



By-Laws

of

Cooke City, Park County Water District

P.O. Box 1096

Cooke City, MT 59020

Adopted August 2017

ARTICLE I. LOCATION & PURPOSE

Section 1. The principal office of the Cooke City Park County Water District (hereafter referred to as "The District") shall be located in the Town of Cooke City, Montana. The District may have other offices within the State of Montana as the Board of Directors may designate, or the business of the District may require from time to time.

Section 2. The District provides water service to consumers within the exterior boundaries of the District in accordance with these by-laws any other ordinances of the District. All persons, firms, corporations or associations utilizing water services provided by the District are considered to be its consumers.

ARTICLE II. BOARD OF DIRECTORS

Section 1. General Powers. The business and affairs of the District shall be managed by its governing body which is its Board of Directors.

Section 2. Number, Tenure and Qualifications. The number, tenure and qualifications of directors shall be in accordance with the laws of the State of Montana. Currently, there are 5 directors serving 4-year terms and a director must have a residence or own a business within the District. Each director shall hold office until the election and qualification (or appointment) of his successor.

Section 3. Regular Meetings. A regular meeting of the Board of Directors (hereafter referred to as "the Board") shall be held without other notice than this By-Law on the third Thursday of each month at the hour of 6 p.m. The Board may also provide by resolution, the time and place of the holding of additional regular meetings without other notice than such resolution. Any change of meeting time or place must be given by written or printed notice at least 48 hours prior to said meeting.

Section 4. Special Meetings. Special meetings of the Board of Directors may be called by the Board President or any two directors. The person (or persons) authorized to call special meetings of the Board shall fix the place and time of any special meeting called by them.

Section 5. Notice. Notice of any special meeting shall be given at least 3 days (72 hours) in advance by written notice delivered personally, or by email, to each director at their address on file. Any director may waive notice of any such meeting. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting . . . unless that director attends a meeting for the express purpose of objecting to the meeting because it was not lawfully called or convened.

Section 6. Quorum. A majority of the number of directors fixed by Section 2 of this Article shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

Section 7. Conduct of Business. An act of the majority of the directors present at a meeting of which a quorum is present shall be considered an act of the Board. **(a)** All legislative sessions of the Board of the Directors, whether regular or special, shall be open to the public. **(b)** The Board shall act only by

ordinance or resolution in accordance with the laws of the State of Montana. All ordinances, resolutions and amendments to these by-laws shall be signed by all Directors present. **(c)** An indicator shall follow each signature to show 'for' or 'against' an ordinance, resolution or amendment. Directors not present or abstaining shall be noted following said Director's name. **(d)** Executive Sessions will be used for legal or personal action only. **(e)** An emergency meeting may be called and conducted in person or by email for any action required which cannot be delayed for appropriate meeting notification. **(f)** Any action that may be taken by the Board at a meeting may be taken without a meeting if done by consent in writing, or by email. The consent must state the action to be taken and shall be signed by a majority of the directors before such action is pursued.

Section 8. **Vacancies.** Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors (though less than a quorum of the Board), unless otherwise provided by law. A Director appointed to fill a vacancy shall be appointed only for the unexpired term of the vacancy. Any directorship to be filled by reason of an increase in the number of directors shall be filled in accordance with the laws of the State of Montana.

Section 9. **Forfeiture of Office.** A Director shall forfeit his/her office as Director if one of the following occurs: a) He/She ceases to maintain the required qualifications under the laws of the State of Montana. b) He/She refuses to or is unable to fulfill the duties of his office. c) He/She, without good cause, fails to attend three consecutive meetings of the Board of Directors (regardless of whether such meetings are regular or special meetings) and provided that notice of said meetings were properly noticed as in Section 3, 4 and 5. Upon resolution unanimously adopted by the remainder of the Board, said Director shall be removed from office. Thereafter, the vacancy created by such forfeiture shall be filled as provided in Section 8 of this Article.

Section 10. **Compensation.** The members of the Board of Directors shall receive no compensation.

Section 11. **Presumption of Assent.** If a director of the District is present at a meeting of the Board during which action on any District matter is taken and does not object, it shall be presumed that said director has assented to the action taken . . . unless his/her dissent is entered in the minutes of the meeting, or he/she files written dissent to such action with the person acting as secretary before adjournment of the meeting. Thereafter, he/she may forward such dissent by certified mail to the secretary of the District within 24 hours following adjournment of the meeting. The right to dissent shall not apply to a Director who has already voted in favor of such action.

ARTICLE III. OFFICERS & ADMINISTRATIVE PERSONNEL

Section 1. **Number.** The officers and administrative personnel shall be a President, a Vice-President, a water operator and a bookkeeper/secretary and shall each be selected by the Board of Directors. Other officers and assistants may be selected or appointed by the Board as deemed necessary.

Section 2. **Selection and Term of Office.** The officers and administrative personnel of the District shall be selected by the Board of Directors and shall serve at the pleasure of said Board.

Section 3. **Removal.** Any officer or administrator serves at the pleasure of the Board and may be removed by the Board of Directors whenever, in its judgement, the best interest of the District will be served

by such action. Selection or appointment of any officer or administrator shall not of itself create contractual rights.

Section 4. **Vacancies.** A vacancy in any appointed office because of death, resignation, removal, or any other reason, may be filled by the Board of Directors for the unexpired portion of the term.

Section 5. **President.** The President shall be the principal officer of the Board of Directors. He/she shall, when present, preside at all District meetings and shall sign all instruments or documents that have been authorized by the Board. However, the Board may delegate the signing and execution of a document to another agent of the District; or a document may be required by law to be otherwise signed or executed. In general, he/she shall perform all duties incident to the office of President and any other such duties as may be prescribed by the Board of Directors from time to time.

Section 6. **Acting President.** In the absence of the President, or in the event of his or her inability (or refusal) to perform the duties of the office, the Vice President shall perform the duties of the President. When so acting, the Vice President shall have all the powers of and be subject to all restrictions upon the President. The Acting-President shall perform such other duties as may be assigned to him/her by the Board of Directors from time to time.

Section 7. **Bookkeeper/Secretary.** The Bookkeeper/Secretary shall: **(a)** keep the minutes of the Board of Directors in one or more books provided for that purpose; **(b)** see that all notices are duly given in accordance with the provisions of these By-Laws, or as required by law; **(c)** be custodian of the District records and of the seal of the District and see that the seal of the District is affixed to all documents . . . the execution of which is duly authorized; **(d)** keep a register of the mailing address of each consumer which is furnished to the Secretary by such consumer; **(e)** countersign with the President, any contracts, documents or instructions of the District which shall have been authorized by resolution of the Board of Directors; **(f)** have general charge of the accounts and books of the District; **(g)** prepare and mail District consumer accounts and bills for water services as directed by resolution of the Board; **(h)** draw warrants to pay demands made against the District as approved by a majority of the Board of Directors; and **(i)** in general, perform all duties incident to the office of Bookkeeper/Secretary, or as outlined in an approved job description. Other duties may be assigned by the President or by the Board of Directors from time to time.

Section 8. **Water Operator.** The Water Operator shall: **(a)** have charge of and control of the maintenance, operation and construction of all works and systems of the District, **(b)** have power and authority to employ and discharge assistants upon approval of the Board of Directors, **(c)** report to the Board of Directors in monthly meetings and as requested from time to time; and **(d)** perform such other duties as may be assigned by the Board of Directors from time to time, or as outlined in an approved job description.

Section 10. **Salaries.** The salaries of the Bookkeeper/Secretary, Water Operators and any others shall be fixed from time to time by the Board of Directors. Directors shall receive no salary or other compensation. Directors may, however, receive reimbursements for business-related travel as allowed by law.

ARTICLE IV. CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. **Contracts.** The Board of Directors may, by resolution, authorize the President and Bookkeeper/Secretary to enter into any contract, or execute and deliver any instrument, in the name of and on behalf of the District, and such authority may be general or confined to specific instances.

Section 2. **Loans.** No loans shall be contracted on behalf of the District and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors.

Section 3. **Checks, Drafts, etc.** All warrants (or other orders) for the disbursement of funds issued in the name of the District shall be signed by the President and Bookkeeper/Secretary, or one other director of the District. Claims must be duly executed by the claimant, and approved by at least a majority of the Board of Directors. In the event of the absence of the President or Bookkeeper/ Secretary and by resolution, the Acting President shall be designated to countersign checks, drafts, etc.

Section 4. **Deposits.** All funds of the District shall be deposited in a timely manner to the credit of the District in bank accounts established and approved by the Board of Directors for such purpose(s).

ARTICLE V. FISCAL YEAR

The fiscal year of the District shall begin on the 1st day of July and end on the 30th day of June in each year.

ARTICLE VI. CORPORATE SEAL

The Board of Directors shall provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the District, the state of incorporation and the words, "Corporate Seal".

ARTICLE VII. WAIVER OF NOTICE

Unless otherwise provided by law, whenever any notice is required to be provided to any director of the District under the provisions of these By-Laws, a written waiver signed by the person (or persons) entitled to such notice, shall be deemed equivalent to the giving of such notice, whether signed before or after the time stated on the notice.

ARTICLE VIII. POWERS & SEVERABILITY

Section 1. The District's Board of Directors shall have (and exercise) any and all powers granted to them by the laws or administrative rules of the State of Montana, now or hereafter enacted. Any by-law of this District that is inconsistent with any law or administrative rules of the State of Montana shall be deemed amended to comply with said law or administrative rule.

Section 2. If any by-law, rule, regulation or ordinance of the District is declared invalid, that fact shall nevertheless not affect the validity or enforceability of any remaining by-laws, rules, regulations or ordinances duly adopted or enacted by the District or its governing body.

ARTICLE IX. AMENDMENTS

These By-Laws may be altered, amended or repealed. or new by-laws may be adopted, by the Board of Directors at any duly noticed regular or special meeting of the Board of Directors.

ARTICLE X. WATER SERVICES

The following shall govern water services provided to District consumers.

Section 1. **(a)** No person, firm, corporation, business or resident shall hookup or connect any type of tap, pipe, service line, valve, or other appliance onto the distribution system owned by the District for the purpose of securing water services without the approval of the Board. **(b)** The District, upon being advised of any intended connection to the water system owned by the District, shall promptly determine whether or not said connection can be made without diminishing service to those consumers presently connected to the water system. Should the District determine that a diminishing of service will occur if the connection is made, the District shall deny the connection. Thereafter, the connection shall not be permitted until such time as the majority of the Board of Directors are satisfied that the connection can be made in some alternate manner so as not to diminish water service to existing consumers. **(c)** Each person, firm, corporation business or resident requesting connection to the water system, shall provide the following information and shall submit same to the Board of Directors for prior approval. 1) name and mailing address of consumer 2) name and mailing address of property owner of record 3) physical location of the property to be served 4) nature of the service to be provided by the District 5) type of consumer receiving the service (*i.e. whether residential or commercial and size*)

Section 2. The ownership and control of the water mains and laterals laid in the streets, roads, alleys or on land for which an easement has been granted to the District are owned by the District and are under the control of the District. The District may at its discretion determine which lines are mains and laterals and which are service lines.

Section 3. The property owner shall at his/her own expense install and own the service lines and is responsible for the installation, care, maintenance and replacement thereof to the curb stop on the water main.

Section 4. All expenses (including labor and materials) of installation, repairs and upkeep of pipes, service lines, valves, water boxes and other necessary accessories for customer connections with the water main in the street, road or alley shall be paid by the owner of the property served. No connections shall be made between October 1 and May 1 except by Board approval based on weather and other conditions. All service lines 2" or larger in diameter shall be installed per main specifications in the appendix.

Section 5. **(a)** A property owner /customer shall not connect his service line with (or dig to) the water main or lateral in the street, road, alley or easement except by permission of the District. **(b)** All expenses incurred by the District in making such connection or connections with water main or lateral including inspection, tapping, witness testing , etc., shall be paid by the owner of the property connecting with the water main or lateral. **(c)** Only a District employee or licensed plumber shall be permitted to make the tap on the main or lateral. **(d)** Any individual or contractor working within the public right-of-way or District easement shall be licensed and bonded for such work as required by the District and/or other authority having jurisdiction. Proof of insurance must be submitted to the District and any other authority having jurisdiction prior to performing the work.

Section 6. (a) All expenses of operation and upkeep of the water system of the District, including the mains or laterals in the streets, roads, alleys and land for which an easement has been granted the District, shall be paid by the District. Expenses incurred for the benefit of property owners shall be reimbursed by the owners of the property or properties served.

Section 7. The language contained in Section 6 shall not prevent the Directors or land owners from instituting special improvement district proceedings wherein the property is assessed in accordance with the benefit received.

Section 8. (a) All water service provided to consumers shall be metered. Water meters (including all necessary accessories) will be furnished and installed by the District and paid for by the consumer before water is turned on under the direction of the District. Meters will be installed outside or inside, of dwellings or buildings at the discretion of the District. If meters are installed inside a building they must be capable of being read from outside the structure. Ownership and title to the meters will remain with the District. **(b)** In order to promote life safety and property conservation, all fire sprinkler lines shall be unmetered and used solely for fire protection. The building owner shall agree, in writing, to the following stipulations:

1. The fire line shall have no domestic taps or be used for any other purpose.
2. The fire sprinkler system shall have an outside water flow alarm and a detector type check valve installed.
3. The fire sprinkler system shall meet all applicable codes and other requirements by authorities having jurisdiction.
4. The District or its delegate shall have the right to inspect for illegal taps during normal business hours.
5. The owner acknowledges that the fire sprinkler line is unmetered and may be used solely for fire protection. The owner also acknowledges that any other use of said line constitutes unauthorized use and that the owner can and will be charged with the criminal offense of theft for the unauthorized use. The owner further acknowledges that, if convicted of theft, he could face punishment of \$500.00 fine and/or 6 months in jail.
6. The above shall not apply to one and two family dwellings and mobile homes, as defined in N.F.P.A. 13D. The piping arrangement for those dwellings shall conform to N.F.P.A. 13D-A-2-2©, 87 edition. See attached appendix.

Section 9. **(a)** Any water meter that is found to be not registering correctly will be removed for inspection under the direction of the District. If found to be defective, the meter will be repaired or replaced at the expense of the District. **(b)** If found defective due to tampering or negligence on the part of the property owner or lessee, the costs of removing and reinstalling the meter, plus the costs of a new meter (if needed) will be charged to the property owner/customer. A penalty will be assessed at twelve times the base rate plus cost of a new meter.

Section 10. All water service lines leading from the mains or laterals shall be laid not less than six (6) feet beneath the surface of the ground and must be inspected by the District before the service is covered. See attached appendix.

Section 11. When a party, or parties, petition the District to have property annexed to the District, the Board of Directors may establish, within their power, any prerequisite or subsequent requirement as a condition to the annexation of said property to the District.

Section 12. All water services lines shall be kept in repair by the property owner. The location and access to curb boxes will be the responsibility of the property owner. All water services shall be boxed at the property line and any water service line that is broken and left unrepaired shall be shut off until such repairs are made. Water mains and laterals are not considered services lines. The District reserves the right to use the curb stop to enforce District policy.

Section 13. The service month extends from the first day of one month up to (but not including) the first day of the next month.

Section 14. Any property owner shall have the right to temporarily discontinue water service upon notifying the District in writing to that effect. Subsequently, the District shall, within two working days, shut off the water connection to the property involved. Such discontinuation of service shall not relieve the property owner of his liability to pay all accrued water charges to the first day of the following month, or for any unpaid amount of water consumed as shown by a meter reading. Thereafter, no charge except for the minimum rate shall be made against such property for water service until the water service is again restored to said property. If the meter is installed in such a manner as to make it impossible to drain the house or property without removing the meter, a charge may be made for that service. Any subsequent damage incurred during a temporarily discontinued service is the responsibility of the property owner.

Section 15. The Board of Directors shall have the right to demand a deposit in any amount as they may deem necessary before turning water on to any property to insure the payment of water charges as they become due. Said deposit will be returned to the depositor when the service has been discontinued, and all accrued charges have been paid.

Section 16 – **(a)** All water charges are payable at the office of the District Clerk on or before thirty (30) days after the date of the monthly statement. If not paid, the account will be considered as delinquent and an interest charge of twelve (12%) percent per annum will be added to the past due amount(s) until paid. In the event that the account becomes more than 60 days in arrears, a warning notice will be sent advising that shut-off of service is imminent if the past due balance is not paid by a designated date. If the customer still neglects or refuses to pay, a registered letter will be sent requiring payment of the account in full by an established shut-off date and a \$35 processing fee will be added to the account. **(b)** If the account is not paid and water service is shut off, the full amount will be added to the customer's real estate tax bill as an arrears item by August 31st of the next billable tax year and, by law, the county sanitarian must be notified. **(c)** In order to have water service turned back on, the entire amount due plus a \$500 re-connection fee must be paid before August 31st of the given year. Prior to that date, the account may be settled and the fee paid directly to the District Clerk. After that date, the account balance must be paid to the county treasurer and the reconnect fee paid directly to the District Clerk. **(d)** The Board of Directors shall be authorized to utilize (in addition to the foregoing) any liens, suits, actions, or other remedies authorized by law or in equity to collect delinquent water accounts, fees, charges, taxes, or rents for water service provided. **(e)** Account changes due to the sale of a property cannot take place until the District Clerk is duly notified of the change in ownership and the exact date of sale can be established. Upon verification of new ownership,

the water service charges for the month in which the date of sale took place may be prorated between the previous and new owners and an account for the new customer shall be created. (f) No change of property ownership or occupancy shall affect the application of this section.

Section 17. No person, firm or corporation shall furnish water service to any other person, business or property within the exterior boundaries of the District without first obtaining a permit to do so from the District. In the event of a violation, the violating party shall pay double the minimum charge as per classification and in addition the Board of Directors may, at their discretion, turn the water off, for which a charge of \$250.00 for turning on the water will be made.

Section 18. **(a)** Water shall not be wasted and it shall be a violation for any water user to permit any unnecessary waste of water due to leaking service lines or fixtures. In the event of any violation, the District is empowered to turn the water off, and a charge of \$100.00 for turning the water back on will be made. **(b)** The customer /property owner is responsible for timely repair to the service lines or fixtures. Upon written notification from the District, the customer/property owner has fourteen (14) calendar days to make the necessary repairs or arrange to make repairs with the District. If the District makes the repairs to the service lines, all incurred cost plus 15% shall be paid by the customer/property owner. **(c)** Emergency repairs - In situations determined to be an emergency by the District, water service may be temporarily shut off without notification in order to make necessary repairs. All costs incurred which fall within the responsibility of a customer/property owner shall be paid by said customer/property owner, including a 15% administration fee.

Section 19. It shall be a violation for any person or persons to open or shut any main without permission of the District or to tamper with or injure any line, main, lateral, valve or other appurtenance. Any violation thereof shall be subject to a \$250.00 assessment plus the cost of repairs and 15% administration fee. Violators may also be subject to criminal prosecution.

Section 20. Permanent Service Disconnect - All requests for permanent disconnection must be made in writing by the property owner (or authorized representative) and be accompanied by a legal description of the property. The point of disconnect will be left to the discretion of the Cooke City-Park County Water District. The Property owner will pay all the expenses incurred by the Water District plus a 15% administrative fee. Any future reconnection will come under the guidelines of new service application.

Section 21. Each premise shall be supplied through an independent service line from a separate curb stop, curb box and single meter, unless otherwise approved by the District in writing.

Section 22. The minimum rate for any property will be paid twelve months of the year whether occupied or vacant, and regardless of whether water is turned on or off.

Section 23. A customer's entire service line must be kept and maintained in good condition and free from all leaks and defects at the customer's cost and expense. Failure to do so may result in disconnection of water services.

Section 24. In all cases where a meter is installed, the customer must furnish proper protection from frost or other damage, and the meter must be located where it is easily accessible for reading proposes and repairs. Where necessary for protection, a standard form of meter box (as specified by the District) must be purchased and installed by the customer. After such receptacle is placed, the District will connect the meter and maintain the meter and readout in good condition. See attached appendix.

Section 25. **Frozen Service Line.** The District presumes that, when a customer's service line is frozen, such freezing is the customer's responsibility and the customer shall bear the cost of thawing the line. No claim shall be made against the District for service lines bursting or dislocating due to freezing. Expenses incurred to repair or replace any such damage shall be paid for by the owner.

Section 26. Owners, agents and tenants are required to familiarize themselves with the location of the premise drain valves which should be installed in such a manner as to drain the entire system of the building, thereby preventing pipes from freezing and bursting. The owner shall be made aware that the shutting off of the water at the curb stop will not drain the service line or interior piping system.

Section 27. In case of a water emergency (fire, draught, major service interruption), the use of water for fountains, watering lawns, and other non-essential use is prohibited until the water emergency no longer exists. Failure to comply will result in the shutting off of service to the property deemed to be in violation and a turn-on charge of \$250.00 will be assessed after the emergency has passed. Water to be used for food preparation, drinking, cooking and sanitation is permitted.

Section 28. Only persons authorized by the District are allowed to open, close, turn, interfere with or connect to any fire hydrant, valve or appurtenance belonging to the District.

Section 29. The District may replace any meter at such time as it may see fit and shall be the judge of the size and make of any meter installed. In case of a dispute as to the accuracy of a meter, the consumer, upon depositing the estimated cost of making a test, may demand that the meter be removed and tested as to accuracy in said customer's presence. In a case where the meter is found to be registering correctly (or against the consumer), the cost of such testing and replacing of the meter shall be borne by the consumer. In a case where the meter is found to be recording incorrectly (or in favor of the consumer), the amount deposited by the consumer will be refunded and a reasonable adjustment made for overcharges for a period not exceeding sixty (60) days previous to the date of the demand of the consumer for a test to be made.

Section 30. If a meter is found to be not recording the consumption of water properly for any reason, the District may average the amount due for the current month, using the past two months as a basis for such average. When a condition is identified, the District will correct the problem as soon as practical.

Section 31. **Access to Property.** The District shall, at all reasonable times, have access to meters and service connections on customer's premises for the purpose of maintenance and inspection. Where written notice by the District has been given, neglect or refusal on the part of customers to provide reasonable access to their premises for the above purposes shall be deemed to be sufficient cause for discontinuance of service on part of the District and reconnection fees shall apply.

Section 32. **Continuity of Service.** The District shall make reasonable effort to avoid interruption of service, and when such interruptions occur, shall establish service with reasonable diligence. The District shall not be liable to the customer for failure or interruption of water service due to acts of God, governmental regulations, court or commission orders, acts of the public enemy, strikes (or labor difficulties), accidents, weather conditions, vandalism, draughts, or any other cause beyond the reasonable control of the District.

Section 33. An approved backflow prevention device must be placed between any potential point of contamination and the District water supply to prevent cross-connection and contamination of the waters system as referenced in current Uniform Plumbing Code, Uniform Mechanical Code or Department of Health and Environmental Sciences, whichever is most restrictive.

Section 34. **Extension of Main.** Section 75-6-112(4) M.C.A., requires a report with necessary maps, plans and specifications be forwarded to the Department of Health and Environmental Sciences (Water Quality Bureau) for its approval of any extension of water main. The District shall approve or disapprove feasibility by determining whether the main extension is in the best interest of the District. Such extension shall be paid for by the property owner(s) for which such main extension is made, or from a special improvement district duly created for such purpose. No funds of the Water District (or of the general fund) shall be used for the purpose of extending existing water mains in the District unless such extension is for fire hydrants or other service benefits attributable to the District.