

TOWN OF LARKSPUR

ORDINANCE NO. 5.14

AN ORDINANCE TO EFFECT IMPLIED CONSENT TO USE  
NON-TRIBUTARY WATER UNDERLYING LANDS LOCATED  
WITHIN THE TOWN OF LARKSPUR, COLORADO

WHEREAS, the Town of Larkspur, Colorado is a municipal corporation with its principal place of business located at <sup>952Y</sup>~~9425~~ Spruce Mountain Road, Larkspur, Colorado, 80118; and

WHEREAS, the Town is obligated either by law or by contract in effect prior to January 1, 1985, to be the principal provider of public water service to landowners within the boundaries of the Town in existence on January 1, 1985; and

WHEREAS, the general assembly of the State of Colorado has enacted an act entitled Senate Bill No. 5, which enactment was signed by the governor of Colorado on June 6, 1985, and which enactment takes effect on July 1, 1985. This act (Senate Bill No. 5), recognizes that economic considerations generally make it impractical for individual landowners to drill wells into aquifers containing non-tributary water supplies where municipal or quasi-municipal water service is available and that the public interest justifies the use of such ground water by municipal or quasi-municipal water suppliers under certain conditions; and

WHEREAS, Larkspur Town Ordinance No. 5.07 prohibits the use of private wells except on certain terms and conditions as more specifically set forth in Ordinance No. 5.07; and

WHEREAS, the Town has adopted rules, regulations and policies to reasonably make available water service to any portion of land lying within the boundaries of the Town as of January 1, 1985, and

that such rules, regulations, policies and procedures meet the requirements of subparagraph a. of paragraph 8 of Senate Bill No. 5; and

WHEREAS, prior to January 1, 1985, ground water from the Dawson, Denver, Arapahoe, Laramie-Fox Hills, or Dakota aquifers within the boundaries of the Town of Larkspur on January 1, 1985, was not conveyed or reserved nor was consent to use such ground water given or reserved in writing to anyone other than the Town of Larkspur, except as may be shown by documents properly recorded prior to August 31, 1985; and

WHEREAS, consent to use ground water from the Dawson, Denver, Arapahoe, Laramie-Fox Hills, or Dakota aquifers within the boundaries of the Town of Larkspur was not given to anyone other than the Town of Larkspur by the lawful effect of an ordinance or resolution adopted prior to January 1, 1985, except as may be shown by documents properly recorded prior to August 31, 1985; and

WHEREAS, ground water from the Dawson, Denver Arapahoe, Laramie-Fox Hills or Dakota aquifers within the boundaries of the Town of Larkspur on January 1, 1985, has not been decreed or permitted to anyone other than the Town of Larkspur or persons contractually obligated to the Town of Larkspur to convey such decree or permit to the Town of Larkspur prior to the effective date of this ordinance; and

WHEREAS, the Town of Larkspur meets the conditions and requirements set forth in Section 37-90-137(8), Colorado Revised Statutes (effective July 1, 1985), and it is in the interest of the Town of Larkspur and its inhabitants and customers to obtain the

benefits of said Section 37-90-137(8).

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LARKSPUR COLORADO as follows:

SECTION I

All waters from the Dawson, Denver, Arapahoe, Laramie-Fox Hills, or Dakota aquifers underlying all of the lands within the municipal boundaries of the Town of Larkspur in existence on January 1, 1985, is incorporated into the actual municipal service plan of the Town of Larkspur. Upon the effective date hereof, which is August 28, 1985, the owners of land which overlie ground water from the Dawson, Denver, Arapahoe, Laramie-Fox Hills, or Dakota aquifers within the municipal boundary of the Town of Larkspur, Colorado, on January 1, 1985, shall be deemed to have consented to withdrawal of all such ground water by the Town of Larkspur, subject to existing contractual agreements.

The Town Clerk shall immediately file a detailed map of the land area as to which consent is deemed to have been given with the State Engineer.

SECTION II - SEVERABILITY


In the event any provision hereof is deemed to be illegal or void for any reason by final order of any court of competent jurisdiction, it is hereby determined that such provision is severable and therefor all remaining provisions and portions hereof shall remain in full force and effect.

SECTION III - EMERGENCY

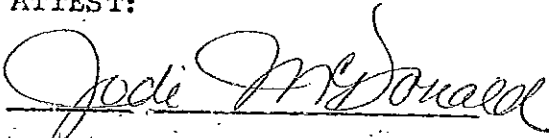
This ordinance is hereby declared necessary for the immediate preservation of the public peace, health, safety and welfare of the citizens of the Town of Larkspur because the need to comply with the provisions of Senate Bill No. 5 and to put all ground water beneath the Town of Larkspur to beneficial use. Therefore this ordinance shall be in full force and effect immediately following adoption by the Town Council.

SECTION IV - EFFECTIVE DATE

Adopted at a regular meeting of the Town Council of the Town of Larkspur, Colorado on the 28<sup>th</sup> day of August, 1985, passed by a vote of 6 for and 0 against and ordered published.

  
Ann Trueblood, Mayor  
Town of Larkspur

ATTEST:

  
Jodi McDonald  
Town of Larkspur