Colorado Constitution, and as may be further prescribed by ordinance or resolution of the Town.
2. **Governing Body.** The governing body of the Enterprise (“Governing Body”) shall be the Board of Trustees of the Town, and shall be subject to all of the applicable laws, rules, and regulations pertaining to the Board of Trustees. Whenever the Board of Trustees is in session the Governing Body shall also be deemed to be in session. It shall not be necessary for the Governing Body to meet separately from the regular and special meetings of the Board of Trustees nor shall it be necessary for the Governing Body to specifically announce or acknowledge that actions taken thereby are taken by the

governing body of the Enterprise. The Governing Body may conduct its affairs in the same manner and subject to the same laws which apply to the Board of Trustees for the same or similar matters.

3. **Maintenance of Enterprise Status.** The Enterprise shall at all times and in all ways conduct its affairs so as to continue to qualify as an “enterprise” within the meaning of Article X, Section 20, Colorado Constitution. Specifically, but not by way of limitation, the Enterprise is not authorized and shall not receive ten percent (10%) of more of its annual revenue in grants from all Colorado state and local governments combined.
4. **Issuance of Bonds.** The Board of Trustees may authorize the issuance of such bonds, notes, or other obligations in accordance with the laws of the State of Colorado, and in so doing shall be deemed to be acting as both the Governing Body and the Board of Trustees.
5. **Storm Sewer Enterprise Fees and Charges.** The Board of Trustees shall adopt by resolution for and on behalf of the Enterprise the following rates, fees and charges:
  - a. Minimum and sufficient storm sewer rates;
  - b. Plant investment fees; and
  - c. Other fees and charges as the Board of Trustees deems necessary to cover the cost of inspection, testing fees for engineering design review, operations, maintenance, and extensions of the System.
6. **Storm Sewer Enterprise Annual Budget.** The Governing Body shall adopt an annual budget for the Enterprise, separate from the Town’s general fund budget.
7. **Storm Sewer Revenue Fund Established.** There is hereby established an enterprise fund, to be known as the “Storm Sewer Fund”, in which shall be deposited all revenues from storm sewer billing and other revenues related to the System. All funds received from the Storm Sewer rates shall be used only for the operation, maintenance, debt service, replacement of and additions to the System. All amounts on hand in such fund shall be invested by the Board of Trustees in investments proper for public funds.
  - a. The Enterprise may pledge all or any portion of the Storm Sewer Fund, including revenues anticipated to be collected, to the payment of principal, interest, premium, if any, and reserves for revenue bonds or any other obligations lawfully issued or otherwise contracted for by the Enterprise for the payment or other financing of costs of the System, or for the purpose of refunding any obligations issued or otherwise contracted for such purpose.
8. **Ratification and Approval of Prior Actions.** All actions heretofore taken by the officers of the Town and the members of the Board of Trustees, not inconsistent with the provisions of this Ordinance, relating to the operation or creation of the Enterprise, are hereby ratified, approved and confirmed.

9. **Repealer.** All orders, bylaws, ordinances and resolutions of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.
10. **Severability.** If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.
11. **Recording and Authentication.** Upon adoption hereof, this Ordinance shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the Mayor and Town Clerk.
12. **Emergency Declaration.** By reason of the fact that the Town must immediately provide for improvements to the existing storm sewer system of the Town, it is declared that an emergency exists and that this Ordinance is necessary for the preservation of the public peace, health and safety and that it shall become effective upon adoption.

INTRODUCED, READ IN FULL, PASSED AND ORDERED PUBLISHED on the 14th day of October, 2008

ADOPTED and approved the 14th day of October, 2008.

**TOWN OF FOWLER**

DATED this 14th day of October, 2008.

BY: \_\_\_\_\_  
Mayor Town of Fowler

**ATTEST:**

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Town Clerk