

KREMMLING SANITATION DISTRICT

BYLAWS

ARTICLE I **GENERAL**

1.1 AUTHORITY. The Kremmling Sanitation District (the “District”) is a governmental subdivision of the State of Colorado and a body corporate with those powers of a public or quasi-municipal corporation that are specifically authorized by, and in compliance with, C.R.S. 32-1-101 through 1605, as amended.

1.2 PURPOSE. The purpose of these Bylaws is to provide for the control, management and operation of the Kremmling Sanitation District.

1.3 SCOPE. These Bylaws shall be treated and considered as new and comprehensive, and shall supersede all prior Bylaws of the District.

1.4 INTENT OF CONSTRUCTION. It is intended that these Bylaws shall be liberally construed to effect the general purposes set forth herein, and that each and every part thereof is separate and distinct of all other parts. No omission or additional material set forth in these Bylaws shall be construed as an alteration, waiver, or deviation from any grant of power, duty or responsibility, or limitation or restriction, imposed or conferred upon the Board of Directors (the “Board”) by virtue of statutes now existing or subsequently amended, or under any contract or governmental entity. Nothing contained herein shall be so construed as to prejudice or affect the right of the District to secure full benefit and protection of any law which is now enacted or may be subsequently enacted by the Colorado General Assembly pertaining to the governmental or propriety affairs of the District.

1.5 AMENDMENTS. These Bylaws may be amended, altered, repealed or re-enacted at any regular or special meeting of the Board. Prior notice of such amendments shall not be required to be provided by the District.

1.6 INVALIDITY. If any section, subsection, paragraph, clause or other provision of these Bylaws shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions.

1.7 DISTRICT OFFICE. The principal place of business shall be located at the Kremmling Town Hall, 200 Eagle Avenue, Kremmling, Colorado 80459. The District’s mailing address shall be Post Office Box 538, Kremmling, Colorado 80459. The Board of Directors, in its judgment, may locate, designate and relocate its business office.

ARTICLE II **ELECTIONS**

2.1 BOARD TO CONDUCT ELECTIONS. The Board shall govern the conduct of all regular and special elections of the District and shall render all interpretations and make all decisions as to controversies or other matters arising in the conduct in the elections. The Board, in its discretion, but no more frequently than every four years, may re-establish the boundaries of Director Districts created pursuant to §32-1-301(2)(f) C.R.S., if any, so that the Director Districts have, as nearly as possible, the same number of eligible electors.

2.2 All powers and authority granted to the Board for the conduct of regular or special elections may be exercised in the absence of the Board by the Secretary or by an Assistant Secretary appointed by the Board. The person named by the Board who is responsible for the conducting of the election shall be the designated election official.

2.3 CALL FOR NOMINATIONS. Not less than seventy-five (75) days nor more than ninety (90) days before a regular District election, the designated election official shall provide notice by publication of a call for nominations for the election. The call shall state the District Director offices to be voted upon at the election, where a self nomination and acceptance form may be obtained, the deadline for submitting the self nomination and acceptance form to the designated election official, and information on obtaining an absentee ballot.

2.4 CANIDATES FOR DIRECTOR.

2.4.1 Not less than sixty-seven (67) days before the date of the regular District election, any person who desires to be a candidate for the office of a District Director shall file a self nomination and acceptance form or letter signed by the candidate and by a registered elector as a witness to the signature of the candidate.

2.4.2 On the date of signing the self nomination and acceptance form or letter, a candidate for Director shall be an eligible elector of the District. If the District is divided into Director Districts established pursuant to §32-1-301(2)(f) C.R.S. The candidate shall be an eligible elector within the boundaries of the Director District in which the candidate is running for office.

2.4.3 A self nomination and acceptance form that is not sufficient may be amended once at any time prior to 3 p.m. on the sixty-seventh (67th) day before the election.

2.4.4 The self nomination and acceptance form or letter shall state the name of the District in which the election will be held, the District Director office sought by the candidate, the term of office sought if more than one length of a Director's term is to be voted upon at the election, the date of the election, and the full name of the candidate as it is to appear on the ballot. Unless physically unable, all candidates and witnesses shall sign their own signature and shall print their names, their respective residence addresses, including the street number and

name, the city or town, the county, telephone number, and the date of signature on the self nomination and acceptance form or letter.

2.4.5 The self nomination and acceptance form or letter shall be filed with the designated election official or, if none has been designated, the presiding officer or the Secretary of the Board.

2.4.6 The self nomination and acceptance form or letter shall be verified and processed substantially as provided in §1-4-908, C.R.S. A protest on such a form or letter shall be determined substantially as provided in §1-4-909 and §1-4-911, C.R.S. Cure of such a form or letter shall be allowed substantially as provided for in §1-4-912, C.R.S.

2.5 DATE OF ELECTIONS.

2.5.1 Regular District elections shall be held on the Tuesday succeeding the first Monday of May in every even numbered year.

2.5.2 Special elections may be held on the first Tuesday after the first Monday in February, May, October, or December, except for ballot issue elections, which may be held only in a State general election, biennial local District election, or on the first Tuesday in November of odd number years.

2.5.3 Whenever the date of a regular District election is identical to the date set for a municipal or other special district election in any municipality or other special district having boundaries co-terminus with the district, the election may be held jointly with the municipal or other special District election.

2.6 PERSONS ENTITLED TO VOTE.

2.6.1 No persons shall be permitted to vote in any election unless that person is an eligible elector as defined in §32-1-103(5)(a), C.R.S.

2.6.2 Any person desiring to vote in any election as an eligible elector pursuant to §32-1-103(5)(a)(II), C.R.S. shall sign a self affirmation that the person is an elector of the District. The self affirming oath or affirmation shall be on a form provided by the Clerk.

2.6.3 For electors who vote at any election by absentee ballot or mail ballot, the affidavit on the envelope of the ballot as required by Title 1, C.R.S., may be substituted for the self affirming oath or affirmation required by subsection 2.6.2 above.

2.6.4 A person who completes the self affirming oath or affirmation required by subsection 2.6.2 shall be permitted to vote, unless such person's right to vote is challenged.

ARTICLE III
BOARD OF DIRECTORS

3.1 QUALIFICATION AND TERM OF DIRECTORS.

3.1.1 The Board of Directors shall consist of five (5) Directors. Each Director shall be a qualified elector of the District. Each Director shall be elected to a term of four (4) years.

3.1.2 Each Director, within thirty (30) days after his election except for good cause shown, shall appear before an officer authorized to administer oaths and take an oath that he will faithfully perform the duties of his office as required by law and will support the Constitution of the United States, the Constitution of the State of Colorado, and the laws made pursuant thereto. The oath may be administered by the County Clerk and Recorder, by the Clerk of the Court, by any person authorized to administer oaths in this State, or by the Chairman of the Board and shall be filed with the Clerk of the Court and with the Division of Local Government in the Department of Local Affairs.

3.1.3 At the time of filing said oath, there shall also be filed for each Director an individual, schedule, or requisite bond at the expense of the District, in an amount determined by the Board of not less than \$1,000.00 each conditioned upon the faithful performance of his duties as a Director.

3.1.4 If any Director fails to take the oath or furnish the requisite bond within the period allowed, except for good cause shown, his office shall be deemed vacant, and the vacancy thus created shall be filled in the same manner as other vacancies in the office of Director.

3.2 ORGANIZATION OF BOARD.

3.2.1 After taking the oath and filing bonds, the Board shall elect one of its members as Chairman of the Board and President of the District, one of its members as Treasurer of the Board and District, and a Secretary who may be a member of the Board. The Secretary and the Treasurer may be one person, but, if such is the case, he shall be a member of the Board. The Board shall adopt a seal, and the Secretary shall keep, in a well bound book a record of all its proceedings, minutes of all meetings, certificates, contracts, bonds given by employees, and all corporate acts which shall be open to inspection of all electors, as well as to all other interested parties.

3.2.2 The Treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the District in permanent records. He shall file with the Clerk of the Court, at the expense of the District, a corporate fidelity bond in an amount to be determined by the Board of not less than \$5,000.00, conditioned on the faithful performance of the duties of his office.

3.2.3 Each Director may receive as compensation for the Director's service a sum not in excess of \$1,200.00 per annum, payable not to exceed \$75.00 per meeting attended. No Director

shall receive compensation as an employee of the District other than that provided in this section. Any Director shall disqualify himself from voting on any issue in which the Director has a conflict of interest. The Director must disclose such conflict of interest in compliance with §18-8-308, C.R.S. Reimbursement of actual expenses for Directors shall not be considered compensation.

3.2.4 If a Director owns undeveloped land which constitutes at least 20% of the territory included in the District, such Director shall disclose such fact in accordance with §18-8-308, C.R.S., before each meeting of the Board, and the fact of such disclosure shall be entered in the minutes of such meeting. For the purposes of this Section, “undeveloped land” means real property which has not been subdivided or which has no improvements constructed on it, excluding real property dedicated for park, recreation or open space purposes.

3.3 MEETINGS.

3.3.1 The Board shall meet regularly at a time and in a place designated by the Board. Special meetings may be held as often as the needs of the District require, upon notice to each Director. All special and regular meetings of the Board shall be held at locations which are within the boundaries of the District or are within the boundaries of Grand County so long as the meeting location does not exceed twenty (20) miles from the District boundaries. The provisions of this Section governing the location of meetings may be waived only if the following criteria are met:

- a. The proposed change of location of a meeting of the Board appears on the agenda of a regular or special meeting of the Board; and
- b. A resolution is adopted by the Board stating the reason for which a meeting of the Board is to be held in a location other than under the provisions of this subsection and further stating the date, time and place of such meeting.

3.3.2 Notice of time and place designated for all regular meetings shall be posted in at least three public places within the limits of the District and, in addition, one such notice shall be posted in the office of the County Clerk and Recorder in Grand County. Such notices shall remain posted and shall be changed in the event that the time of such regular meetings is changed. Special meetings may be called by any Director by informing the other Directors of the date, time and place of such special meeting, and the purpose for which it is called, and by posting notice as provided in this Section at least three (3) days prior to said meeting. All official business of the Board shall be conducted only during said regular or special meetings at which a quorum is present, and all said meetings shall be opened to the public.

3.3.3 The notice posted pursuant to subsection 3.3.2 of this Section for any regular or special meeting at which the Board intends to make a final determination to issue or refund general obligation indebtedness, to consolidate the District with another special district, to dissolve a special district, to file a plan for the adjustment of debt under federal bankruptcy law,

or to enter into a private contract with a Director, or not to make a scheduled bond payment, shall set forth such proposed action.

3.4 VACANCIES.

3.4.1 A Director's office shall be deemed to be vacant upon the occurrence of the following events prior to the expiration of the term of office:

- a. If for any reason a properly qualified person is not elected to a Director's office by the electors as required at a regular election.
- b. If a person who is duly elected or appointed fails, neglects, or refuses to subscribe to an oath of office or to furnish the bond in accordance with the provisions of these Bylaws;
- c. If a person who was duly elected or appointed submits a written resignation to the Board;
- d. If the persons who was duly elected or appointed ceases to be qualified for the office to which he was elected;
- e. If a person who was duly elected or appointed is convicted of a felony;
- f. If a Court of competent jurisdiction voids the election or appointment or removes the person duly elected or appointed for any cause whatsoever, but only after his right to appeal has been waived or exhausted;
- g. If the person who was duly elected or appointed fails to attend three consecutive regular meetings of the Board without the Board having entered upon its Minutes an approval for an additional absence or absences; except that such additional absence or absences shall excused for temporary mental or physical disability or illness;
- h. If the person who was duly elected or appointed dies during his term of office.

3.4.2 Any vacancy on the Board shall be filled by appointment by the remaining Director or Directors, the appointee to serve until the next regular election, at which time, the vacancy shall be filled by election for any remaining unexpired portion of the term. If, within sixty (60) days of the occurrence of any vacancy, the Board fails, neglects, or refuses to appoint a Director from the pool of any duly qualified, willing candidates, the Board of County Commissioners of Grand County may appoint a Director to fill such vacancy. The remaining Director or Directors shall not lose their authority to make an appointment to fill any vacancy unless and until the Board of County Commissioners has actually made an appointment to fill that vacancy.

3.4.3 The Board of County Commissioners shall not make an appointment pursuant to Paragraph 3.4.2 of this section unless it provides thirty (30) days notice of its intention to make

such appointment to the remaining members of the Board and the vacancy remains open at the time the Board of County Commissioners make its appointment.

3.4.4 If there are no duly elected Directors and if the failure to appoint a new Board results in the interruption of services that are being provided by the District, then the Board of County Commissioners may appoint all Directors from the pool of duly qualified, willing candidates. The Board appointed pursuant to this subsection shall call a special election within six (6) months after their appointment, which special election is to be held in accordance with the provisions of §32-1-305.5, C.R.S. and Articles I to XIII of Title 1 C.R.S.; except that the question of the organization shall not be presented at the election. So long as the District is wholly within the boundaries of the Town of Kremmling, the governing body of the Town of Kremmling may also appoint Directors.

3.4.5 All appointments shall be evidenced by an appropriate entry in the minutes of the meeting, and the Board shall cause a Notice of Appointment to be delivered to the person so appointed. A duplicate of each Notice of Appointment, together with a mailing address of the person so appointed, shall be forwarded to the Division of Local Government in the Department of Local Affairs.

3.5 DIRECTORS SUBJECT TO RECALL. Any Director elected to the Board who has actually held office for at least six (6) months may be recalled from office by the eligible electors of the District. A petition signed by the lesser of three hundred (300) eligible electors or 40% of the eligible electors demanding the recall of any Director named in the petition shall be filed in the Grand County District Court. Any recall shall be governed by the provisions of Part 1 of Article XII of Title 1, C.R.S.

3.6 RECALL ELECTION. If a Director subject to a recall petition offers a resignation, it shall be accepted, and the vacancy caused by the resignation shall be filled as provided by these Bylaws. If the Director does not resign within five (5) days after the sufficiency of the recall petition has been sustained, the Board shall order that a recall election be held pursuant to the provisions of Part 1 of Article XII of Title 1, C.R.S.

3.7 GENERAL POWERS. For and on behalf of the District, the Board has all of the powers set forth in §32-1-1001, C.R.S., including but not limited to:

a. To have the management, control and supervision of all of the business and affairs of the District and all construction, installation, operation, and maintenance of the District's improvements.

b. To enter into contracts and agreements. Except in cases in which the District will receive aid from a governmental agency or purchase through the State purchasing program, a notice shall be published for bids on all construction contracts for work or material, or both, involving an expense of \$25,000.00 or more of public monies. The District may reject any and all bids, and, if it appears that the District can perform the work or secure material for less than the lowest bid, it may proceed to do so.

c. No contract for work or material including a contract for services, regardless of the amount, shall be entered into between the special District and the Member of the Board or between the District and the owner of 25% or more of the territory within the District unless the notice has been published for bids and such Member or owner tenders the lowest responsible and responsive bid.

d. To borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures and to issue bonds, including revenue bonds, in accordance with statute and to invest any monies of the District in accordance with statute; to acquire, dispose of, and encumber real and personal property including, without limitation, rights and interests in property, leases, easements necessary to the functions or the operations of the District; except that the Board shall not pay more than fair market value and reasonable settlement costs for any interest in real property and shall not pay for any interest in real property which must otherwise be dedicated for public use or the District's use in accordance with any governmental ordinance, regulation, or law.

e. To appoint, hire, and retain agents, employees, engineers, and attorneys.

f. To fix and from time to time to increase or decrease fees, rates, tolls, penalties, or charges for services, programs, or facilities furnished by the District; until paid, all such fees, rates, tolls, penalties, or charges shall constitute a perpetual lien on and against the property served, and any such lien may be foreclosed in the same manner as provided by the laws of this State for the foreclosure of mechanic's liens.

g. Notwithstanding any other provision to the contrary, the Board may waive or amortize all or part of the tap fees and connection fees or extend the time period for paying all or part of such fees for property within this District in order to facilitate the construction, ownership, and operation of affordable housing on such property, as such affordable housing is defined by resolution adopted by the Board. However, the Board shall have the authority to condition such waiver, amortization, or extension upon the recordation against the property of a deed restriction, lien, or lawful instrument requiring the payment of such fees in the event that the property use as affordable housing is discontinued or no longer meets the definition of affordable housing as established by the Board.

h. To furnish services and facilities without the boundaries of the District and to establish fees, rates, tolls, penalties or charges for such services and facilities.

i. To accept, real or personal property for the use of the District and to accept gifts and conveyances made to the District upon such terms or conditions as the Board may approve.

j. To adopt, amend, and enforce rules and regulations not in conflict with the Constitution and the laws of this State for the carrying on of business, objects, affairs of the Board and of the District.

k. To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted to the District by statute. Such special powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of the District.

l. In addition to the powers specified herein and in §32-1-1001, C.R.S., the Board shall have all of the powers set forth in §32-1-1006, C.R.S. and in §32-1-1101, *et seq.* C.R.S.

ARTICLE IV **INDEMNIFICATIONS**

4.1 INDEMNIFICATION OF DIRECTORS. The District shall defend, save harmless and indemnify any Director, officer, agent, or employee whether elective or appointive, against any tort of professional liability, claim or demand, whether groundless or otherwise, arising out of any alleged act or omission occurring in the performance of duty in accordance with the terms, conditions and limitations of the Governmental Immunity Act, §24-10-101, *et seq.* C.R.S. as amended from time to time. The District may compromise and settle any such claim or suit or pay the amount of any settlement or judgment rendered thereon.

4.2 CONFLICT OF INTEREST. Any member of the Board of Directors who is present at a meeting, at which is discussed any matter in which he has directly or indirectly a private, pecuniary or property interest, shall disclose his interest and shall refrain from advocating for or against the matter and shall not vote with respect to such matters. Such interested Directors shall not be counted for purposes of constituting a quorum.

4.3 BIDDING AND CONTRACTING PROCEDURES.

4.3.1 Bids Required. Except in cases in which the District will receive aid from a governmental agency or purchase through the State Purchasing Program, construction contracts in excess of \$25,000.00 for materials, labor or both shall require a bid. At the discretion of the Board of Directors, bids may be requested for contracts less than \$25,000.00. The District may reject any and all bids, and if it appears the District can perform the work or secure materials for less, it may proceed to do so.

4.3.2 Notice to Bid. A Notice or Invitation to Bid shall be published in a newspaper of general circulation within the District's boundaries once per week for three (3) consecutive weeks. The Notice shall request sealed proposals and shall state 1) the specifics of the contract, 2) when and where plans and specifications may be examined, and 3) the time and place sealed proposals will be opened and publicly read.

4.3.3 Bid Bond. All bids must be accompanied by an acceptable bidder's bond or a certified check payable to the District in an amount equal to five (5%) percent of the bid. If, after the time specified in the Notice of Award, the contract is not executed, and Performance Bonds and Certificates of Insurance are not provided, the District shall keep the bid bond or certified check as liquidated damages, and assess such other damages as the District may determine.

4.3.4 No Contract to Exceed Appropriation. The Board of Directors shall have no authority to enter into any contract, or otherwise bind or obligate the District to any liability for payment of money for any purpose, for which provision is not made in the appropriation resolution or in excess of the amounts of such appropriation for that fiscal year. Any contract, verbal or written, contrary to the terms of this Section shall be void ab initio, and no District funds shall be expended in payment of such coverage, except as provided by law.

4.3.5 Payment and Performance Bonds.

4.3.5.1 On contracts in the amount of \$50,000.00 or less, the Board shall have the discretion to require a contractor to execute, deliver to, and file with the Board, payment and performance bonds, or other acceptable surety, (such as cash or letter of credit), in an amount to be determined by the Board not to exceed the amount of the contract, prior to entering into the performance of any work included in the contract.

4.3.5.2 On contracts in excess of \$50,000.00, the Board shall require a contractor to execute, deliver to and file with the Board, payment and performance bonds, or other acceptable surety, (such as cash or letter of credit), in a penal sum of not less than one-half of the total amount payable by the terms of the contract, prior to entering into the performance of any work included in the contract.

4.3.5.3 Such bonds shall be duly executed by a qualified corporate surety, conditioned upon the faithful performance of the contract, and in addition, shall provide that, if the contractor or his or her subcontractor fails to duly pay for any labor, materials, provisions, or other supplies used or consumed by such contractor or his or her subcontractor in the performance of the work contracted to be done or fails to pay any person who supplies laborers, rental machinery, tools, or equipment, all amounts due as the result of the use of such laborers, machinery, tools, or equipment, in the performance of the work, the surety will pay the same in an amount to not exceed the sum specified in the bond together with interest not to exceed two percent over current prime rate per annum. Unless such bond is executed, delivered, and filed, no claim in favor of the contractor arising under such contract shall be audited, allowed, or paid. A certified or cashier's check or a bank money order made payable to the district may be accepted in lieu of a bond.

4.3.6 Partial Payments and Retainage.

4.3.6.1 In connection with contracts of \$80,000.00 or less, the Board has the discretion to make partial payment of the amount due under such contract at the end of each calendar month,

or as soon thereafter as practicable, to the contractor, if the contractor is satisfactorily performing the contract.

4.3.6.2 In connection with contracts in excess of \$80,000.00, the Board shall make partial payments of the amount due under such contract at the end of each calendar month, or as soon thereafter as practicable, to the contractor, if the contractor is satisfactorily performing the contract.

4.3.6.3 At least ninety (90%) percent of the calculated value of any work completed shall be paid until fifty (50%) percent of the work required by the contract has been performed. Thereafter, the District shall pay any of the remaining installments without retaining additional funds if, in the opinion of the Board, satisfactory progress is being made in the work. The withheld percentage of the contract price of any such work, improvement or construction shall be retained until the contract is completed satisfactorily and finally accepted by the District. If the District finds that satisfactory progress is being made in all phases of the contract, it may, upon written request by the Contractor, authorize final payment from the withheld percentage to the Contractor or Sub-contractors who have completed their work in a manner finally acceptable to the District. Before any such payment is made, the District shall determine that satisfactory and substantial reasons exist for the payment and shall require written approval from any surety furnishing bonds for the contract work.

4.3.6.4 The Contractor under a Contract exceeding \$80,000.00 made or awarded by the District, pursuant to which sums are withheld to assure satisfactory performance of the contract, may withdraw the whole or any portion of said sums withheld if the Contractor deposits acceptable securities, (such as a letter of credit or cash), with the District. The Contractor shall take such actions as the District may require to transfer the securities or limited interest in the securities, including a security interest, and to authorize the District to negotiate the acceptable securities and to receive the payments due the District pursuant to law or the terms of the contract, and, to the extent there are excess funds resulting from said negotiation, the balance shall be returned to the Contractor. Such acceptable securities so deposited at all times shall have market value at least equal in value to the amount so withdrawn. If at any time the District determines that the market value of acceptable securities theretofore deposited has fallen below the amount so withdrawn, the District shall give notice thereof to the Contractor, who forthwith shall deposit additional acceptable securities in an amount sufficient to reestablish a total deposit of securities equal in value so withdrawn. The District and the Contractor may enter into an Escrow Contract or Escrow Contract and Security Agreement with any national bank, state bank, trust company or savings and loan association located in this state and designated by mutual agreement of the District and the Contractor, after notice to the surety, to provide as escrow agent for the custodial care and servicing of any acceptable securities deposited with him pursuant hereto. Such services shall include the safekeeping of the acceptable securities and the rendering of all services required to effectuate the purposes of this section. Any acceptable securities deposited with an escrow agent pursuant to this section shall be deemed to be in the possession of the District and the District shall be deemed to have a perfected security interest in the acceptable securities for purposes of Article 8 or 9 or Title 4, C.R.S.

4.3.6.5 Any amount deducted by the District, pursuant to law or the terms of the Contract, from the retained payments otherwise due to the Contractor there under shall be deducted first from that portion of the retained payments for which no acceptable securities have been substituted and then from the proceeds of any deposited acceptable securities, in which case, the Contractor shall be entitled to receive the interest, coupons, or income only from those acceptable securities which remain on deposit after such amount has been deducted.

4.3.6.6 In connection with any contracts entered into by the District in which the Board has agreed to make partial payments pursuant to the terms hereof, the Board shall be entitled to retain up to ten (10%) percent of each payment request in its sole discretion. The withheld percentage of the contract price of any such work, improvement or construction shall be retained until the Contract is completed satisfactorily and finally accepted by the District.