

ORDINANCE NO. 2  
Series 2005

AN ORDINANCE OF THE TOWN OF PITKIN, COLORADO, REGARDING  
PLACEMENT AND REMOVAL OF OBSTRUCTIONS IN THE PITKIN TOWN  
DITCH

WHEREAS, Colorado Revised Statutes (2004), Section 31-15-101, et seq., authorizes a municipality to enact regulations that promote the health, safety and welfare, and improve order, comfort, and convenience of the municipality and inhabitants thereof; and

WHEREAS, Colorado Revised Statutes, Sections 31-15-101(d) and 31-15-708, authorize a municipality to own and regulate the use of real property; and

WHEREAS, The Town of Pitkin owns and has developed the Pitkin Town Ditch in order to provide water for irrigation and fire protection to the Town and its inhabitants; and

WHEREAS, The Town of Pitkin, Colorado has, pursuant to the above authority, appointed a Commissioner to maintain and manage the Pitkin Town Ditch, including the management of obstructions in the Pitkin Town Ditch; and

WHEREAS, the Board of Trustees of the Town of Pitkin, Colorado, desires to assist the Commissioner in his duties by regulating the placement and removal of man-made or other obstructions in the Pitkin Town Ditch, and to prescribe penalties for failure to adhere to the same.

NOW, THEREFORE, be it ordained by the Board of Trustees of the Town of Pitkin, Colorado, as follows:

1. **Obstruction Defined.** An obstruction, for purposes of this Ordinance, shall be defined as any object or series of objects that impedes the natural flow of the Pitkin Town Ditch. This Ordinance is intended to regulate obstructions that are purposely erected, constructed, or placed in the Pitkin Town Ditch by a person, and include, but are not limited to: rocks, rock dams, bridges, planks, and irrigation equipment.
2. **Obstruction Prohibited.** No person, being the owner, agent, or occupant of a lot or premises ("person"), shall place an obstruction in the Pitkin Town Ditch which has the effect of altering the natural flow of the Pitkin Town Ditch for more than twenty (20) feet on either side of the obstruction, e.g., upstream and downstream. In no case shall an obstruction cause the Pitkin Town Ditch to overflow its banks

at any point, nor shall an obstruction prevent the continuing flow of water downstream.

3. **Seasonal Removal of Obstruction.** In order to allow the Commissioner to clean and flush the Pitkin Town Ditch at the conclusion of the irrigation season, any obstructions erected, constructed, or placed in the Pitkin Town Ditch shall be removed from the Pitkin Town Ditch no later than October 1 of each year.
4. **Commissioner May Remove Obstruction.** Should any person place any obstruction in the Pitkin Town Ditch in violation of this Ordinance, the Commissioner or his agent shall, upon prior notice if possible in the circumstances, have the right to enter upon such person's property or premises to either bring the obstruction into compliance with this Ordinance, or to remove such obstruction, at his discretion.

Should any person fail to remove an obstruction on or before October 1 of each year, the Commissioner or his agent shall, upon prior notice if possible in the circumstances, have the right to enter upon such person's property or premises to remove such obstruction.

Failure or inability of the Commissioner or his agent to provide prior notice shall not affect the legality of the action by the Commissioner or his agent.

5. **Written Notice of Violation.** Upon the first violation of this Ordinance by any person, the Town of Pitkin, through the Commissioner or his agent, shall provide a written notice of violation to such person, which Notice may be hand-delivered or mailed to that person's last known address. Said Notice shall state that a second violation of this Ordinance shall result in a fine of \$250.00. No notice shall be necessary for any violation of this Ordinance subsequent to a second violation.
6. **Enforcement.** A second or subsequent violation of this Ordinance shall result in the imposition of the specified fine, notice of which shall either be hand-delivered or mailed to the person's last known address. The notice shall specify a deadline by which the fine must be paid, but must allow a minimum of seven (7) days from the date the notice is received until payment is due. A hand-delivered notice is received on the date of delivery. A mailed notice is deemed received three days after the notice is mailed.

The fine imposed may be paid to the Town Clerk of the Town of Pitkin, Colorado, in lieu of further proceedings or defense of such violation in court. In the event the fine is not paid by the date set forth in the notice, the matter may be referred by the Town of Pitkin to a municipal court forum for further proceedings in accordance with Municipal Court Rules of Procedure.

READ, ADOPTED AND ORDERED PUBLISHED THIS 9th, DAY OF AUGUST, 2005.

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Gary D. Pearson, Mayor

(SEAL)  
ATTEST:

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Robin M. Wilcox, Town Clerk