

2504

ORDINANCE NO. 36A

AN ORDINANCE CONCERNING WATER RIGHTS TO, AND THE USE OF, WATER FROM THE OGALLALA AQUIFER; REQUIRING DEEDED WATER RIGHTS IN CONNECTION WITH WATER SERVICE CHANGES; REGULATING WELL CONSTRUCTION; REPEALING CONFLICTING ORDINANCES; AND ESTABLISHING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

WHEREAS, the State of Colorado has enacted Senate Bill 5, effective July 1, 1985, concerning ground water, and making an appropriation in connection therewith, and

WHEREAS, the Board of Trustees finds that it is prudent for the Town of Stratton to increase its water supply and water rights to meet the present and future needs of the residents, land owners, business owners, and other water consumers in the Town, and

WHEREAS, the water appropriated, through the provisions of Senate Bill 5, can be appropriated, diverted, and beneficially used for consumption and general use by the public within the boundaries of the Town of Stratton, for the irrigation of Town property, for the fighting of fires, for use in a plan for augmentation to develop water for such uses, and for other municipal purposes as deemed appropriate by the Board of Trustees, and

WHEREAS, the Board of Trustees finds that it is in the best interest of the residents of the Town and the general public, to protect the ground water resources below the Town from depletion and possible contamination caused by the drilling of private wells into said aquifer, and to prevent interference with the municipal use of said water and water rights.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF STRATTON, COLORADO, that:

1. The Town of Stratton hereby claims, appropriates, and incorporates into its municipal service plan, all right, title, and interest in, and to, ground water and water rights in the Ogallala aquifer (hereinafter referred to as "said aquifer") underlying all lands within the boundaries of the Town of Stratton (hereinafter referred to as "the Town") as those boundaries existed on January 1, 1985, except that this ordinance does not apply to:

- a) ground water that has been conveyed or reserved, or where consent to use such ground water has been given or reserved in writing prior to January 1,

1985, to anyone other than the Town, and where such conveyance, reservation, or consent has been properly recorded in the records of Kit Carson County prior to August 31, 1985;

- b) ground water underlying land where water service is not reasonably available from the Town and no plan has been established by the Town allowing the landowner to obtain an alternative water supply;
- c) ground water where the consent to use such ground water has been given to anyone other than the Town by the lawful effect of an Ordinance or resolution adopted prior to January 1, 1985;
- d) ground water that has been decreed or permitted to anyone other than the Town prior to the effective date of this ordinance; or,
- e) ground water underlying land where water service is not being provided by the Town as of the effective date of this Ordinance, and such ground water is the subject of an application for determination of a right to use ground water filed in the water court prior to July 1, 1985.

2. Any person who applies for water service, or a change in water service, from the Town's water system shall, as part of the application and as part of the consideration thereof, tender to the Town a properly executed deed conveying to the Town the water and water rights in said aquifer underlying the lands to which service is requested, and warranting that he/she has not conveyed his/her interest in such water, water rights, or the consent to use or withdraw ground water underlying such lands, has not been conveyed to other persons or entities.

3. No person may withdraw ground water subject to this Ordinance, or drill, or otherwise construct a well, for the purpose of withdrawing ground water subject to this ordinance, except as specifically allowed by the water court of the State of Colorado.

4. If any part or parts of this Ordinance are, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof, irrespective of the fact that any one part or parts be declared invalid.

5. All Ordinances, or parts of Ordinances, of the Town that are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

6. The Board of Trustees deems this to be an emergency

ordinance and needed for the immediate preservation of the public health, safety and welfare.

7. The effective date of this Ordinance is the 25th day of September, 1985.

INTRODUCED BY BOARD OF TRUSTEES MEMBER Donald Peters,
SECONDED BY BOARD OF TRUSTEES MEMBER Pal Hornung,
AND UNANIMOUSLY ADOPTED AND DECLARED AN EMERGENCY BY THE BOARD OF
TRUSTEES OF THE TOWN OF STRATTON, COLORADO, THIS 12th DAY OF
September, 1985.

Mayor

ATTEST:

Jackie L. Garrett
Town Clerk

APPROVED:

Attorney