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TOWN OF HILLROSE
ORDINANCE NO. 97

ESTABLISHING A TOWN OF HILLROSE, COLORADO,
WATER ENTERPRISE, AND AUTHORIZING THE
ENTERPRISE TO HAVE AND EXERCISE CERTAIN POWERS
IN FURTHERANCE OF ITS PURPOSES.

WHEREAS, the Town of Hillrose, Colorado (the "Town"), is authorized by part 1 of article 45.1 of title 37, Colorado Revised Statutes, as amended (the "Act"), to establish or continue to maintain water activity enterprises, as defined in the Act, for the purpose of pursuing or continuing water activities, including water acquisition or water project or facility activities and wastewater project or facility activities; and

WHEREAS, the Act also provides that water activity enterprises established or maintained pursuant to the Act are excluded from the provisions of art. X, § 20 of the Colorado Constitution; and

WHEREAS, the Board of Trustees (the "Board") desires to adopt an ordinance (this "Ordinance") to establish the enterprise by establishing a water activity enterprise and authorizing the enterprise to have and exercise certain powers in furtherance of its purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HILLROSE, COLORADO, THAT:

Section 1. Establishment of Enterprise. The Town of Hillrose, Colorado, Water Enterprise (the "Enterprise"), is hereby established pursuant to the provisions of the Act as an enterprise of the Town within the meaning of art. X, § 20 of the Colorado Constitution.

Section 2. Ownership of Enterprise. The Enterprise shall be wholly owned by the Town and shall not be combined with any water activity enterprise owned by another district.

Section 3. Water Activities. The Enterprise may conduct one or more water activities as may be determined by the governing body of the Enterprise, including, but not limited to, the diversion, storage, carriage, delivery, distribution, collection, treatment, use, reuse, augmentation, exchange or discharge of water, the provision of wholesale or retail water services and the acquisition of water or water rights ("Water Activities").

Section 4. Governing Body. The Board shall serve as the governing body of the Enterprise, and the officers of the Board and of the Town shall serve as the officers of the governing body of the Enterprise. The Mayor of the Town shall serve as Chairman of the Enterprise; the Town Clerk shall serve as Secretary of the Enterprise; and the Town Attorney shall serve as Attorney for the Enterprise.

Section 5. Powers of Enterprise. The Enterprise shall have and may exercise the following powers in furtherance of its purposes: to hold meetings concurrently with regular or

special meetings of the Board, to adopt ordinances and resolutions in the manner in which Town ordinances and resolutions may be adopted, to issue revenue bonds in the manner prescribed by the Act without voter approval in advance, to pledge any revenues derived or to be derived from the water functions, services, benefits or facilities of the Town or the Enterprise or any other available funds of the Enterprise to the payment of such revenue bonds and to pay such revenue bonds therefrom, to enter into contracts relating to the water system of the Town (the "System") in the manner in which Town contracts may be entered into, to make representations, warranties and covenants on behalf of the Town and to bind the Town to perform any obligation relating to the System other than any multiple-fiscal year direct or indirect debt or other financial obligation of the Town without adequate present cash reserves pledged irrevocably and held for payments in all future years, and to exercise the Town's legal authority relating to Water Activities. Notwithstanding the foregoing, the Enterprise may not levy a tax which is subject to art. X, § 20(4) of the Colorado Constitution.

Section 6. Powers Retained in Town. The Town shall continue to own the assets of the System, acquire and convey properties constituting part of the System, manage, operate and maintain the System, employ and discharge the officers, managers and employees of the System, keep books and records relating to the System, invest and manage funds, budget and appropriate revenues and expenditures of the System, award and execute contracts and make expenditures relating to the System, fix, adjust and collect water rates, fees, tolls and charges and tap fees, and prescribe rules and regulations relating to the System. The Town may also borrow money, issue bonds or enter into other financial obligations relating to the System as provided in the Colorado Constitution and statutes.

Section 7. Prior Acts. All action not inconsistent with the provisions of this Ordinance heretofore taken by the Town or its officers and otherwise directed toward the establishment of the Enterprise and the authorization of the Enterprise to have and exercise certain powers in furtherance of its purposes is hereby ratified, approved and confirmed.

Section 8. Repealer. 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.

Section 9. Severability. If any section, subsection, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability thereof shall not affect any of the remaining sections, subsections, paragraphs, clauses or provisions of this Ordinance.

Section 10. Emergency. In an effort to avoid costs associated with the delay of issuing bonds in a timely manner the Enterprise shall be established immediately. Therefore, a special emergency exists which requires the immediate passage of this Ordinance as an emergency measure, and this Ordinance is necessary for the immediate preservation of the public peace, health or safety.

Section 11. Effective Date. Notwithstanding any provision of the Municipal Code of the Town to the contrary, this Ordinance shall become effective immediately upon adoption.

INTRODUCED, READ, APPROVED AND PASSED this 2nd day of April, 2007.

TOWN OF HILLROSE, COLORADO



By: Janie S. Mills
Mayor

ATTEST:

Lynn Ann Solemboski
Town Clerk