

## **CHAPTER 62 - UTILITIES**

Charter References- Authority to furnish utility service: Public Utilities and Services § 1.13(cc); Sewer Fees § 1.13(gg); Utility Charges, § 6.15

Cross References- Buildings and building regulations-Sec. 105; flow rate restrictions on plumbing fixtures- Sec. 105-42(a)(6)(adopting International Plumbing Code); damaging, interfering with poles, or other fixtures prohibited- Sec. 105-21.

State law reference- Adoption of ordinances, rules and regulations relating to payment for street improvements and construction of water, gas and sewer connections, O.C.G.A. § 36-39-7.

### **ARTICLE I - IN GENERAL**

#### **Sec. 62-1. Utility apparatus; diversion of services.**

- (1) It shall be unlawful for any person intentionally and without authority to destroy, damage or tamper with any meter, pipe, conduit, wire, line, post, lamp or other apparatus owned by the Town or by any company engaged in the manufacture or sale of electricity, gas, water, telephone or other public service.
- (2) It shall be unlawful for any person, intentionally and without authority, to prevent a meter from properly registering the quantity of such service supplied, or in any way to interfere with the proper action of the Town or of a company engaged in the manufacture or sale of electricity, gas, water, telephone or other public service; intentionally and without authority use or cause to be used, without the consent of the Town or such company, any service manufactured, sold or distributed by the Town or such company.
- (3) No person shall knowingly receive the benefit of acts of diversion of or tampering with electricity, gas, water, telephone or other public service without the proper charge.
- (4) Proof that any of the acts specified in this section was done on premises in possession of an accused, or that the accused received the benefit of any act, shall be prima facie evidence that the accused committed such act or aided and abetted in the commission of such act.

#### **Sec. 62-2. Penalty for violation.**

Violations of any of the provisions of this chapter shall be punishable as a misdemeanor in accordance with sections 1-10, 38-1 and 38-25.

#### **Secs. 62-3—62-25. Reserved.**

### **ARTICLE II- GAS SERVICE**

#### **Sec. 62-26. License Required.**

In addition to all other requirements and provisions of this article, it shall be unlawful for any person to engage in the business of laying gas pipes, to install gas appliances, to repair or extend gas fixtures or equipment, to make alterations or additions thereto or to otherwise engage in the business of a gasfitter within the gas system owned and serviced by the Town without being licensed.

#### **Sec. 62-27 Permit required.**

- (1) No person shall, without first securing a permit from the Town, lay or place any gas pipe or install any gas appliance or gas installation, or repair, extend, alter, change, or make any addition to any gas installation, appliance or equipment within the gas system owned by the Town.
- (2) Permit application blanks shall be furnished by the Town to all qualified gasfitters holding a certificate of qualification. Such application blanks, when completed, must give a complete description of the work to be performed, including a piping layout for heating equipment installations and the location on the premises where the installation is to be made.

**Sec. 62-28 Liability for damages.**

This article shall not be construed to relieve from or lessen the responsibility or liability of any person selling, offering for sale, owning, operating, controlling or installing any gas equipment, appliances or any party repairing, extending or changing gas equipment or equipment being converted to the use of gas burners for damages to persons or property caused by any defect therein. Nor shall the Town be held to assume any such liability by reason of the inspection or re-inspection of the premises, installation or equipment authorized in this article, or by reason of the issuance of a certificate of qualification or of an approval or any other certificate issued as provided in this article, or by reason of the approval or disapproval of any equipment which may be installed, converted, changed, repaired or extended as provided by this article.

**Secs. 62-29—62-45 – Reserved.**

**ARTICLE II -SEWER USE**

**State law reference**-Power of Town to provide storm water, sewerage collection and disposable systems, Ga. Const. Art. 9, Section, 2. Paragraph 3.

**DIVISION 1 – GENERALLY**

**Sec. 62-46. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*BOD (biochemical oxygen demand)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in parts per million (1ppm= 1 milligram per liter).

*Board* means the Town councilmen of the Town of Trion, Georgia, having jurisdiction over the maintenance and operation of the water and sanitary sewer systems within the Town of Trion, Georgia.

*Building drain* means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

*Building sewer* means the extension from the building drain to the public sewer or other place of disposal.

*Combined sewer* means a sewer intended to receive both wastewater and storm or surface water.

*Composite* means the makeup of a number of individual samples, so taken as to represent the nature of sewage or industrial wastes.

*Constituents* mean the combination of particles or conditions which exist in industrial wastes.

*Easement* means an acquired legal right for the specific use of land owned by others.

*Effluent* means the discharge flow of a treatment facility.

*Equalizing units* means those devices or structures constructed to evenly regulate either, or both, the strength and volume of wastes.

*Flammable* shall be as defined by the state fire marshal.

*Floatable oil* means oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

*Garbage* means solid wastes from the preparation, cooking and disposing of food, and from the handling, storage and sale of produce.

*Industrial user* shall be as defined by the Environmental Protection Agency.

*Industrial wastes* mean the liquid wastes from the industrial processes as distinct from domestic sewage.

*Infiltration/inflow* means any rainwater, surface water or groundwater which enters the sewage system such as a seepage or direct flow into sewer pipes, manholes, etc.

*Influent* means the wastewaters arriving at the sewage treatment plant for treatment and/or those structures associated with its initial treatment.

*Metered water* means the amount of water consumed by the sewer customer in the Town, as measured by a Town water meter, or other approved measuring device.

*Natural outlet* means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

*Normal or domestic* means those values taken as standards in the measurement of sewage strength. For the purposes of this article, these limits are defined in sections 62-213 and 62-216.

*Person, establishment or owner* means any individual, firm, company, association, society, corporation, partnership, or group, their agents, servants or employees.

*pH* means the reciprocal of the logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7.0 and a hydrogen ion concentration of 10<sup>-7</sup>.

*Pretreatment* means that physical or chemical treatment given to waste or those processes utilized for this purpose.

*Properly shredded garbage* means the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

*Public sewer* means a sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

*Receiving waters* means those waters into which wastes are discharged.

*Residential or domestic user* means a premises or person who discharges wastewaters to the Town sewers, which closely match normal sewage as to its volume and strength, and further, for billing purposes, is defined as a dwelling place or place of residence.

*Sanitary sewer* means a sewer which carries sewage and to which storm water, surface water and storm water as may be present.

*Sewage or wastes or wastewater* mean a combination of the water carried wastes from residences, business buildings, institutions and industrial establishments together with such groundwater, surface water and storm water as may be present.

*Sewage treatment plant* means any arrangement of devices and structures used for treating sewage presently owned or afterward acquired by the Town.

*Sewer* means a pipe or conduit for carrying sewage.

*Sewer department* means the Trion Sewer Department that is the operating organization working under policies and direction of the Town.

*Sewer service charge* means the charge assessed against the sewer customers by the Town that they are connected to, or have access to, the Town sewage system.

*Slug* means any discharge of water or wastewater in concentration of any given constituent or in quantity of flow exceeding for any duration longer than 15 minutes more than five times the average 24-hour concentration of flows during normal operation that adversely affects the collection system and/or performance of the wastewater treatment works.

*Standard methods* means those procedures or methods established by the latest edition of the "Standard Methods for the Examination of Water and Sewage," as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association and the Federation of Sewage and Industrial Wastes Associations, a copy of which is on file in the office of the superintendent.

*Storm sewer or storm drain* means a sewer which carries storm water and surface water and drainage, but excludes sewage and polluted industrial wastes.

*Superintendent* means the superintendent or manager of the sewerage works of the Town or his authorized deputy, agent or representative.

*Surcharge rate* means the additional service charge assessed against industries in the Town whose waste characteristics exceed those of normal sewage.

*Suspended solids* mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

*Toxic* means constituents of wastes which adversely affect living organisms, including the organism involved in sewage treatment.

*Unpolluted water* means water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

*Wastewater* means the spent water of a community. From the standpoint of source, it may be a combination of liquid and water-carried wastes from residences, commercial buildings, industrial plants, and/or institutions, together with any groundwater, surface water, and storm water that may be present.

*Wastewater treatment facilities or sewerage works or treatment works* means all facilities for collecting, pumping, treating and disposing of sewage.

*Water meter* means those devices, approved by the superintendent of the Town water system for the purpose of establishing the quantity of water consumed by a premises or person.

*Watercourse* means a channel in which flow of water occurs, either continuously or intermittently.

**Sec. 62-47. Damaging or destroying sewerage works.**

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the municipal sewerage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct of malicious mischief.

**Sec. 62-48. Right of entry of authorized employees.**

The Superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing, in accordance with the provisions of these articles.

**Sec. 62-49. Notice of violation**

Any person found to be violating any provisions of this article, except section 62-47, shall be served by the Town with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction of such violation. The offender shall, within the period of time stated in such notice, permanently cease all violations.

**Sec. 62-50. Penalty for violation**

Any person who shall violate the provisions of this article or who shall continue any violation hereof beyond the time limit stated in the notice or who shall continue any other violation beyond the time limit provided for in the notice, shall be guilty of a misdemeanor and, upon conviction thereof shall be fined in an amount not exceeding \$500.00 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

Further, any person violating any of the provisions of this article shall become liable to the Town of Trion sewer department for any expense, loss, or damage occasioned the Town sewer department by reason of such violation.

**Sec. 62-51. Compliance with state and federal regulations.**

The provisions of this article shall not be deemed as alleviating compliance with applicable state and federal regulations. Any violation of state and federal regulations may be prosecuted as a violation of this ordinance as if said resolution was adopted verbatim.

**Secs. 62-52.—62-135 - Reserved**

**DIVISION 2 - CHARGES AND BILLING**

**Sec. 62-136. Charges established.**

It is hereby determined necessary to the protection of the public health, safety, welfare and convenience of the Town, to fix and collect charges upon all premises of facilities served by sewerage connection with the sewerage of the Town.

**Sec. 62-137. Uses of proceeds.**

The revenue received from the collection of such charges, as authorized in this division together with all other revenue derived from the operation of the system shall be deposited with the municipal revenue collector and shall be used for the operation and maintenance of the sewerage systems and incidental expenses connected therewith; to pay debt requirements on revenue bonds issued to provide funds for the construction, improvement, repair and extension of the sewerage and water purification systems, facilities and appurtenances used in connection with the operation of the systems; to acquire necessary easements or the purchase of land; and to provide funds for the necessary reserves for debt and improvements.

**Sec. 62-138. Determination of amounts of sewer service charges.**

- (1) For the purpose provided in section 62-137, there is hereby charged and assessed to each premises or facility served by connection with the sewage system of the Town, or otherwise discharging sewage, industrial wastes, water or other liquids, either directly or indirectly into the sewerage system, a sewer service charge shall be assessed at the established rate.
- (2) The sewer service charge shall be based upon the quantity of water used by the premises or facility therein or thereon as the water is measured by a water meter in use, or as otherwise currently established.
- (3) Water used from private sources shall be metered as required in section 62-139 and will be figured at prevailing Town water rates and the sewer service charges.

**Sec. 62-139. Independent water supply; installation of water.**

If a lot, parcel of land, premises or facility discharging sewage, industrial waste, water or other liquids, either directly or indirectly into the Town's sewerage system, or which ultimately enters the sewerage system, is supplied, either whole or in part, with water from wells or any other source other than the Town waterworks, then such wells or other source of supply shall be registered with the Town waterworks on or before August 11, 1980, and, if the water is not metered, the owner or occupant shall, at his own cost, install and maintain a meter on the supplies in such a location and in such a manner as is satisfactory to the Town waterworks. These meters shall serve as a control for the establishment of the sewer service charge and shall be read monthly or bimonthly by members of the Town waterworks.

**Sec. 62-140. Additional meters.**

Where it can be shown to the satisfaction of the superintendent that a significant portion of the water, as measured by the meter, does not enter the sewerage system, then the superintendent may require or permit the installation of additional meters or other devices as may be deemed necessary to establish that portion that does enter the sewerage system, and the corrected meter flow will be used for billing of the sewerage service charge. All such additional facilities will be provided by the owner at the premises concerned or other interested parties at no expense to the Town.

**Sec. 62-141. Locations for payment.**

Sewer service charges and surcharges provided in this division shall be payable at the Town hall, or at other authorized locations, at the same time as the water bills for the lot, parcel of land, building, premises or facility is payable, and payments for water shall not be accepted unless payment of the sewer service charge and/or surcharge is made at the same time.

**Secs. 62-142—62-150. Reserved.**

### **DIVISION 3 - USE OF SEWERS REQUIRED**

#### **Sec. 62-151. Deposit on public or private property of excrement, garbage and other waste prohibited.**

It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the Town, or in any area under the jurisdiction of the Town, any human or animal excrement, garbage or other objectionable waste.

#### **Sec. 62-152. Discharge to outlets of sanitary sewage; industrial wastes; polluted waters prohibited**

It shall be unlawful to discharge to any natural outlet within the Town, or in any area under jurisdiction of the Town, any sanitary sewage, industrial wastes, or polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.

#### **Sec. 62-153. Construction or maintenance of private disposal system.**

Except as provided in division 3, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

#### **Sec. 62-154. Construction of sanitary sewer line; application for connection; costs and tap-on charges; owner's expense.**

- (1) The owners of the houses, buildings, or properties used for human occupancy, employment, recreation or other purposes within the corporate limits of the Town and located upon property abutting a street in which there is a sanitary sewer line are hereby required at their own expense to install suitable sanitary facilities therein. The owner shall then construct a sanitary sewer line from his house to the property line, in accordance with these specifications, and make application to the Town for a connection from the property line to the sewer line in the street within 90 days of the official notice so to do.
- (2) The owner shall pay all costs of the sanitary sewer facilities on his property as well as the sewer tap-on charge in effect by the Town at the time of the connection.

#### **Secs. 62-155—62-165 Reserved**

### **DIVISION 4 - PRIVATE SEWAGE DISPOSAL**

#### **Sec. 62-166. Required where public sanitary sewer not available.**

Where a public sanitary sewer is not available under the provisions of section 62-154, the building shall be connected to a private sewage disposal system complying with the provisions of this decision.

#### **Sec. 62-167. Permit required; application; inspection fee.**

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the Town, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the superintendent. A permit and the inspection fee as set by the Town shall be paid to the Town at the time the application is filed.

#### **Sec. 62-168. Inspection.**

A permit for private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the superintendent.

#### **Sec. 62-169. Compliance with state and other regulations.**

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the department of natural resources and the state health department. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 20,000 square feet. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

**Sec. 62-170. Direct connection to be made upon availability; abandonment and filling of private system.**

At such time as public sewer becomes available to a property served by a private sewage disposal system, as provided in section 62-154, a direct connection shall be made to the public sewer in compliance with this article, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

**Sec. 62-171. Owner maintenance required.**

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Town.

**Sec. 62-172. Additional requirements.**

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the superintendent.

**Secs. 62-173—185. Reserved**

**DIVISION 5 - BUILDING SEWERS AND CONNECTIONS**

**Sec. 62-186. Permit for use required.**

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the superintendent.

**Sec. 62-187. Classes of permits; fees.**

There shall be two classes of building permits:

- (1) For residential and commercial service, and
- (2) For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee as currently required for a residential or commercial building sewer permit and for an industrial building sewer permit shall be paid to the Town at the time the application is filed.

**Sec. 62-188. Inspection prior to connection to public sewer.**

The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer.

**Sec. 62-189. Connection costs and expenses borne by owner; tap fee.**

All cost and expense incident to the connection of the building sewer from the owner's building to the Town property line shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that me directly or indirectly occasioned by the connection of the building sewer. Any connection from the Town property line into the public sewer may be made by the Town, for which the owner shall pay the Town a standard sewer tap fee.

**Sec. 62-190. Separate sewer for each building; inspection.**

A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building, and the whole considered as one building sewer.

**Sec. 62-191. Use of old building sewers.**

Old building sewers may be used in connection with new buildings, only when they are found, on examination and test by the superintendent, to meet all the requirements of this article.

**Sec. 62-192. Size and slope.**

The size and slope of the building sewer shall be subject to the approval of the superintendent, but in no event shall the diameter be less than four inches. The slope of such four-inch pipe shall not be less than one-eighth inch per foot. No sewer line, parallel with a water line shall be laid closer than ten feet from the water line.

**Sec. 62-193. Elevation and alignment.**

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid on a grade and in straight alignment. Changes in direction shall be made only with proper fittings.

**Sec. 62-194. Lifting of sewage.**

In all buildings in which any building drain is too low to permit flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

**Sec. 62-195. Excavation requirements; pipe laying and backfill.**

All excavations required for the installation of a building sewer shall be approved by the superintendent. Pipe laying and back fill shall be performed in accordance with ASTM specifications or as otherwise provided for under applicable regulations. No backfill shall be placed until the work has been inspected.

**Sec. 62-196. Connection to public sewer.**

The connection of the building sewer into the public sewer shall be made at the Y branch, if such branch is available at a suitable location. If the public sewer is 12 inches in diameter or less, and no properly located Y branch is available, the Town shall install a Y branch in the public sewer at the location specified by the superintendent. Where the public sewer is greater than 12 inches in diameter, and no properly located Y is available, a neat hole may be cut into the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about 45 degrees. A 45 degree ell may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same or higher elevation than the center of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the superintendent.

**Sec. 62-197. Guarding of excavations.**

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

**Sec. 62-198. – No connection of downspouts or drains.**

No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater, to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the superintendent for purposes of disposal of polluted surface drainage.

**Sec. 62-199. – Connections conformity.**

The connection of the buildings were into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town, or the procedure set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight and be verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

**Secs. 62-200—62-210. Reserved**

## **DIVISION 6 - PROHIBITED MATERIALS**

### **Sec. 62-211. Prohibited waters.**

No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, cooling water unpolluted industrial process waters to any sanitary sewer.

### **Sec. 62-212. Discharge of unpolluted drainage.**

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process waters may be discharged upon the approval of the state department of natural resources to a storm sewer or natural outlet.

### **Sec. 62-213. Prohibited discharges.**

Except as provided in this article, no person shall discharge or cause to be discharged any of the following waters or wastes to any public sewer:

- (1) Storm and drainage
- (2) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (66 degrees Celsius).
- (3) Any water or waste which may contain more than 100 parts per million of fat, oil or grease.
- (4) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases.
- (5) Any garbage that has not been properly shredded.
- (6) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, tars, plastics, wood, bulk solids or any other solid waste or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works.
- (7) Any water or wastes having a pH lower than 5.5 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
- (8) Any waters or wastes containing chemical residues, textile fibers, toxic materials or other industrial byproduct in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant.
- (9) Any waters or wastes containing suspended solids or of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
- (10) Any noxious or malodorous gas or substance capable of creating a public nuisance.

### **Sec. 62-214. Grease, oil and sand interceptors-Use; specifications.**

- (1) Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease on excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be readily and easily accessible for cleaning and inspection.
- (2) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperatures. They shall be of substantial construction, watertight and equipped with easily removable covers which when bolted in place shall be gastight and watertight.

### **Sec. 62-215. Same-Maintenance.**

When installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient at all times.

**Sec. 62-216. Preliminary treatment facilities-Determination of need.**

The admission into the public sewers of any water or wastes having a five-day biochemical oxygen demand greater than 350 parts per million, containing more than 350 parts per million of suspended solids, containing any quantity of substance having characteristics described in section 62-213, or having an average daily flow greater than 5 percent of the average daily sewage flow of the Town, shall be subject to the review and approval of the superintendent. Where necessary in the opinion of the superintendent, the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the biochemical oxygen demand and suspended solids to acceptable levels, reduce objectionable characteristic or constituents to within the maximum limits provided for in section 62-213, or control the quantities and rate of discharge of such water or wastes. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the superintendent, and no construction of such facilities shall be commenced until the approval is obtained in writing.

**Sec. 62-217. Same-Maintenance.**

Where preliminary treatment facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

**Sec. 62-218. Installation of control manhole.**

When required by the superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense, and the owner at his expense shall maintain the manhole as to be safe and accessible at all times.

**Sec. 62-219. Special agreements with industrial users.**

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefor by the industrial concern.

**Secs. 62-220—62-230. Reserved.**

**DIVISION 7 - INDUSTRIAL PRETREATMENT**

**Sec. 62-231. Federal regulations shall govern.**

The Clean Water Act of 1977 (Public Law 95-217) governs industrial discharge, and specific rules for industrial pretreatment are contained in Pretreatment Regulation (40 CFR 403), as issued by the U.S. Environmental Protection Agency. Industrial users will be required to cooperate with the Town in complying with the federal regulations. The Town Industrial User Ordinance is attached as Appendix C.

**Secs. 62-232—62-250. Reserved**

**ARTICLE IV - WATER AND SEWER SERVICE**

**Sec. 62-251. Rate schedule.**

The water and sewer rate schedules for the Town shall be set from time to time by the Council and are on file and available for inspection in the Town clerk's office.

**Sec. 62-252. Application for water service.**

The consumer shall make application for water and sewer service, in person, at the Town hall, and at the same time shall make the currently required cash security deposit.

**Sec. 62-253. Charges for initial water and sewer service.**

Each consumer subscribing to use the water and sewer service of the Town shall pay currently required connection fee for water service and sewer service.

**Sec. 62-254. Minimum charges.**

The minimum charge, as provided in the rate schedule, shall be made for such connection subscribed for. Water furnished for a given lot shall be used on that lot only and, except for fire protection, the Town shall not under any condition furnish water free of charge to anyone.

**Sec. 62-255. Town's responsibility and liability.**

- (1) The Town shall run a service line from its distribution line to the property line where the distribution line exists or is to be constructed and runs immediately adjacent and parallel to the property to be served. No service charge, other than the connection fee referred to in section 62-253 will be made for a 5/8-inch x 3/4-inch meter. A proportionately greater charge than the connection fee above will be made for a meter of larger dimensions
- (2) The Town may make connections to service other properties not adjacent to its lines upon payment of reasonable costs for the extensions of its distribution lines as may be required to render such service.
- (3) The Town may install its meter at or near the property line or, at the Town's option, on the consumer's property within three feet of the property line
- (4) The Town reserves the right to refuse service unless the consumer's lines or pipings are installed in such manner as to prevent cross connections or backflow.
- (5) Under normal conditions the consumer will be notified of any anticipated interruptions of service by the Town.

**Sec. 62-256. Consumer's responsibility and liability.**

- (1) Water furnished by the Town shall be used for consumption by the consumer, members of his household and employees only. The consumer shall not sell water to any person or permit any other person to use said water. Water shall not be used for irrigation, fire protection, or other purposes, except when water is available in sufficient quantity without interfering with the regular domestic consumption in the area served. Disregard for this rule shall be sufficient cause for refusal or discontinuance of service
- (2) Where meter or meter box is placed on the premises of a consumer, a suitable place shall be provided by the consumer therefor, unobstructed and accessible at all times to the meter reader.
- (3) The consumer shall furnish and maintain a private cut-off valve on the consumer's side of the meter.
- (4) The consumer's piping and apparatus shall be installed and maintained by the consumer at the consumer's expense, in a safe and efficient manner, and in accordance with the sanitary regulations of the state health department.
- (5) In order to be received as a consumer and entitled to receive water from the Town's water system, all applicants must offer proof that any private wells located on their property are not physically connected to the lines of the Town's water system and all applicants by becoming consumers of the Town covenant and agree that so long as they continue to be on consumers of the Town they will not permit the connection of any private wells on their property to the Town's water system.

**Sec. 62-357. Access to premises and extensions of system.**

- (1) Duly authorized agents of the Town shall have access at all hours to the premises of the consumer for the purpose of installing or removing Town property, inspecting piping, reading and testing meters, or any other purpose in connection with the water service and its facilities, and the sewer service and its facilities.
- (2) Extensions to the system shall be made only when the consumer shall grant or convey, or shall cause to be granted or conveyed, to the Town a permanent easement of right-of-way across any property traversed by the water and sewer lines.
- (3) When the Town is extending its water system to new customers and the customer is bearing part or all of the expense, all of the materials (water pipes, etc.) must be purchased from the Town.

**Sec. 62-258. Change of occupancy.**

Not less than three days' notice must be given, in person or in writing, at the Town hall to discontinue water and sewer service or to change occupancy. The outgoing party specified for departure, whichever period is longer. The new occupant shall apply for water service within 48 hours after occupying the premises and failure to do so will make him liable for paying for the water consumed since the last meter reading.

**Sec. 62-259. Suspension of service.**

- (1) When water and sewer service is discontinued and all bills are paid, the security deposit shall be refunded to the consumer by the Town.
- (2) Upon discontinuance of service for nonpayment of bills, the security deposit will be applied by the Town toward settlement of the account. Any balance will be refunded to the consumer; however, if the security deposit is insufficient to cover the bill, the Town may proceed to collect the further balance in the usual way provided by law for collection of debts.
- (3) The Town reserves the right to discontinue its service without notice for the following additional reasons:
  - (a) To prevent fraud or abuse.
  - (b) Consumer's willful disregard of the Town's rules.
  - (c) Emergency repairs.
  - (d) Insufficiently of water supply u to circumstances beyond the Town's control.
  - (e) Legal processes.
  - (f) Direction of public authorities.
  - (g) Strike, riot, fire, flood. Unavoidable accident.

**Sec. 62-260. Complaints; adjustments.**

- (1) If the consumer believes his bill to in error, he shall present his claim, in person, at the Town hall before the bill becomes delinquent. Such claim, if made after the bill has become delinquent, shall not be effective in preventing discontinuance of service as heretofore provided. The consumer may pay such bill under protest and said payment shall not prejudice his claim.
- (2) The Town will make a special water meter reading at the request of a consumer for the currently required fee provided, however, that if such special reading discloses that the meter was over-read, no charge will be made.
- (3) Water meters will be tested at the request of the consumer upon payment to the Town of the actual costs of making the test, provided, however, that if the meter is found to over-register beyond three percent of the correct volume, no charge will be made.
- (4) If the seal of a meter is broken by other than the Town's representative or if the meter fails to register correctly or is stopped for any cause, the consumer shall pay an amount estimated from the record of his previous bills or from other proper data.

**Sec. 62-261 – Reserved.**

**ARTICLE V – IDENTITY THEFT PREVENTION PROGRAM**

**Sec. 62-262. Short Title**

This article shall be known as the Identity Theft Prevention Program

**Sec. 62-262. Purpose**

The purpose of this Article is to comply with 16CFR § 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and by responding to such red flags in a manner that will prevent identity theft.

**Sec. 62-264 Definitions**

For purposes of this Article, the following definitions apply:

“Town” means the Town of Trion;

“Covered Account” means

- (1) An account that a financial institution or creditor offers or maintains, primarily for person, 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;
- (2) Any other account that the financial institution or creditor 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.

“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

“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.

“Customer” means a person that has a covered account with a creditor.

“Identity Theft” means a fraud committed or attempted using identifying information of another person without their authority.

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

“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.

“Red Flag” means a pattern, practice or specific activity that indicates the possible existence of identity theft.

“Service Provider” means a person that provides a service directly to the Town.

**Sec 62-265. Findings**

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.

Covered accounts offered to customers for the provision of Town services include water, sewer, natural gas, fire and garbage.

The Town’s previous experience with identity theft related to covered accounts is as follows:

\_\_\_\_\_

The processes of opening a new covered account, restoring an existing covered account and making payments on such accounts have been identified as potential processes in which identity theft could occur.

The Town limits access to personal identifying information to those employees responsible for or otherwise involved in opening and restoring 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.

The Town determines that there is a low risk of identity theft occurring in the following ways:

- (1) Use by an applicant of another person's personal identifying information to establish a new covered account;
- (2) Use of a previous customer's personal identifying information by another person in an effort to have service restored in the previous customer's name;
- (3) 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;
- (4) Use by a customer desiring to restore such customer's covered account of another person's credit card, bank account or other method of payment;
- (5) \_\_\_\_\_.

**Sec. 62-266. Process of Establishing a Covered Account**

As a precondition to opening a covered account in the Town, each applicant shall provide the Town with the personal identifying information of the customer, including but not limited to the following:

A valid government issued identification card containing a photograph of the customer, or for customers who are not natural persons, a photograph of the customer's agent opening the account. Such applicant shall also provide any information necessary for the department providing the service for which the covered account is created to access the applicant's consumer credit report. Such information shall be entered directly into the Town's computer system and shall not otherwise be recorded.

Each account shall be assigned an account number and personal identification number (PIN) which shall be unique to that account. The Town may utilize computer software to randomly generate assigned PINs and to encrypt account numbers and PINs.

**Sec. 62-267 Access to Covered Account Information**

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

Such password(s) shall be changed on a regular basis, shall be at least eight (8) characters in length and shall contain letters, numbers and symbols;

Any unauthorized access to or other breach of customer accounts is to be reported immediately to the Mayor or Town Clerk and the password changed immediately.

Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the Mayor and/or Town Clerk and the Town Attorney.

**Sec. 62-268 Credit Card Payments**

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;

All credit card payments made over the telephone or the Town's website shall be entered directly into the customer's account information in the computers data base.

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.

**Sec 62.269 Sources and Types of Red Flags**

All employees responsible for or involved in the process of opening a covered account, restoring 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. Example 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 financial institution or creditor, such as a signature card or a recent check; or
  - (e) An application that appears to have been altered or forged, or appears to have been destroyed or 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 Numbers (SSN) has not been issued, or is listed on the Social Security Administrations 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 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, 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) Non payment 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.
  - (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 a paper account statement.
  - (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 agency 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.

**Sec. 62-270 - 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 suggest 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 Mayor and/or 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 Mayor and/or Town Clerk, who may in his or her discretion determine that no further action is necessary, a Town employee shall perform one or more of the following responses, as determined to be appropriate by the Mayor and/or 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
    - (iii) 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 twenty four (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 suggest 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 Mayor and/or Town Clerk, who may in his or her discretion determine that no further action is necessary. If the Mayor and/or 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 Mayor and/or Town Clerk:
- (a) Request additional identifying information from the applicant;
  - (b) Deny the application for new account;
  - (c) Notify law enforcement of possible identity theft, or
  - (d) Take other appropriate action to prevent or mitigate identity theft.

**Sec. 62-271 Updating the Program**

The Town Council shall annually review and, as deemed necessary by the Council, 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 Council shall consider the following factors and exercise its discretion in amending the program:

- (1) The Town's experience 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 the Town offers or maintains; and
- (5) Updates in service provider arrangements.

**Sec. 62-272 Program Administration**

The Town Clerk is responsible for oversight of the program and for program implementation. The Mayor 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 Mayor 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 Council for consideration by the Council.

- (1) The Town Clerk will report to the Mayor 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 the 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 responses; 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, restoring an existing 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.

**Sec. 62-273 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.

**ARTICLE VI – TREATMENT OF ADDRESS DISCREPANCIES**

**Sec. 62-274 Short Title**

Treatment of Address Discrepancies

**Sec. 62-275 Purpose**

Pursuant to 16 CFR § 681.1, the purpose of this Article is to establish 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 received a notice of address discrepancy.

**Sec. 62-676 Definitions**

For purposes of this article, the following definitions apply: 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.

**Sec. 62-677 Policy**

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(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

**Sec. 62-278 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 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 a 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.

**Sec. 62-279 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.

**ARTICLE VII – UTILITY ACCOMMODATION POLICY**

**DIVISION 1**

**DECLARATION OF FINDINGS AND PURPOSE, SCOPE AND DEFINITIONS**

**Sec. 62-280 Intent and Purpose**

The Town of Trion is vitally concerned with the use, construction within, and occupancy of all Rights of Way in the Town as such Rights of Way are a valuable and limited resource which must be utilized to promote the public health, safety, welfare, economic development of the Town and to protect public work infrastructure. Therefore, the Town, under the authority of the Laws and Constitution of the State of Georgia, including but not limited to Article 9, Section 1, paragraphs 2 and 3 of the Georgia Constitution, O.C.G.A. § 36-35-3 and 3 of the Georgia Constitution, O.C.G.A. § 36-35-3 and O.C.G.A. § 32-4-92(10), has adopted this ordinance for the purpose of regulating public and private entities which use the Town Rights of Way.

**Sec. 62-281 Scope**

The provisions of this Chapter shall apply to all Utilities and Facilities occupying the Rights of Way as provided herein.

**Sec. 62-282 Definitions**

For the purposes of this Chapter, the following terms, phrases, words and their derivations have the meanings set forth herein. The words "shall" and "wills" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning. References hereafter to "sections" are, unless otherwise specified, references to Sections in the Chapter. Defined terms remain defined terms whether or not capitalized.

- (1) Town means the Town of Trion, Georgia;
- (2) Codified Ordinances means the Codified Ordinances of the Town of Trion, Georgia;
- (3) Construct means, but shall not be limited to, dig, bore, tunnel, trench, excavate, obstruct, install or remove signs, or facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under or through any part of the Rights of Way. Construct shall also include the act of opening and/or cutting into the surface of any paved or improved surface that is any part of the Right of Way;

- (4) Construction means, but shall not be limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, installing or removing signs or facilities, other than landscaping or ornamental plantings, in, on, above, within, over, below, under, or through any part of the Rights of Way. Construction shall also include the act of opening, boring and/or cutting into the surface of any part of the Right of Way;
- (5) Mayor means the Mayor of the Town of Trion, Georgia, or his/her designee;
- (6) Emergency means a condition that poses a clear and immediate danger to life, health or safety of a person, or of significant damage or loss of real or personal property;
- (7) Facility of Facilities means any tangible thing, including but not limited to pipes, mains, conduits, cables, wires, poles, towers, traffic and other signals, and other equipment, appurtenances, appliances and future technology of any Utility in, on, along, over or under any part of the Rights of Way within the Town;
- (8) Facilities Representative(s) means the specifically identified agent(s)/employee(s) of a Utility who are authorized to direct field activities of that Utility and serve as official notice agent(s) for facilities related information. Utility shall be required to make sure at least one (1) of its facilities representatives available at all times to receive notice of, and immediately direct response to, facilities related emergencies or situations;
- (9) FCC means the Federal Communications Commission or any successor thereto;
- (10) Permit means an authorization which grants permission to conduct specific regulated activities on, in, over, under or within any public right of way and which may be subject to conditions specified in a written agreement with the Town or in a related provision of this Code of Ordinances;
- (11) Right(s) of Way means the surface and space in, on, above, within, over, below, under or through any real property in which the Town has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway or any other place, area or real property owned by or under the legal or equitable control of the Town, now or hereafter, that consistent with the purposes for which it was dedicated, may be used for the purpose of constructing, operating, repairing or replacing facilities.
- (12) Service(s) means the offering of any service by a Utility for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, or alternatively, the provision of any service by a Utility between two or more points for proprietary purpose to a class of users other than the general public
- (13) Service Agreement means a valid license agreements, service agreement, franchise agreement or operating agreement issued by the Town or state pursuant to law and accepting by a Utility or entered into by and between the Town and a utility, which allows such utility to operate or provide service within the geographic limits of the Town;
- (14) Street or Streets means the surface of, as well as the spaces above and below, any and all the streets, alleys, avenues, roads, bridges, tunnels and public places of the Town within the corporate limits of the Town, as the same now exist or may be hereafter extended or altered, and any location thereon, thereover or thereunder, and any portion thereof.
- (15) Transfer means the disposal by the utility, directly or indirectly, by gift, assignment, sale, merger, consolidation, or otherwise, of more than fifty percent (50%) at one time of the ownership or controlling interest in the facilities, or of more than fifty percent (50%) of Registration of such interest to a corporation, partnership, limited partnership, trust or association or person or group of persons acting in concert;
- (16) Unused facilities means facilities located in the Rights of way which have remained unused for twelve (12) months and for which the utility is unable to provide the Town with a plan detailing the procedure by which the utility intends to begin actively using such facilities within the next twelve (12) months, or that it has a potential purchaser or user of the facilities who will be actively using the facilities within the next twelve (12) months, or, that the availability of such facilities is required by the utility to adequately and efficiently operate its facilities.
- (17) Utility or utilities means all privately, publicly or cooperatively owned systems for producing, transmitting or distributing communication, data, information, telecommunication, cable television, video services, power, electricity, light, heat, gas, oil, crude products, water/sewer, stream, fire and police signals, traffic control devices and street lighting systems and housing or conduit for any of the foregoing, which directly or indirectly serve the

public or any part thereof. The term "utility" may also be used to refer to the owner, operator, utility, service, contractor or subcontractor, or any agent thereof, of any above described utility or utility facility.

## DIVISION 2

### UTILITY REGISTRATION

#### **Sec. 62-283 Registration Required**

Each utility who occupies, uses or has facilities in the Rights of Way at the time of passage of this Ordinance, including by lease, sublease or assignment, to operate facilities located in the Rights of Way, unless specifically exempted by state or federal law or this code, shall file a Registration Statement with the Department within ninety (90) days of the effective date of this Ordinance.

#### **Sec. 62-284 Registration Procedure**

The Registration information provided to the Town shall be on a form approved the Town and include, but not be limited to:

- (1) The name, legal status (i.e. partnership, corporation, etc.), street address email address and telephone and facsimile numbers of the utility filing the registration statement, (the "Registrant"). If the Registrant is not the owner of the facility in the Right of Way, the registration shall include the name, street address, email address if applicable and the telephone and facsimile numbers of the owner.
- (2) The name, street address, email address if applicable and telephone and facsimile numbers of one (1) or more facilities representatives. Current information regarding how to contact the facilities representative(s) in an emergency shall be provided at the time of filing a registration and shall be updated as necessary to assure accurate contact information is available to the Town at all times.
- (3) A copy, if requested, of the utility's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits or agreements.
- (4) A copy, if requested, of the Service Agreement, if applicable or other legal instrument that authorizes the utility to use or occupy the right of way for the purposes described in the registration.

#### **Sec. 62-285 Incomplete Registration**

If a registration is incomplete, the Mayor shall notify the Registrant and shall provide a reasonable period of time in which to complete the registration. If a registration is complete, the Mayor shall so notify the utility in writing.

#### **Sec. 62-286 Acceptance of the Registration**

Acceptance of the registration shall not convey title in the Rights of Way. Acceptance of the registration is only the nonexclusive, limited right to occupy Rights of Way in the Town for the limited purposes stated in the acceptance. Acceptance of the registration does not excuse a utility from obtaining permits required by Town ordinances nor from obtaining appropriate access or pole attachment agreements before using the facilities of others, including the Town. Acceptance of the registration does not excuse a utility from notifying the Town of construction as required herein.

#### **Sec. 62-287 Facilities in Place without Registration**

Beginning one (1) year after the effective date of this Chapter, any facilities or part of a facility found in a Right of Way for which registration is required but has not been obtained unless specifically exempted by law, and for which no valid Service Agreement exists with the Town, may be deemed to be a nuisance and an unauthorized use of the Rights of Way. The Town may exercise any remedies or rights it has at law or in equity, including but not limited to, abating the nuisance; taking possession of the facilities, evicting the utility from the Right of Way; prosecuting the violator; and/or any other remedy provided by Town ordinance or otherwise allowed in law or in equity.

## DIVISION 3

### CONSTRUCTION PERMITS

#### **Sec. 62-288 Permit Required**

It shall be unlawful for any utility to excavate or to construct, install, maintain, renew, remove or relocate facilities in, on, along over or under the public roads of the Town without a utility permit from the Town of Trion in accordance with the terms of this Chapter.

#### **Sec. 62-289 Permit Procedure**

Utility permits shall be obtained from the Mayor (or such other person as the Mayor may designate) upon application made on forms prescribed by the Town of Trion. The written application shall include the following:

- (1) The name and address of the utility;
- (2) The nature, extent and location of any work proposed to be done, along with satisfactory plans as attachments showing in detail the location of the proposed facility or operations as described in the Permit application. The plans shall show the size or capacity of facilities to be installed; their relationship to street features such as right of way lines, pavement edge, structures, etc., horizontal and vertical clearance to critical elements of the roadway and any other information necessary to evaluate the impact on the street and its operations.
- (3) The name and address of the person or firm who is to do such work;
- (4) The name, street address, email address if applicable, telephone and facsimile numbers of one (1) or more facilities representative.
- (5) The projected dates for the work to be started and finished;
- (6) An indemnity bond or other acceptable security in an amount to be set by the Town to pay any damages to any part of the Town road system or other Town property or to any Town employee or member of the public caused by activity or work of the utility performed under authority of the permit issued.
- (7) A copy, if requested, of the Registrant's certificate of authority (or other acceptable evidence of authority to operate) from the Georgia Public Service Commission and/or the FCC and any other similar approvals, permits, or agreements; and
- (8) A copy, if requested, of the service agreement, if applicable or other legal instrument that authorizes the utility to use or occupy the Right of Way for the purpose described in the application.

#### **Sec. 62-290 Permit Fees**

Fees shall be determined by the Mayor, subject to the approval by resolution of the Town Council. A fee schedule shall be available at the offices of the Mayor and the Town Clerk and open for public inspection.

#### **Sec. 62-291 Issuance of Permit**

If the Mayor determines the Applicant has satisfied the following requirements, the Mayor may issue a permit.

- (1) Whether issuing of the approval will be consistent with this Chapter; and
- (2) Whether applicant has submitted a complete application and has secured all certificates and other authorizations required by law, if applicable, in order to construct facilities in the manner proposed by the Applicant; and
- (3) The impact on safety, visual quality of the streets, traffic flow and other users of the right of way and the difficulty and length of time of the project, construction or maintenance.

**Sec. 62-292 Emergency Situations**

- (1) Each utility shall, as soon as reasonably practicable, notify the Mayor of any event regarding its facilities which it considers to be an emergency. The utility may proceed to take whatever actions are necessary in order to respond to the emergency. A utility who engages in an emergency excavation shall take all reasonable precautions to avoid or minimize damage to any existing facilities.
- (2) In the event that the Town becomes aware of an emergency regarding utility facilities, the Town may attempt to contact the affected utility or facilities representative. The Town may take whatever action it deems necessary in order to respond to the emergency, including cut or move any of the wires, cables, amplifiers, appliance or other parts of the facilities. The Town shall not incur any liability to the utility, for such emergency actions, and the cost of such shall be paid by each utility affected by the emergency.

**Sec. 62.293 Effective Period of Permit**

- (1) Each permit shall have a set commencement and expiration date based on information provided in the applicant's permit application.
- (2) The permit shall remain in place construction is completed or until its expiration date unless the utility is in default. The Mayor may give written notice of default to a utility if it is determined that utility has
  - (a) Violated any provision or requirement of the issuance or acceptance of a permit application or any law of the Town, state or federal government;
  - (b) Attempted to evade any provision or requirement of this Chapter;
  - (c) Practiced any fraud or deceit upon the Town; or
  - (d) Made a material misrepresentation or omission of fact in its permit application.

**Sec. 62-294 Cancellation for Cause**

If a utility fails to cure a default within twenty (20) working days after such notice is provided to the utility by the Town, then such default shall be a material breach and the Town may exercise any remedies or rights it has at law or in equity to terminate the following procedures shall be followed:

- (1) Town shall serve a utility with a written notice of the reason or cause for proposed termination and shall allow a utility a minimum of fifteen (15) calendar days to cure its breach;
- (2) If the utility fails to cure within fifteen (15) calendar days, the Town may declare the permit terminated.

**Sec. 62-295 Expiration of Permit**

If work is not begun within six (6) months of the date of issuance, the permit will automatically expire.

**DIVISION 4**

**REQUIRED MINIMUM STANDARDS**

**Sec. 62-296 Utility Accommodation Manual Adopted**

The 1988 Utility Accommodation Policy and Standards manual, including all references contained therein to codes, rules, regulations, schedules, forms and appendix items, except Appendix B (Permit Forms and supporting documents), promulgated by the State of Georgia Department of Transportation, as may be amended from time to time is hereby adopted by reference and incorporated in the article as if fully set forth herein, subject to the amendments and modification contained in this Chapter. A copy of the manual shall be maintained at the offices of the Mayor or his designee and open for public inspection.

Any conflicts between the provisions of this ordinance and the manual shall be resolved in favor of the manual. References to State personnel, where required, as meaning the Town of Trion municipal equivalents.

**Sec. 62-297 Protection of Traffic and Roadway**

Unless specifically in the permit, no utility may occupy the Town Rights of Way unless sufficient space is available so that the free flow and safety of traffic and other capacity considerations are not unduly impaired and the installation does not prevent the department from reasonably maintaining the streets, structures, traffic control devices and other appurtenant facilities and further provided that maintenance and operations of the facilities do not jeopardize the traffic, street structure other users of the right of way or the right of way itself.

**Sec. 62-298 Grading**

If the grades or lines of any street within the Town Right of Way are changed at any time by the Town during the term of the permit and this changes involves an area in which the utility's facilities are located, then the utility shall, at its own cost and expense and upon the request of the Town upon reasonable notice, protect or promptly alter or relocate the facilities, or any part thereof, so as to conform with such new grades or lines. In the event the utility refuses or neglects to so protect, alter or relocate all or part of the facilities, the Town shall have the right to break through, remove, alter or relocated all or any part of the facilities without any liability to the utility and the utility shall pay to the Town the costs incurred in connection with such breaking through, removal, alteration or relocation.

**Sec. 62-299 Installation of Poles or Other Wireholding Structures and Relocation**

Unless otherwise provided in a valid service agreement, no placement of any pole or wireholding structure of the utility is to be considered a vested interest in the Right of Way, and such poles or structures are to be removed, relocated underground or modified by the utility at its own expense whenever the Town determines that the public convenience would be enhanced thereby. The facilities shall be so located and installed as to cause minimum interference with the rights and convenience of property owners.

**Sec. 62-300 Blasting and Excavating**

As provided in O.C.G.A. § 25-9-6 (the Georgia Utility Facility Protection Act) and other applicable state law currently in place or as amended, no utility shall commence, perform or engage in blasting or in excavating with mechanized excavating facilities unless and until the utility planning the blasting or excavating has given forty eight (48) hours' notice by submitting a locate request to the Utility Protection Center, beginning the next working day after such notice is provided, excluding hours during days other than working days.

**DIVISION 5**

**RESTORATION OF PROPERTY**

**Sec. 62-301 Costs of Repair**

Each utility shall be responsible for the cost of repairing any facilities in the Right of Way and adjoining property or other facilities which it or its facilities damage.

**Sec 62-302 Liability**

A utility shall be liable at its own costs and expenses, to replace, restore or repair any street, facilities or property or structure thereon, thereunder, thereover or adjacent thereto that may become disturbed or damaged as a result of the construction or installation, operation, upgrade, repair or removal of the facilities to a condition as good or better than its condition before the work performed by the utility caused such disturbance or damage. If the utility does not commence such replacement or repair after twenty (20) working days following written notice from the Town, the Town or the owner of the affected structure or property may make such replacement or repair and the utility shall pay the reasonable and actual cost of the same.

## DIVISION 6

### INSPECTION

#### **Sec. 62-303 Premises Availability**

The utility shall make the construction site available to the Mayor, Building Inspector and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of the construction.

#### **Sec. 62-304 Threat Resolution**

At any time, including the time of inspection, the Mayor, Building Inspector or their designee may order the immediate cessation of any work which poses a serious threat to the health, safety or welfare of the public, violates any law, or which violates the terms and conditions of the permit and/or this Chapter or issue an order to correct work which does not conform to the permit or applicable standards, conditions or codes.

#### **Sec. 62-305 Completion**

When the construction under any permit is completed, the utility shall notify the department.

## DIVISION 7

### OTHER APPROVALS, PERMITS AND AGREEMENTS

#### **Sec. 62-306 Additional Permits Required**

The utility shall obtain all construction, building or other permits or approvals as according to Town ordinance, state or federal law. In addition, a permittee shall comply with all requirements of laws, shall complete work in a way as to not cause any unnecessary or unauthorized obstructions of sidewalks, streets, waterways or railways, and is responsible for all work done in the Right of Way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work, except in the case of an Emergency as outlined in Article II, Section 7 (B).

## DIVISION 8

### PENALTIES

#### **Sec. 62-307 Violations**

Every utility convicted of a violation of any provision of this chapter shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) per violation. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the Town may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

## DIVISION 9

### OTHER PROVISIONS

#### **Sec. 62-308 Severability**

If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any Court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

#### **Sec. 62-309 Reservation of Regulatory and Police Powers**

The Town by issuing a written approval of registration under this Chapter, does not surrender or to any extent lose, waive, impair or lessen the lawful powers and rights, which it has now or may be hereafter vested in the Town under the Constitution and Laws of the United States, State of Georgia, and the Town Charter, and under the provisions of the Town's Codified Ordinances to regulate the use of the rights of way. The utility by applying for and being issued a written permit, is deemed to acknowledge that all lawful powers and rights, regulatory power or police power or otherwise as are or the same may be from time to time vested in or reserved to the Town, shall be in full force and effect and subject to the exercise thereof by the Town at any time. A utility is deemed to acknowledge that its interest are subject to the regulatory and police powers of the Town to

adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws enacted by the Town pursuant to such powers. IN particular, all utilities shall comply with Town zoning and other land use requirements pertaining to the placement and specifications of facilities.

**Sec. 62-310 Compliance**

No person shall be relieved of its obligation to comply with any of the provisions of this Chapter by reason of any failure of the Town to enforce compliance.

**Sec. 62-311 Appeal of Administrative Decisions**

All appeals provided for by this Chapter and any notification to the Town required by this Chapter shall be in writing and sent via certified mail to the Mayor as specified in this Chapter.

**Sec. 62-312 Chapter Headings**

Chapter headings are for convenience only and shall not be used to interpret any portion of this Chapter.