

**TOWN OF
CRESTONE
MUNICIPAL CODE**

Adopted July 13, 2020

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OFFICIALS
of the
TOWN OF
CRESTONE, COLORADO
AT THE TIME OF THIS CODIFICATION

Kairina Danforth, Mayor
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Sam Pace
Kizzen Laki
Benjamin Byer
Kim Martinez
Joe Michalak
Board of Trustees

Eugene L. Farish
Town Attorney

Allyson Ransom
Town Clerk

PREFACE

This Code constitutes a codification of the general and permanent ordinances of the Town of Crestone, Colorado.

Source materials used in the preparation of the Code were the ordinances adopted by the board of trustees. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the Code, as supplemented, and any subsequent ordinance included herein.

The various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of three parts separated by a dash. The first part refers to the chapter number, the second part refers to the article number, and the third part refers to the position of the section within the article. Thus, the second section of article 1 of chapter 1 is numbered 1-1-20, and the first section of article 6 of chapter 2 is 2-6-10. Under this system, each section is identified with its chapter and article.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

RELATED LAWS	RL:1
SPECIAL ACTS	SA:1
RELATED LAWS COMPARATIVE TABLE	RLCT:1
SPECIAL ACTS COMPARATIVE TABLE	SACT:1
CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CODE INDEX	CDi:1

Index

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Bill Sweeney and Mary Margaret Bielby, Code Attorneys, and Jean B. Lindsay, Editor, of the

Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Eugene L. Farish, Town Attorney, for his cooperation and assistance during the progress of the work on this publication. It is hoped that his efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the Town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the Town's affairs.

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**STATE OF COLORADO
TOWN OF CRESTONE, COLORADO**

ORDINANCE NO. 2020-002

AN ORDINANCE OF THE TOWN OF CRESTONE, COLORADO, ADOPTING BY REFERENCE AND ENACTING A NEW MUNICIPAL CODE FOR THE TOWN OF CRESTONE, PROVIDING FOR THE REPEAL OF ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE ADOPTION OF A SECONDARY CODES BY REFERENCE, NAMELY: THE CRESTONE MODEL TRAFFIC CODE FOR COLORADO, 2020 EDITION; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

Be It Ordained by the Board of Trustees of the Town of Crestone, Colorado:

Section 1. The Code entitled the *Crestone Municipal Code*, published by Municipal Code Corporation, consisting of Chapters 1 through 18, with Tables and index, is adopted by reference.

Section 2. All ordinances of a general and permanent nature enacted on or before the adoption date of this Ordinance, which are inconsistent with the provisions of the Crestone Municipal Code, to the extent of such inconsistency, are hereby repealed. The repeal established in this Section 2 shall not be construed to revive any ordinance or part thereof that had been previously repealed by any ordinance which is repealed by this Ordinance.

Section 3. The following codes are hereby adopted by reference and incorporated in the Crestone Municipal Code. One (1) copy of such code is on file in the Town Clerk's office:

- The *Crestone Model Traffic Code for Colorado*, 2020 edition, published by the Town of Crestone, Colorado, as adopted in Chapter 11, Section 11-1-10 et seq.;

Section 4. Additions or amendments to the Code, when passed in the form as to indicate the intention of the Town to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 5. The penalties provided by the Municipal Code of the Town of Crestone are hereby adopted as follows:

(1) Sec. 1-4-10. General penalty for violation (Chapter 1 General Provisions; Article 4, General Penalty)

(c) General penalty for violation. Whenever in this Code or any other ordinance of the town hereafter enacted or any section of an order, rule or regulation promulgated under the provisions of this Code or any other ordinance hereafter enacted, any act is prohibited, made or declared to be unlawful, an offense, nuisance or misdemeanor, where no specific penalty is provided therefor any person who is convicted of the violation of any such provision of the Code or other ordinance, or of such orders, rules or regulations shall be punished by a fine not to exceed \$2,650.00 or by imprisonment not to exceed one year, or by both such fine and imprisonment. In addition, such person shall pay all costs and expenses in the case, including attorney fees

(2) Sec. 1-4-20. Application of general penalty to juveniles. (Chapter 1, General Provisions; Article 4, General Penalty)

Every person who, at the time of commission of the offense, was at least ten but not yet 18 years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to a violation of any provision of this Code, shall be punished as hereafter provided by a fine set by the municipal judge for each violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this section shall be construed to prohibit incarceration in a juvenile detention center in accordance with C.R.S. § 13-10-113(4)(5). Any confinement for contempt of court shall not exceed 48 hours.

(3) Sec. 1-4-30. Altering Code; penalty. (Chapter 1, General Provisions; Article 4, General Penalty)

It shall be unlawful for any person in the town to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the town to be misrepresented thereby, unless so authorized by ordinance or resolution or other official act of the board of trustees. Any person violating this section shall be punished as provided in section 1-4- 10.

(4) Sec. 2-4-80. Jurisdiction and powers. (Chapter 2, Administration; Article 4, Municipal Court)

(a) The municipal court shall have original jurisdiction of all cases arising under this Code and other ordinances of the town, with full

power to carry the same into effect and to punish violations thereof by the imposition of fines and penalties in accordance with section 1-4-10.

- (b) The municipal court shall also have power to compel attendance of witnesses and to punish for contempt of such court by fine, not to exceed \$100.00, or by jail sentence not to exceed five days, and shall have all powers accorded by state statutes in relation to same.

(5) Sec. 6-1-170. Penalty. (Chapter 6, Business Licenses & Regulations; Article 1, Business Licenses)

Failure to comply with the terms of this article shall constitute a violation of this Code. Any person who is found guilty of, or pleads guilty or nolo contendere to, the violation of any section of this Code shall be punished in accordance with the provisions of section 1-4-10.

(6) Sec. 6-2-50. Suspension or revocation; fine. (Chapter 6, Business Licenses & Regulations; Article 2, Alcoholic Beverages)

- (a) Whenever a decision of the board of trustees, acting as the local licensing authority (hereinafter, authority), suspending a retail license for 14 days or less becomes final, whether by failure of the retail licensee to appeal the decision or by exhaustion of all appeals and judicial review, the retail licensee may, before the operative date of the suspension, petition the authority for permission to pay a fine in lieu of having his retail license suspended for all or part of the suspension period. Upon the receipt of the petition, the authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied:

- (1) That the public welfare and morals would not be impaired by permitting the retail licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;
- (2) That the books and records of the retail licensee are kept in such a manner that the loss of sales of alcoholic beverages which the retail licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and
- (3) That the retail licensee has not had his license suspended or revoked, nor had any suspension stayed by payment of a fine,

during the two years immediately preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.

- (b) The fine accepted shall be equivalent to 20 percent of the retail licensee's estimated gross revenues from sales of alcoholic beverages during the period of the proposed suspension; except that the fine shall be not less than \$200.00 nor more than \$5,000.00.
- (c) Payment of any fine pursuant to the provisions of this section shall be in the form of cash, certified check or cashier's check made payable to the town clerk and shall be deposited in the general fund of the town.
- (d) Upon payment of the fine pursuant to this section, the authority shall enter its further order permanently staying the imposition of the suspension.
- (e) In connection with any petition pursuant to this section, the authority of the authority is limited to the granting of such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.
- (f) If the authority does not make the findings required in subsection (a) of this section and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the authority.

(7) Sec. 6-3-160. Penalty. (Chapter 6, Business Licenses & Regulations; Article 3, Retail Marijuana Business)

Any person who violates the provisions of this article or the rules and regulations promulgated thereunder shall, upon conviction, be punished in accordance with the provisions of section 1-4-10.

(8) Sec. 6-4-320. Penalty for violation. (Chapter 6, Business Licenses & Regulations; Article 4, Retail Marijuana Stores)

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this article, any person, including, but not limited to, any licensee, manager or employee of a retail

marijuana establishment, or any customer of such business, who violates any of the provisions of this article, shall be subject to the following penalties:

- (1) The operation of a retail marijuana establishment without a valid license issued pursuant to this article may be enjoined by the town in an action brought in a court of competent jurisdiction, including the municipal court.
- (2) The operation of a retail marijuana establishment without a valid license issued pursuant to this article is also specifically determined to be a public nuisance pursuant to section 6-1-130.

(9) Sec. 7-1-30. Fees, Rates, Charges, and Delinquencies. (Chapter 7, Utilities; Article 1, Municipal Water System)

- (3) Delinquent accounts; arrears penalty; service discontinuance. Accounts in arrears will be charged a penalty of 1.5 percent per month of the arrears account. Services may be discontinued (water shut off) on accounts 30 days in arrears. In addition, a service charge of \$50.00, which may be amended by resolution of the town board, shall be levied for the reconnection of service to the town water supply. An additional deposit of \$100.00 will be required and will be refunded after 12 months if no late payments are received.
- (4) Lien imposed.
 - a. All arrearages shall constitute a perpetual lien upon any lots, tanks, buildings or premises served or for which water service may be made or kept available. Such unpaid arrearages shall be certified by the town treasurer to the county treasurer at the time of certification of ad valorem taxes to be added to the tax roll upon said property and to be collected and paid to the town by the county treasurer.
 - b. In addition, payment of such charges may be enforced by any remedy provided by the state statutes and otherwise provided by law; all such remedies are declared to be cumulative.

(10) Sec. 7-3-70. Rates and Charges. (Chapter 7, Utilities; Article 1, Municipal Water System)

- (3) Penalty for late payment. At any time the customer is delinquent in payment of any charges due the town, the town shall have the right to assess an interest charge at a rate of \$2.50 the first month, \$5.00 the second month, and \$10.00 the third month late or thereafter on the

unpaid balance. Customers shall be notified of delinquencies in payment for sewer services. Such delinquencies shall become an immediate and perpetual lien upon the real estate served. Such delinquencies shall be collected by additions to the assessment schedules of such real estate and as certified by the town clerk yearly to the county treasurer. In addition, the town shall have the right to assess to any customer who is tardy in payment of his account, all legal, court, and other costs necessary to or incidental to the collection of said account.

(11) Sec. 8-4-90. Violations and penalties. (Chapter 8, Streets, Sidewalks and Public Property; Article 4, Cemeteries)

The violation of any provision of this article shall be an offense and, upon conviction, any offender shall be punished in accordance with the provisions of section 1-4-10.

(12) Sec. 11-1-20. Penalties. (Chapter 11, Vehicles and Traffic; Article 1, Model Traffic Code)

The following penalties designated by code section, herewith set forth in full, shall apply to this article:

- (1) It is unlawful for any person to violate any of the provisions of this code for which no specific penalty has been provided or for which the sole penalty provided is a fine, which violations are hereby deemed traffic infractions. All provisions of the model traffic code which have been deemed traffic infractions, in identical substantive provisions of C.R.S. Title 42, are hereby deemed traffic infractions under this code and are thereby decriminalized. A traffic infraction shall be a civil matter for which punishment by imprisonment shall not be available and for which a penalty assessment notice shall be issued. Every person who is convicted of a traffic infraction is subject to a penalty of at least \$10.00, but not more than \$1,000.00, exclusive of any court costs and surcharges.
- (2) For any violation of any provision of this code which is a traffic infraction, no trial by jury shall be available, no arrest warrant shall be issued for failure to appear or to pay, no privilege against self-incrimination shall apply, the standard of proof shall be a preponderance of the evidence, and the conduct of all proceedings applicable to such a violation shall otherwise be in conformity with those generally applicable to civil matters.

- (3) For any violation of any provision of this code which is a traffic infraction, the municipal court may enter a judgment of liability by default against the defendant for failure to appear or to pay, and may assess such penalty, together with such court costs and surcharges, as are established by law. The municipal court may establish, by written order, rules and regulations for the administration of any violation of this code which is a traffic infraction, including, but not limited to, schedules establishing the amount of penalties payable without a court appearance as a supplement to the schedule set forth in this article. The municipal court and the town's law enforcement official will utilize state procedures for any penalty assessment notice which constitutes a traffic infraction and as may be printed upon any notice. Any penalty assessment notice which is paid within 20 days of issuance of said notice shall result in the following reduction in points:
- a. A four-point or three-point violation will be reduced to a two-point violation.
 - b. A two-point violation will be reduced to a one-point violation.
 - c. A one-point violation will be reduced to a zero-point violation.
- (4) It is unlawful for any person to violate any of the provisions of this code that are specified by its terms or otherwise as traffic offenses. Every person convicted of a traffic offense shall be punished by a fine not exceeding \$1,000.00, exclusive of any court costs and surcharges, or by imprisonment not exceeding one year, or by both such fine and imprisonment.
- (5) The violation of the following provisions are deemed traffic offenses:
- a. Section 107: Obedience to police officers.
 - b. Section 1101: Where the speed as driven is 20 miles per hour or more over the lawful speed.
 - c. Section 1103: Minimum speed regulation.
 - d. Section 1105: Speed contest.
 - e. Section 1401: Reckless driving.
 - f. Section 1402: Careless driving.

- g. Section 1409: No insurance.
 - h. Section 1413: Eluding or attempting to elude a police officer.
 - i. Section 1903: Stopping for school buses.
 - j. Any injury accident.
 - k. Any single offense over four points.
 - l. Any non-injury accident where estimated damage exceeds \$2,000.00.
 - m. Any section that by its terms states that a violation is a traffic offense.
- (6) Each day of continued violation of this code shall be considered a separate offense.
- (7) Section 1702: PRESUMPTIVE PENALTIES & SURCHARGES

(May be increased or decreased by the municipal court)

<i>Section Violated</i>	<i>Penalty</i>	<i>Surcharge</i>
106	50.00	35.00
109	35.00	35.00
109(13)(a)	35.00	35.00
109(13)(b)	100.00	35.00
109.5	35.00	35.00
109.6	35.00	35.00
116	50.00	35.00
117	50.00	35.00
201	70.00	35.00
202	70.00	35.00
204	70.00	35.00
205	55.00	35.00
206	55.00	35.00
207	55.00	35.00
208	55.00	35.00
209	55.00	35.00
210	15.00	35.00
211	55.00	35.00
212	55.00	35.00
213	70.00	35.00
214	70.00	35.00
215	55.00	35.00

<i>Section Violated</i>	<i>Penalty</i>	<i>Surcharge</i>
216	55.00	35.00
217	70.00	35.00
218	55.00	35.00
219	55.00	35.00
220	30.00	35.00
221	35.00	35.00
222 (1)(a)	55.00	35.00
223	55.00	35.00
224	55.00	35.00
225 (3)	55.00	35.00
226	55.00	35.00
227	70.00	35.00
228	50.00	35.00
229	55.00	35.00
230	55.00	35.00
231	70.00	35.00
232	60.00	35.00
233	75.00	35.00
234	55.00	35.00
236	80.00	35.00
237	65.00	35.00
239 (5)(a)	50.00	35.00
239 (5)(b)	100.00	35.00
240	35.00	35.00
501	70.00	35.00
502	75.00	35.00
503	70.00	35.00
504	75.00	35.00
505	75.00	35.00
506	70.00	35.00
509	50.00	35.00
510(12)(a)	35.00	35.00
512	75.00	35.00
603	100.00	35.00
604	100.00	35.00
605	70.00	35.00
606	70.00	35.00
607(1)	50.00	35.00
607(2)(a)	100.00	35.00
608(1)	70.00	35.00

<i>Section Violated</i>	<i>Penalty</i>	<i>Surcharge</i>
608(2)	35.00	35.00
609	70.00	35.00
610	55.00	35.00
612	70.00	35.00
614	double penalty	35.00
615	double penalty	35.00
701	70.00	35.00
702	70.00	35.00
703	70.00	35.00
704	70.00	35.00
705	70.00	35.00
706	70.00	35.00
707	100.00	35.00
708	35.00	35.00
709	70.00	35.00
710	70.00	35.00
711	100.00	35.00
712	70.00	35.00
801	15.00	35.00
802(1)	30.00	35.00
802(3)	15.00	35.00
802(4)	30.00	35.00
802(5)	30.00	35.00
803	15.00	35.00
805	15.00	35.00
806	70.00	35.00
807	70.00	35.00
808	70.00	35.00
901	70.00	35.00
902	70.00	35.00
903	70.00	35.00
1001	70.00	35.00
1002	100.00	35.00
1003	100.00	35.00
1004	100.00	35.00
1005	100.00	35.00
1006	70.00	35.00
1007	100.00	35.00

<i>Section Violated</i>	<i>Penalty</i>	<i>Surcharge</i>
1008	100.00	35.00
1009	70.00	35.00
1010	70.00	35.00
1101(1)		
(1 to 4 miles per hour over the reasonable and prudent speed or over the maximum lawful speed limit)	70.00	35.00
1101(1)		
(5 to 9 miles per hour over the reasonable and prudent speed or over the maximum lawful speed limit)	70.00	35.00
1101(1)		
(10 to 19 miles per hour over the reasonable and prudent speed or over the maximum lawful speed limit)	135.00	35.00
1101(1)		
(20 (and over) miles per hour over the reasonable and prudent speed or over the maximum lawful speed limit) (traffic offense)	200.00	35.00
1101(8)(g)		
(1 to 4 miles per hour over the maximum lawful speed limit of 40 miles per hour driving a low-power scooter)	50.00	35.00
1101(8)(g)		
(5 to 9 miles per hour over the maximum lawful speed limit of 40 miles per hour driving a low-power scooter)	75.00	35.00
1101(8)(g)		
(greater than 9 miles per hour over the maximum lawful speed limit of 40 miles per hour driving a low-power scooter)	100.00	35.00
1101(3)	100.00	35.00
1103	50.00	35.00
1104	70.00	35.00

<i>Section Violated</i>	<i>Penalty</i>	<i>Surcharge</i>
1201	70.00	35.00
1202	30.00	35.00
1204	15.00	35.00
1205	15.00	35.00
1206	15.00	35.00
1207	15.00	35.00
1211	70.00	35.00
1402	150.00	35.00
1403	70.00	35.00
1404	70.00	35.00
1405	70.00	35.00
1406	35.00	35.00
1406(5)	70.00	35.00
1407(3)(a)	35.00	35.00
1407(3)(b)	100.00	35.00
1407(3)(c)	500.00	35.00
1408	15.00	35.00
1411	55.00	35.00
1412	15.00	35.00
1414(2)(a)	500.00	35.00
1414(2)(b)	increased penalty	35.00
1414(2)(c)	increased penalty	35.00
1502(1)	30.00	35.00
1502(2)	30.00	35.00
1502(3)	30.00	35.00
1502(4)	30.00	35.00
1502(4.5)	100.00	35.00
1503	60.00	35.00
1504	60.00	35.00
1704	15.00	35.00
1811	100.00	35.00
1901	35.00	35.00

(II) Any person convicted of violating section 507 or 508 shall be fined pursuant to this subparagraph (II), whether the defendant acknowledges the defendant's guilt pursuant to the procedure set forth in paragraph (a) of subsection (5) of this section or is found guilty by a court of competent jurisdiction. Any violation of section 507 or 508 shall be punished by a fine and surcharge as follows:

<i>Excess Weight (Pounds)</i>	<i>Penalty</i>	<i>Surcharge</i>
1—3,000	\$ 15.00	\$35.00
3,001—4,250	25.00	35.00
4,251—4,500	50.00	35.00
4,501—4,750	55.00	35.00
4,751—5,000	60.00	35.00
5,001—5,250	65.00	35.00
5,251—5,500	75.00	35.00
5,501—5,750	85.00	35.00
5,751—6,000	95.00	35.00
6,001—6,250	105.00	35.00
6,251—6,500	125.00	35.00
6,501—6,750	145.00	35.00

(13) Sec. 12-2-90. Penalty for Violation. (Chapter 12, Health, Sanitation & Animals; Article 2, Nuisance Responsibility and Abatement)

Any person in the town who is responsible for creating or maintaining any nuisance as provided for in this article shall, in addition to the civil penalties and costs provided herein be subject to a fine in an amount not exceeding \$2,650.00 and imprisonment not exceeding one year or by both such fine and imprisonment. Every person violating or contributing in any way to the violation of any provision of this article shall be declared guilty of a separate offense for each day during which such violation continues and may be punished for each such violation as provided in this section.

(14) Sec. 12-4-100. Violation; penalty. (Chapter 12, Health, Sanitation & Animals; Article 4, Animals)

Violations of any provision of this article shall be subject to the general penalty provisions in section 1-4-10.

(15) Sec. 13-4-150. Theft or Collection of Waste Disposal Services. (Chapter 13, Offenses and Miscellaneous Provisions; Article 4, Public, Private and Personal Property)

- (b) The presumptive fine for a violation of this section shall be \$50.00 for the first offense and \$75.00 for subsequent offenses. The presumptive fine does not remove the ability of a peace officer to issue a summons for any offense under this section.

(16) Sec. 13-7-50. Open Container. (Chapter 13, Offenses and Miscellaneous Provisions; Article 7, Alcoholic Beverages and Drugs)

- (c) Any person violating the provisions of this section shall be subject to a fine not exceeding \$1,000.00 or by incarceration for a period not exceeding one year or by both such fine and incarceration (15) Sec. 10-7-120. Possession or use of marijuana. (Chapter 10, General Offenses; Article 7, Alcoholic Beverages and Drugs)

(17) Sec. 13-7-140. Marijuana facilities prohibited. (Chapter 13, Offenses and Miscellaneous Provisions; Article 7 Alcoholic Beverages and Drugs)

- (b) Violation. The operation, ownership, establishment or conduct of marijuana cultivation facilities, marijuana product manufacturing facilities, and marijuana testing facilities is unlawful and prohibited within the town.
- (c) Penalty. Any person, corporation, company, partnership, business association or organization violating the provisions of this section shall, upon conviction, be subject to the penalties set out in section 1-4-10.

(18) Sec. 13-7-150. Possession of Drug Paraphernalia. (Chapter 13, Offenses and Miscellaneous Provisions; Article 7 Alcoholic Beverages and Drugs)

- (a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of state law.
- (b) Any person who commits possession of drug paraphernalia commits an offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00).

(19) Sec. 13-7-170. Abusing toxic vapors. (Chapter 13, Offenses and Miscellaneous Provisions; Article 7 Alcoholic Beverages and Drugs)

- (d) Any person who knowingly violates the provisions of Subsection (b) or (c) above commits the offense of abusing toxic vapors. Upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) for a first offense; and upon conviction of a second or third offense, by a fine of not more than five hundred dollars (\$500.00) and by not more than six (6) months in jail.
- (e) In a prosecution for a violation of this Section, evidence that a container lists one (1) or more of the substances described in Sub-

section (a) above as one (1) of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof.

(20) Sec. 13-10-50. Excessive noise. (Chapter 13, Offenses and Miscellaneous Provisions; Article 10, Noise)

- (c) The use of engine brakes or any other similar designated auxiliary braking system upon trucks and other motor vehicles, without mufflers as required by state law, is hereby prohibited, except under emergency conditions, within the confines of the limits of the Town.
- (d) Any person, who utilizes such braking system and thereby creates an annoying and disturbing noise within the Town, shall be guilty of a violation of this Section and shall be subject to a fine of not more than one hundred dollars (\$100.00) upon the first offense and a fine of not more than three hundred dollars (\$300.00) for each subsequent offense.

(21) Sec. 13-11-100. Penalty for violations. (Chapter 13, Offenses and Miscellaneous Provisions; Article 11, Fireworks)

Any person who violates any of the provisions of this Article, upon conviction thereof, shall be punished by revocation of any license or permit issued hereunder if a license or permit has been issued to such person, and in accordance with the provisions of section 1-4-10. Each day of sale prohibited under this Article shall be deemed a separate offense. Penalties under this Section may be imposed consecutively.

(22) Sec. 13-12-40. Dogs running at large prohibited; impoundment. (Chapter 13, Offenses and Miscellaneous Provisions; Article 12, Offenses Relating to Animals)

- (a) *Definition. Running at large* means to be off the premises of the owner and not under immediate control of the owner or of an authorized person over 12 years of age, either by leash or otherwise restrained; however, an animal within the automobile or other vehicle of its owner shall be deemed to be upon the owner's premises. It is unlawful for any owner, possessor or keeper of any dog in the Town to permit or allow any dog to run at large in the Town.

....

- (e) *Redemption and fines.* The owner of any dog so impounded may reclaim such dog, upon proof of vaccination of the dog against rabies and payment of any unpaid fees, all costs, fees and charges

incurred by the Town for impoundment and maintenance of the dog, and any penalty assessment to the Town; provided, however, that the owner or person in charge of any dog running at large shall be subject to the following fine and penalties, regardless of whether any dog has been impounded:

- (1) The penalty for the first offense of allowing any dog to run at large is \$25.00.
- (2) The penalty for the second offense of allowing any dog to at large within two years following the first offense is \$50.00.
- (3) The penalty for all subsequent offenses of allowing any dog to run at large within two years following the second offense is \$100.00.

(23) Sec. 13-12-60. Vicious or dangerous dogs. (Chapter 13, Offenses and Miscellaneous Provisions; Article 12, Offenses Relating to Animals)

- (d) In addition to the penalties set forth in section 1-4-10, upon an owner's entry of a guilty plea, the return of a verdict of guilty by the municipal judge or a jury or a deferred judgment for a violation that results in bodily injury to a person or domestic animal, or for a second or subsequent violation or resulting in a conviction, deferred judgment involving the same dog of the same owner, the municipal court shall order that the dangerous dog be immediately removed from, and not allowed to return to, the town or confiscated and placed in a public animal shelter within or without the town, and shall order that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this section, the owner's dangerous dog be destroyed by lethal injection administered by a licensed veterinarian. The owner shall pay all costs associated with the same.
 - (1) Seizure of dogs. A code enforcement officer who has probable cause to believe that a dog is dangerous, as defined in subsection (a) of this section, may demand that the dog immediately be removed from and not returned to the town by the owner or person in possession of the dog or that possession of the dog be forthwith relinquished to said code enforcement officer, who may impound said dog and notify the owner of said impoundment or require said dog to be securely contained. The owner of such dog may request the municipal court to conduct a hearing within 15 days from the notification of the dog's impoundment, to determine if the dog is dangerous. Upon such hearing, all

interested persons shall have the opportunity to present evidence on the issue of the dog's danger. If no such hearing is requested within 15 days from the notification of the dog's impoundment, the dog shall become the property of the town and shall be subject to lethal injection. All costs shall be billed to the owner and shall become a lien on the property of the owner.

- (3) **Penalty.** Each person convicted of a violation of any provision adopted in this article shall be punished by a fine not exceeding \$2,650.00, and/or up to one-year imprisonment; provided further, if the dog is determined to be a dangerous dog and is found to be running at-large, the owner or person in possession of said dog shall be subject to a fine of not less than \$250.00 for a first offense and shall double with subsequent offenses thereafter.
- (4) **Violation.** Each day of continued violation of this article shall be considered a separate offense.

(24) Sec. 15-1-150. Penalty. (Chapter 15, Zoning; Article 1, In General)

The owner of any buildings or premises, or part thereof, where anything in violation of this chapter exists or is placed or maintained and any architect, builder, or contractor who assists in the commission of any such violation; and all persons who violate or maintain any violation of any or the provisions of this chapter, or who fail to comply therewith or with any requirements thereof, or who build in violation of any statement or plan submitted and approved thereunder, are in violation of this chapter and, upon conviction thereof, shall be punishable as provided in section 1-4-10. Each day in which the violation continues shall be considered a separate offense.

(25) Sec. 15-2-200. Violations. (Chapter 15, Zoning; Article 2, Administration and Enforcement)

If the town clerk or his designee finds, or if any person files with him a complaint alleging that any of the provisions of this chapter are being violated, the town clerk shall cause the violation to be investigated and, when necessary, give written notice to the person responsible to cease and remedy such violation forthwith.

(26) Sec. 17-1-40. Enforcement Generally. (Chapter 17, Building Regulations; Article 1, Dangerous Building Code)

- (g) **Violations and penalty.** It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert,

demolish, equip, use, occupy or maintain any building or structure or cause to permit the same to be done in violation of this article. Any person violating any provision of this article shall be punished as provided in section 1-4-10.

Section 6. Additions or amendments to the Code, when passed in the form as to indicate the intention of the Town to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 7. Ordinances adopted after this Ordinance that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to those provisions of the Code.

Section 8. This Ordinance shall become effective thirty (30) days after publication thereof.

INTRODUCED this 13th of July, 2020.

TOWN OF CRESTONE, COLORADO

/s/ _____
Kairina Danforth, Mayor

ATTEST:

/s/ _____
Allyson Ransom, Town Clerk

ADOPTED and **ORDERED PUBLISHED** on this 13th day of July, 2020.

TOWN OF CRESTONE, COLORADO

/s/ _____
Kairina Danforth, Mayor

ATTEST:

/s/ _____
Allyson Ransom, Town Clerk

APPROVED AS TO FORM:

/s/ _____
Eugene L. Farish,
Town Attorney

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(This checklist will be updated with the
printing of each Supplement)

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

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SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code and are considered "Omitted."

By adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

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Ord. No. 2021-001	2-18-2021	Included	1
Ord. No. 2021-002	10-11-2021	Included	1
Ord. No. 2021-003	11- 8-2021	Included	1
Ord. No. 2022-001	1-27-2022	Omitted	1
Ord. No. 2022-002	2-14-2022	Included	1
Ord. No. 2022-003	3-14-2022	Included	1

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Article 1. Code Adoption and Legal Effect

- Sec. 1-1-10. Adoption of Code.
- Sec. 1-1-20. Code supersedes and repeals prior ordinances.
- Sec. 1-1-30. Repeal of ordinances not contained in Code.
- Sec. 1-1-40. Matters not affected by repeal.
- Sec. 1-1-50. Ordinances saved from repeal.
- Sec. 1-1-60. Changes in previously adopted ordinances.
- Sec. 1-1-70. Adoption of secondary codes by reference.
- Sec. 1-1-80. Applicability.

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- Sec. 1-2-10. Definitions.
- Sec. 1-2-20. Computation of time.
- Sec. 1-2-30. Title of office.
- Sec. 1-2-40. Usage of terms.
- Sec. 1-2-50. Grammatical interpretation.

Article 3. General

- Sec. 1-3-10. Titles and headings not part of Code.
- Sec. 1-3-20. Authorized acts.
- Sec. 1-3-30. Prohibited acts.
- Sec. 1-3-40. Purpose of Code.
- Sec. 1-3-50. Repeal of ordinances.
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Article 4. Code Violation and Penalties

- Sec. 1-4-10. Violations; general penalty.
- Sec. 1-4-20. Application of general penalty to juveniles.
- Sec. 1-4-30. Altering Code.

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- Sec. 1-4-40. Summons and complaint.
- Sec. 1-4-50. Interpretation of unlawful acts.

Article 5. Inspections

- Sec. 1-5-10. Entry.
- Sec. 1-5-20. Authority to enter premises under emergency.
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Article 6. Seal

- Sec. 1-6-10. Corporate seal.

**ARTICLE 1. CODE ADOPTION AND
LEGAL EFFECT**

Sec. 1-1-10. Adoption of Code.

This Code shall be known and cited as the "Town of Crestone Municipal Code," or "Crestone Town Code," published by Municipal Code Corporation, of which one copy is now on file in the office of the town clerk and may be inspected during regular business hours; it is enacted and adopted by reference as the primary Code and incorporated herein as if set out at length. This primary Code has been promulgated by the Town of Crestone, Colorado, as a codification of all the ordinances of the town, of a general and permanent nature through Ordinance No. 2020-001, for the purpose of providing an up-to-date code of ordinances, properly organized and indexed, in published form for the use of the citizens and officers of the town and may thereafter be supplemented with pages so numbered that they will fit properly into the code and will, where necessary, replace pages that have become obsolete or partially obsolete and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance inserted in the supplement.

Sec. 1-1-20. Code supersedes and repeals prior ordinances.

This Code shall supersede all ordinances passed by the board of trustees of the town through Ordinance No. 2020-001.

Sec. 1-1-30. Repeal of ordinances not contained in Code.

All existing ordinances and portions of ordinances of a general and permanent nature which

are inconsistent with any ordinance included in the adoption of this Code are hereby repealed to the extent of any inconsistency therein as of the effective date of the ordinance adopting this Code, except as hereinafter provided.

Sec. 1-1-40. Matters not affected by repeal.

The repeal of ordinances and parts of ordinances of a permanent and general nature by section 1-1-30 shall not affect any offense committed or act done, any penalty or forfeiture incurred or any contract, right or obligation established prior to the time said ordinances and parts of ordinances are repealed.

Sec. 1-1-50. Ordinances saved from repeal.

The continuance in effect of temporary and/or special ordinances and parts of ordinances, although omitted from this Code, shall not be affected by such omission therefrom, and the adoption of this Code shall not repeal or amend any such ordinance or part of any such ordinance. Among the ordinances not repealed or amended by the adoption of this Code are ordinances:

- (1) Authorizing the issuance of general obligation or specific local improvement district bonds.
- (2) Appropriating money.
- (3) Levying a temporary tax or fixing a temporary tax rate.
- (4) Relating to salaries.
- (5) Calling or providing for a specific election.
- (6) Creating, opening, dedicating, naming, renaming, vacating or closing specific streets, alleys and other public ways.

- (7) Establishing the grades or lines of specific streets, sidewalks and other public ways.
- (8) Creating specific sewer and paving districts and other local improvement districts.
- (9) Making special assessments for local improvement districts and authorizing refunds from specific local improvement district bond proceeds.
- (10) Annexing territory to or excluding territory from the town.
- (11) Dedicating or accepting any specific plat or subdivision.
- (12) Authorizing specific contracts for purchase of beneficial use of water by the town.
- (13) Approving or authorizing specific contracts with the state, with other governmental bodies or with others.
- (14) Authorizing a specific lease, sale or purchase of property.
- (15) Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers.
- (16) Granting a specific gas company or other public utility the right or privilege of constructing lines in the streets and alleys or of otherwise using the streets and alleys.
- (17) Granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company.
- (18) Amending the official zoning map.

Sec. 1-1-60. Changes in previously adopted ordinances.

In compiling and preparing the ordinances of the town for adoption and revision as part of this Code, certain grammatical changes and other changes were made in one or more of said ordinances. It is the intention of the board of trustees that all such changes be adopted as part of this Code as if the ordinances so changed had been previously formally amended to read as such.

Sec. 1-1-70. Adoption of secondary codes by reference.

Secondary codes may be adopted by reference, as provided by C.R.S. § 31-16-202.

Sec. 1-1-80. Applicability.

This Code shall apply to every person, place or thing, either within or outside the corporate limits of the town, the use of which the town has jurisdiction and authority to regulate.

ARTICLE 2. DEFINITIONS AND USAGE

Sec. 1-2-10. Definitions.

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

Board of trustees. The term "board of trustees" means the board of trustees of the Town of Crestone, Colorado.

Code. The term "Code" means the "Town of Crestone Municipal Code" or the "Crestone Town Code," as published and subsequently amended, unless the context requires otherwise.

County. The term "county" means the County of Saguache, Colorado.

C.R.S. The term "C.R.S." means the Colorado Revised Statutes, including all amendments thereto.

Law. The term "law" denotes applicable federal law, the Constitution and statutes of the State of Colorado, the ordinances of the town and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

May. The term "may" is permissive.

Month. The term "month" means a calendar month.

Oath. The term "oath" shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words swear and sworn shall be equivalent to the words affirm and affirmed.

Offense. The term "offense" means and is to be construed as meaning violation and is not intended to mean crime or criminal conduct.

Ordinance. The term "ordinance" means a law of the town, provided that a temporary or special law, administrative action, order or directive may be in the form of a resolution.

Owner. The term "owner," applied to a building, land, motorized vehicle, animal or other real or personal property, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety or any other person with a possessory interest in the whole or a part of said building, land, motor vehicle, animal or other real or personal property.

Person. The term "person" means a natural person, joint venture, joint stock company, part-

nership, association, club, company, firm, corporation, business, trust or organization, or the manager, lessee, agent, servant, officer or employee of any of them.

Personal property. The term "personal property" includes money, goods, chattels, things in action and evidences of debt.

Preceding and following. The terms "preceding" and "following" mean next before and next after, respectively.

Property. The term "property" includes real and personal property.

Real property. The term "real property" includes lands, tenements and hereditaments.

Shall and must. The terms "shall" and "must" are both mandatory.

Sidewalk. The term "sidewalk" means that portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

State. The term "state" means the State of Colorado.

Street. The term "street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in the town which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

Tenant and occupant. The terms "tenant" and "occupant," applied to a building or land, include any person who occupies all or a part of such building or land, whether alone or with others.

Town. The term "town" means the Town of Crestone, Colorado, or the area within the territorial limits of the town and such territory outside

of the town over which the town has jurisdiction or control by virtue of any constitutional or statutory provision.

Written or in writing. The term "written or in writing" includes printed, typewritten, mimeographed, multigraphed, any representation of words, letters, symbols or figures, or otherwise reproduced in permanent visible form.

Year. The term "year" means a calendar year.

Sec. 1-2-20. Computation of time.

Except as provided by applicable state law, the time within which an act is to be done shall be computed by excluding the first day and including the last day; but if the time for an act to be done shall fall on Saturday, Sunday or a legal holiday, the act shall be done upon the next regular business day following such Saturday, Sunday or legal holiday.

Sec. 1-2-30. Title of office.

Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the town, or his designated representative.

Sec. 1-2-40. Usage of terms.

All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such peculiar and appropriate meaning. The term "authorized official" shall include any town official authorized by ordinance, regulation or official action by the town board as well as the designated representative of an authorized official.

Sec. 1-2-50. Grammatical interpretation.

The following grammatical rules shall apply to this Code and to town ordinances:

- (1) Any gender includes the other genders.
- (2) The singular number includes the plural and the plural includes the singular.
- (3) Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable.
- (4) Words and phrases not specifically defined shall be construed according to the context and approved usage of the language.

ARTICLE 3. GENERAL

Sec. 1-3-10. Titles and headings not part of Code.

Chapter and article titles, headings, numbers and titles of sections and other divisions in this Code or in supplements made to this Code are inserted in this Code, may be inserted in supplements to this Code for the convenience of persons using this Code, and are not part of this Code.

Sec. 1-3-20. Authorized acts.

When this Code requires an act to be done by any officer, employee, department, board or commission of the town which may as well be done by an agent, designee or representative as by the principal, such requirement shall be construed to include all such acts performed when done by an authorized agent, designee or representative. Authorized official shall include any town official authorized by ordinance, regulation or official action by the town board as well as the designated representative of an authorized official.

Sec. 1-3-30. Prohibited acts.

Whenever in this Code or any town ordinance any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

Sec. 1-3-40. Purpose of Code.

The provisions of this Code, and all proceedings under them, are to be construed with a view to effect their objectives and to promote justice.

Sec. 1-3-50. Repeal of ordinances.

The repeal of an ordinance shall not repeal the repealing clause of any ordinance or revive any ordinance which has been repealed thereby.

Sec. 1-3-60. Publication of ordinances.

All ordinances, as soon as possible after their passage, shall be recorded in a book kept for that purpose and authenticated by the signature of the mayor or mayor pro tem and town clerk. All ordinances of a general or permanent nature, and those imposing any fine or forfeiture, shall be published in a newspaper published within the town; or, if there is none, in a newspaper of general circulation in the town provided further that said ordinances may be published by title only, in accordance with C.R.S. § 31-16-105 and Ordinance No. 2002-4. Such ordinances shall not take effect until 30 days after such publication, except for ordinances calling for special elections or necessary for the immediate preservation of the public peace, health and safety and containing the reasons making the same necessary in a separate section. The excepted ordinances shall take effect upon their final passage and adoption and the approval and signature of the mayor or mayor pro

tem, if they are adopted by an affirmative vote of three-fourths of the members of the board of trustees.

Sec. 1-3-70. Amendments to Code.

(a) Ordinances and parts of ordinances of a permanent and general nature, passed or adopted after the adoption of this Code, may be passed or adopted either in the form of amendments to this Code or without specific reference to this Code. However, in either case, all such ordinances and parts of ordinances shall be deemed amendments to this Code, and all of the substantive, permanent and general parts of said ordinances and changes made thereby shall be inserted and made in this Code as provided in section 1-3-80.

(b) In compiling and preparing the ordinances of the town for adoption and revision as part of this Code, certain grammatical changes and other changes may be made in one or more of said ordinances. It is the intention of the board of trustees that all such changes be adopted as part of this Code as if the ordinances so changed had been previously formally amended to read as such.

Sec. 1-3-80. Supplementation of Code.

(a) The board of trustees shall cause supplementation of this Code to be prepared and printed from time to time as it may see fit. All substantive, permanent and general parts of ordinances passed by the board of trustees or adopted by initiative and referendum, and all amendments and changes in temporary and special ordinances or other measures

included in this Code prior to the supplementation and since the previous supplementation, shall be included.

- (b) The town clerk is hereby directed to certify and forward to the codifier of the Code all ordinances enacted by the board of trustees since the most recent codification of ordinances, to coincide with chapters, articles, divisions, sections and subsections as they currently exist within this Code and to resolve any inconsistencies regarding capitalization, grammar and numbering or placement of chapters, articles, divisions, sections and subsections in this Code.
- (c) It shall be the duty of the town clerk, or someone authorized and directed by the town clerk, to keep up to date three certified copies of the book containing this Code, two of which shall be filed in the office of the town clerk for the use of town staff and the public and may be inspected by any interested person at any time during regular business hours, but may not be removed from the town clerk's office except upon proper order of a court of law and one of which may be utilized by the town attorney.

Sec. 1-3-90. Examination of Code.

The mayor and town clerk shall carefully examine at least two copies of the Code adopted by this article to see that they are a true and correct copy of this Code. Similarly, after each supplement has been prepared, printed and inserted in this Code, the mayor and town clerk shall carefully examine at least two copies of this Code as supplemented and shall ensure that the third copy in the possession of the town attorney has likewise been supplemented. The copy of this Code as originally adopted or amended shall constitute

the permanent and general ordinances of the town and shall be so accepted by the courts of law, administrative tribunals and all others concerned.

Sec. 1-3-100. Sale of Code books.

Copies of this Code book may be purchased from the town clerk upon the payment of a fee to be set forth in the town's comprehensive fee schedule.

Sec. 1-3-110. Severability.

The provisions of this Code are declared to be severable, and if any section, provision or part thereof shall be held unconstitutional or invalid, the remainder of this Code shall continue in full force and effect, it being the legislative intent that this Code would have been adopted even if such unconstitutional matter had not been included therein. It is further declared that, if any provision or part of this Code, or the application thereof to any person or circumstances, is held invalid, the remainder of this Code and the application thereof to other persons shall not be affected thereby.

ARTICLE 4. CODE VIOLATION AND PENALTIES

Sec. 1-4-10. Violations; general penalty.

- (a) It is a violation of this Code for any person to do any act which is forbidden or declared to be unlawful or to fail to do or perform any act required in this Code.
- (b) Every day any violation of this Code, any other ordinance of the town or any order, rule or regulation promulgated under the provisions of this Code or ordinances continues shall constitute a separate offense.

- (c) General penalty for violation. Whenever in this Code or any other ordinance of the town hereafter enacted or any section of an order, rule or regulation promulgated under the provisions of this Code or any other ordinance hereafter enacted, any act is prohibited, made or declared to be unlawful, an offense, nuisance or misdemeanor, where no specific penalty is provided therefor any person who is convicted of the violation of any such provision of the Code or other ordinance, or of such orders, rules or regulations shall be punished by a fine not to exceed \$2,650.00 or by imprisonment not to exceed one year, or by both such fine and imprisonment. In addition, such person shall pay all costs and expenses in the case, including attorney fees.

(Ord. No. 2008-002, § 1, 1-14-2008; Ord. No. 2014-004, § 1, 6-9-2014)

Sec. 1-4-20. Application of general penalty to juveniles.

Every person who, at the time of commission of the offense, was at least ten but not yet 18 years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to a violation of any provision of this Code, shall be punished as hereafter provided by a fine set by the municipal judge for each violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Nothing in this section shall be construed to prohibit incarceration in a juvenile detention center in accordance with C.R.S. § 13-10-113(4), (5). Any confinement for contempt of court shall not exceed 48 hours.

Sec. 1-4-30. Altering Code.

It shall be unlawful for any person in the town to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the town to be misrepresented thereby, unless so authorized by ordinance or resolution or other official act of the board of trustees. Any person violating this section shall be punished as provided in section 1-4-10.

Sec. 1-4-40. Summons and complaint.

Any person who is alleged to have violated any provisions of this Code or other ordinances hereafter enacted or orders, rules or regulations promulgated under authority of this Code or ordinance enacted hereafter, shall be issued a summons and complaint charging the nature of the violation, shall be ordered to appear before the municipal judge and shall, upon conviction thereof, be punishable as provided by section 1-4-10 unless another penalty is specifically provided for the violation.

Sec. 1-4-50. Interpretation of unlawful acts.

Whenever in this Code any act or omission is made unlawful, it is also unlawful to cause, allow, permit, aid, abet or suffer such unlawful act or omission. Concealing or in any manner aiding in the concealing of any unlawful act or omission is similarly unlawful.

ARTICLE 5. INSPECTIONS

Sec. 1-5-10. Entry.

- (a) Whenever necessary to make an inspection to enforce any provision of this Code or any ordinance, or whenever there is probable cause

to believe that there exists an ordinance violation in any building or upon any premises within the jurisdiction of the town, any authorized official of the town may, upon presentation of proper credentials and upon obtaining permission of the occupant or if unoccupied, the owner, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him by ordinance. In the event the occupant, or if unoccupied, the owner, refuses entry to such building or premises, or the authorized official is unable to obtain permission of such occupant or owner to enter such building or premises, the authorized official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

- (b) Inspection provisions for the purpose of ascertaining a nuisance within the town are set out in article 1 of chapter 12.

Sec. 1-5-20. Authority to enter premises under emergency.

Law enforcement officers certified with the state, members of the fire department, other fire departments operating under a mutual assistance agreement or automatic aid agreement with the town, certified emergency medical technicians, paramedics during the course of employment with a governmental agency and authorized officials are hereby granted the authority to enter private residences within the town without invitation from the occupant of the residence at any time such persons have reasonable grounds to believe a medical emergency or condition involving an immediate threat to public health or safety is in progress or exists within the subject premises and the occu-

pant of such premises is either incapable of consenting to the entry, refuses entry or there is no response to demand for entry.

Sec. 1-5-30. Announcement of purpose and authority to enter premises.

Unauthorized entry pursuant to section 1-5-20 shall be permissible only after the individuals seeking entry have announced both their purpose and authority in a loud and conspicuous voice and have waited a reasonable period of time for the occupant to respond before making entry.

ARTICLE 6. SEAL

Sec. 1-6-10. Corporate seal.

A seal, the impression of which shall contain in the center the word "Seal," and around the outer edge the words "Town of Crestone, Colorado," shall be and hereby is declared to be the seal of the town.

Chapter 2

ADMINISTRATION

Article 1. Governing Body (Mayor and Board of Trustees) and Administration

- Sec. 2-1-10. Organizational chart.
- Sec. 2-1-20. Authority.
- Sec. 2-1-30. Qualifications.
- Sec. 2-1-40. Agenda.
- Sec. 2-1-50. Trustees; term of office.
- Sec. 2-1-60. Removal from office; vacancies.
- Sec. 2-1-70. Mayor.
- Sec. 2-1-80. Mayor pro tem.
- Sec. 2-1-90. Acting mayor.
- Sec. 2-1-100. Compensation.
- Sec. 2-1-110. Rules of procedure for town meetings; quorum; voting.
- Sec. 2-1-120. Matters referred to committees.
- Sec. 2-1-130. Intergovernmental agreements.

Article 2. Boards and Commissions

- Sec. 2-2-10. General appointment of members; powers and duties.

Article 3. Officers and Employees

- Sec. 2-3-10. Appointment of officers.
- Sec. 2-3-20. Powers and duties of officers.
- Sec. 2-3-30. Town clerk.
- Sec. 2-3-40. Personnel policy.
- Sec. 2-3-50. Cooperation of offices.
- Sec. 2-3-60. Scope of provisions.
- Sec. 2-3-70. Power of appointment.
- Sec. 2-3-80. Departments.

Article 4. Municipal Court

- Sec. 2-4-10. Municipal court created.
- Sec. 2-4-20. Salary; appropriations; facility.
- Sec. 2-4-30. Municipal judge appointment.
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- Sec. 2-4-60. Municipal court clerk.
- Sec. 2-4-70. Acting municipal judge.

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- Sec. 2-4-80. Jurisdiction and powers.
- Sec. 2-4-90. Examine complaints; file reports; payment of fines.
- Sec. 2-4-100. Sessions of court.
- Sec. 2-4-110. Hours.

Article 5. Police Department

- Sec. 2-5-10. Police officer/code enforcement officer.

Article 6. Appointed Boards

- Sec. 2-6-10. Board of adjustment.
- Sec. 2-6-20. Planning commission.
- Sec. 2-6-30. Tree board.

Article 7. Elections

- Sec. 2-7-10. Colorado Municipal Election Code adopted.
- Sec. 2-7-20. Write-in candidates, affidavit.
- Sec. 2-7-30. Cancellation of elections.

**ARTICLE 1. GOVERNING BODY (MAYOR
AND BOARD OF TRUSTEES) AND
ADMINISTRATION**

Sec. 2-1-10. Organizational chart.

- (a) The administration of the town shall hereafter be carried out in accordance with an organizational chart establishing the basis for supervisory authority of town personnel, in recognition of the board of trustees' authority, for the structure of the town's government. Such chart which may be amended from time to time by resolution of the board of trustees and is made a part of this article and is attached to this chapter as appendix 2-A.
- (b) A copy of the organizational chart shall also be generally available for viewing by the public in the office of the town clerk during regular business hours.

Sec. 2-1-20. Authority.

The board of trustees shall constitute the legislative body of the town, shall have the power and authority, except as otherwise provided by statute, to exercise all power conferred upon or possessed by the town, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof.

Sec. 2-1-30. Qualifications.

Each trustee shall be a resident of the town and a registered elector who has resided within the town limits for a period of at least 12 consecutive months immediately preceding the date of election. However, in the case of annexation of property, any person who has resided within the an-

nexed territory for the time prescribed in this section shall be deemed to have met the requirements for the town.

Sec. 2-1-40. Agenda.

The agenda, order and manner of business of a board of trustees' meeting shall be in a form approved by the board of trustees, which may be amended or modified from time to time by resolution of the town board of trustees and shall be posted on the front door of town hall at least 24 hours prior to a regular or special meeting.

Sec. 2-1-50. Trustees; term of office.

In accordance with a duly constituted town election on April 2, 2002, the term limits for members of the board of trustees imposed by Section 11, Article XVIII of the Colorado Constitution are eliminated and all duly elected members of the board shall be subject to reelection without term limits.

(Res. No. 2002-001, 4-2-2002; Ord. No. 2002-3, 5-14-2002)

Sec. 2-1-60. Removal from office; vacancies.

- (a) By a majority vote of all members of the board of trustees, the mayor or any trustee may be removed from office. No such removal shall be made without a charge in writing and an opportunity of hearing being given unless the officer against whom the charge is made has moved out of the town limits. When any officer ceases to reside within the town limits, he may be removed from office pursuant to this subsection.
- (b) In case of death, resignation, vacation or removal of any of the trustees during his term of office, the board of trustees, by a majority vote of all remaining members

thereof, may select and appoint, from among the duly qualified electors of the town, a suitable person to fill the vacancy and shall fill any vacancy in accordance with state statutes. The person so appointed shall hold office until the next regular election and until he or his successor is elected and qualified, a person appointed shall fill the balance of such unexpired term. Where vacancies exist in the office of trustee and successors are to be elected at the next election to fill the unexpired terms, the three candidates for trustee receiving the highest number of votes shall be elected to four year terms and the candidate receiving the next highest number of votes, in descending order, shall be elected to fill the unexpired terms.

Sec. 2-1-70. Mayor.

- (a) The mayor shall be elected to serve a term of four years. The mayor shall meet the same qualifications as a trustee and, in the event of a vacancy in the office of mayor, such vacancy shall be filled in the same manner as a vacancy in the office of trustee, as set forth in section 2-1-60.
- (b) The mayor shall preside over all meetings of the board of trustees and shall perform such duties as may be required of him by statute or ordinance. Insofar as is required by statute and for all ceremonial purposes, the mayor shall be the executive head of the town. The mayor shall be considered a voting member of the board of trustees.
- (c) The mayor shall execute and authenticate by his signature all bonds, warrants, contracts and instruments of and concerning the business of the town, as the trustees or any statutes or ordinances may require.

- (d) Except as may be required by statute, the mayor shall exercise only such additional powers as the trustees shall specifically confer upon him.

Sec. 2-1-80. Mayor pro tem.

At its first meeting following each biennial election, the board of trustees shall choose one of the trustees as mayor pro tem in absence of the mayor from any meeting of the board of trustees. During the absence of the mayor from the town or during the inability of the mayor to act, the mayor pro tem shall perform the duties of the mayor.

Sec. 2-1-90. Acting mayor.

In the event of the absence or disability of both the mayor and the mayor pro tem, the trustees may designate another trustee to serve as acting mayor during such absence or disability.

Sec. 2-1-100. Compensation.

- (a) The mayor may receive such monthly compensation for his services as by ordinance of the board of trustees.
- (b) Each trustee may receive such monthly compensation for his services as set by ordinance of the board of trustees.
- (c) Any compensation paid to the mayor or any member of the board of trustees shall not be increased or diminished for the term of office for which he has been elected or appointed. Any mayor or trustee who has resigned or vacated an office prior to the end of his elective or appointed term shall not be eligible to election or reappointment to the same during such term if the rate of compensation has increased.

Sec. 2-1-110. Rules of procedure for town meetings; quorum; voting.

- (a) *Rules of procedure.* The time, location and rules of procedure for town meetings are enacted in the procedural guide governing town meetings and related matters and are attached to this chapter as appendix 2-B, Town Board Procedures and Rules of Order. Publication of said rules of procedure shall be in handout form and shall be generally available for public distribution in the office of the town clerk during regular business hours. Such rules may be amended from time to time by resolution of the board of trustees.
- (b) *Quorum.* Four members of the board of trustees shall constitute a quorum. No action shall be taken unless a quorum is present at the regular, special or emergency board meeting, pursuant to state statutes.
- (c) *Vote required.* The affirmative vote of a majority of all members of the board of trustees shall be required for passage or adoption of all ordinances, resolutions and orders for the appropriation of money, and all appointments of officers in accordance with state statutes. Other matters shall require only a majority of the quorum present, unless otherwise mandated by statute.

(Ord. No. 2008-004, 7-14-2008; Ord. No. 2010-009, 12-13-2010; Ord. No. 2011-007, 11-14-2011)

Sec. 2-1-120. Matters referred to committees.

Any question pending before the board of trustees may be referred to the appropriate committee, or to a special committee, for its consideration and report.

Sec. 2-1-130. Intergovernmental agreements.

The board of trustees shall have the authority, on behalf of the town, to enter into contractual arrangements within or among local governments for the performance of any governmental service, activity or undertaking which could be performed by each of the local governments and pursuant to state statutes.

ARTICLE 2. BOARDS AND COMMISSIONS

Sec. 2-2-10. General appointment of members; powers and duties.

- (a) The board of trustees shall create and appoint members to such boards and commissions as may now or hereafter exist, including, but not limited to, the following:
- (1) Board of adjustment;
 - (2) Planning commission;
 - (3) Tree board.
- (b) The powers and duties of said boards are set forth in article 6 of this chapter.

ARTICLE 3. OFFICERS AND EMPLOYEES

Sec. 2-3-10. Appointment of officers.

The following officers and employees shall be appointed by the majority vote of all of the members of the board of trustees, at least after each biennial election of the board of trustees, to serve at the pleasure of the board of trustees:

- (1) Town clerk;
- (2) Town attorney;
- (3) Town treasurer/bookkeeper;
- (4) Municipal judge;

- (5) Code officer and/or law enforcement officer;
- (6) Public works coordinator.

Sec. 2-3-20. Powers and duties of officers.

Employees and officers of the town, except as may be otherwise required by statute, shall serve at will, at the pleasure of the board of trustees, as described in the personnel policy and their duties and job descriptions shall be set forth therein.

Sec. 2-3-30. Town clerk.

- (a) *Appointment.* The office of the town clerk is hereby established. The town clerk is appointed by the majority vote of the board of trustees solely on the basis of his executive and administrative qualifications, with special reference to training and experience. The town clerk shall serve at the pleasure of the board of trustees. The town clerk shall work under the guidance and direction of the mayor and the board of trustees. In the absence of the town clerk, the mayor (and in his absence, the mayor pro tem) shall assume the duties assigned to the town clerk.
- (b) *Duties.* The town clerk serves as the primary administrative official of the town and is responsible for the efficient, effective and proactive administration of the town affairs. His duties are enumerated as a job description within the personnel policy, attached to this chapter as appendix 2-C.

Sec. 2-3-40. Personnel policy.

The personnel policy, attached as appendix 2-C, is enacted by the board of trustees as the town personnel policies governing personnel relationships within the town and may be amended from time to time by resolution of the town board

of trustees. Publication of the personnel policies to which this section refers shall be in pamphlet form and shall be generally available for distribution in the office of the town clerk during regular business hours.

(Ord. No. 2013-003, 6-10-2013)

Sec. 2-3-50. Cooperation of offices.

Neither the members of the board of trustees nor the mayor shall in any way interfere with the town clerk in the performance of his duties and in the exercise of the powers and duties granted by this article. Except for the purpose of inquiry, the mayor and members of the board of trustees shall deal with the town clerk solely through the board of trustees, and neither the mayor nor any member of the board of trustees shall give orders to any of the subordinates of the town clerk.

Sec. 2-3-60. Scope of provisions.

Nothing in this section shall impair the responsibility of the board of trustees for the overall operation of the town government as required by the laws of the state.

Sec. 2-3-70. Power of appointment.

The town clerk shall have the right to staff all departments set forth in this chapter except those officers appointed by the board of trustees as set forth in section 2-3-10.

Sec. 2-3-80. Departments.

- (a) The following departments with their respective department heads established in this section are under the jurisdiction of the town clerk, and their functions are as set out as job descriptions within the personnel policy of the town:

- (1) Office aide.

- (2) Public works coordinator/public works assistant.
 - (3) Building inspector.
 - (4) Water system manager/water operator.
 - (5) Sewer collections operator.
- (b) The town clerk, having been given the power by this section to staff and select personnel for departments created in this article, may use such personnel interchangeably, in consideration of their individual capabilities, between such departments, as in his opinion is necessary and for the best interest of the town.
- (c) Employees of the town shall abide by the bidding and purchasing policy, the policy regarding access to public records, and the records retention policy, attached to this chapter as appendices 2-D, 2-E and 2-G, and the town consolidated fee schedule, attached as appendix 2-F, which are hereby adopted by the board of trustees, and are attached as appendices to this chapter. Said policies and fee schedule may be amended and supplemented from time to time by resolution of the board of trustees.

ARTICLE 4. MUNICIPAL COURT

Sec. 2-4-10. Municipal court created.

A municipal court in and for the town is hereby established as a qualified municipal court of record pursuant to the provisions of C.R.S. § 13-10-102(3). The municipal court shall keep a verbatim record of the proceedings and evidence at trials by either electronic devices or stenographic means, and requires as a qualification for the office of judge of such court that such judge has been admitted to, and is currently licensed in,

the practice of law in Colorado. The municipal judge shall not be required to be a resident of Saguache County.

Sec. 2-4-20. Salary; appropriations; facility.

- (a) The annual salary of the municipal judge shall be set by the board of trustees by ordinance and payable as other salaries to municipal employees. Compensation of the municipal judge shall not be based on the number or result of individual cases heard.
- (b) The board of trustees may pay any substitute municipal judge based upon his time or other suitably agreed method of compensation.
- (c) The board of trustees shall furnish the municipal court with suitable courtroom facilities and annually appropriate an amount sufficient to pay any municipal court clerical personnel office expenses and for the acquisition of all necessary supplies, books and furniture for the proper conduct of the business of the court.

Sec. 2-4-30. Municipal judge appointment.

The court shall be presided over by a presiding municipal judge appointed by the board of trustees for a two-year term, who may be appointed for a subsequent two-year term. The municipal judge shall perform no other duties during the hours that municipal court is in session except such as may be approved by the board of trustees on motion or resolution. The board of trustees may appoint additional judges or substitute judges from time to time as may be needed to transact the business of the municipal court or to preside in the absence of the presiding judge. The board of trustees may pay any substitute municipal judge based upon his time, number of cases or other suitably agreed method of compensation. The presiding

judge shall supervise and direct the municipal court's operations. Any municipal judge may be removed by the board of trustees for cause in accordance with the provisions of C.R.S. § 13-10-105(2).

Sec. 2-4-40. Oath of office.

Before entering upon the duties of his office, the municipal judge shall take and subscribe, before a judge of a court of record, and file with the board of trustees an oath or affirmation that he will support the Constitution of the United States, the constitution and laws of the state and the ordinances of the town and will faithfully perform the duties of his office.

Sec. 2-4-50. Presiding judge's powers.

The presiding municipal judge shall have full power and authority to make and adopt rules and regulations for conducting the business of the municipal court. Such rules and regulations shall be reduced to writing. the municipal court shall conduct sessions of the municipal court in accordance with the state municipal court rules as adopted by the state supreme court.

Sec. 2-4-60. Municipal court clerk.

The municipal judge shall be the ex-officio clerk of the court unless a separate municipal court clerk has been appointed by the municipal judge, by and with the consent of the board of trustees. The municipal court clerk and the municipal judge shall be included on the schedule of town insurance in regard to processing municipal court funds and fines, and a separate performance bond shall not be required. If the municipal judge serves as the municipal court clerk, he shall not receive additional compensation for such position. if a separate municipal court clerk is ap-

pointed by the municipal judge, with the consent of the board of trustees, the municipal court clerk shall have those duties which are delegated to him by law, court rule or the municipal judge. The annual salary of the municipal court clerk shall be set by the board of trustees. The town board of trustees may appoint the town clerk or assistant town clerk as the municipal court clerk.

Sec. 2-4-70. Acting municipal judge.

In case of the temporary absence, sickness or other inability of the municipal judge to act, the mayor may appoint a competent person to act as municipal judge until the disability of the municipal judge is removed. Such appointment must be in writing.

Sec. 2-4-80. Jurisdiction and powers.

- (a) The municipal court shall have original jurisdiction of all cases arising under this Code and other ordinances of the town, with full power to carry the same into effect and to punish violations thereof by the imposition of fines and penalties in accordance with section 1-4-10.
- (b) The municipal court shall also have power to compel attendance of witnesses and to punish for contempt of such court by fine, not to exceed \$100.00, or by jail sentence not to exceed five days, and shall have all powers accorded by state statutes in relation to same.

Sec. 2-4-90. Examine complaints; file reports; payment of fines.

- (a) The municipal judge shall receive and examine affidavits and complaints, at all times, for the violation of any town ordinance, and may issue a search or arrest warrant in every case where probable cause exists that an of-

fense has been committed and in accordance with the provisions of the criminal law and procedure of the state.

- (b) The municipal court clerk shall file weekly reports with the town clerk of all monies collected by him, either in the way of fines or otherwise, and shall weekly pay to the town treasurer all monies in his hands; the reports shall state the number of cases filed in the municipal court, how the same were disposed of and other matters of information concerning his office.
- (c) All fines or other monies collected in the municipal court for violation of this Code or any of the ordinances of the town shall be reported by the municipal judge and paid to the town treasurer each week.

Sec. 2-4-100. Sessions of court.

- (a) There shall be regular sessions of the municipal court for the trial of cases as may be established by the municipal judge. The municipal judge shall hear and determine complaints for the violation of any town ordinances where there is probable cause to believe that an offense has been committed. The municipal judge may hold a special session of court at any time, including Sundays, holidays and evenings.
- (b) All cases in municipal court shall be open to the public; provided, however, that where the type of offense charged and the nature of the case are such that it would be in the best interest of justice to exclude all persons not directly connected with the case, the municipal judge may order that the court be cleared of all persons not so directly connected with

the case except qualified representatives of news agencies. This decision shall be solely in the discretion of the municipal judge.

Sec. 2-4-110. Hours.

The court shall be open during such hours as are set by the municipal judge with the consent and approval of the board of trustees, including such night sessions as the board of trustees shall approve. In case of any conflict between the municipal judge and the board of trustees as to said hours, the decision of the board of trustees shall govern. The municipal court shall be closed on Sundays and holidays, except for special sessions.

ARTICLE 5. POLICE DEPARTMENT

Sec. 2-5-10. Police officer/code enforcement officer.

The code enforcement officer and/or police officer shall have the primary responsibility for monitoring, enforcing and citing violations of all nuisances under this Code, any violation of the sections set out in chapter 13, and any non-criminal matter that has been deemed unlawful and punishable either under section 1-4-10 or as specifically set out in this Code or any town ordinance.

(Ord. No. 2009-002, 2-9-2009; Ord. No. 2009-008, 11-9-2009)

ARTICLE 6. APPOINTED BOARDS

Sec. 2-6-10. Board of adjustment.

- (a) *Established.* The board of adjustment (BOA) of the town is hereby established which shall consist of five members who shall be either town residents, own real property in the town, or own a business in the town, each to be

appointed for three years, provided that two initial members shall be appointed for three years; two initial members shall be appointed for two years; and one initial members shall be appointed for one year. Not more than one member of the board of adjustment may be a member of the town board of trustees nor may more than one member of the board of adjustment be a member of the town planning commission. Said members may be subject to reappointment for succeeding three-year terms. In addition to the regular members of the board of adjustment, the town board of trustees may appoint three alternate members for staggered three-year terms. In the event that any regular member is temporarily unable to act owing to absence from the town, illness, interest in a case before the board of adjustment or any other cause, his place may be taken during such temporary disability by an alternate member who shall enjoy full voting privileges.

- (b) *Members.* Any members of the BOA may be removed for inefficiency, neglect of duty or malfeasance in office, or by absence at three successive BOA meetings without being excused by the chairperson of said meeting.
- (c) *Chairperson.* Members of the board of adjustment shall elect from among their members a chairperson to serve for a term of one year.
- (d) *Rules adoption; meetings.*
 - (1) The town board of adjustment shall adopt rules necessary to the conduct of the board of adjustment's affairs and in keeping with the provisions of this article, which rules shall also provide for meetings of the board of adjustments.

- (2) All meetings of the board of adjustment shall be open to the public.

(Ord. No. 2006-002, 2-13-2006; Ord. No. 2006-015, 7-10-2006; Ord. No. 2006-013, att.(VII-5), (VII-7), 8-14-2006)

Sec. 2-6-20. Planning commission.

- (a) *Planning commission created.* Pursuant to the powers and duties conferred upon the town by the provisions of C.R.S. Title 31, Article 23, Part 2 (C.R.S. § 31-23-201 et seq.), there is hereby created and established a municipal planning commission in and for the town. The planning commission shall consist of five members, all of whom shall be bona fide residents of the town, and if any member leases to reside in the town his membership on the planning commission shall automatically terminate. The mayor and one member of the town board as ex-officio members, and three members, other than members of the town board, are to be appointed by the mayor with town board approval. The board of trustees may appoint not more than five alternate members of the commission who shall be eligible to serve in the absence of a regular member and entitled to vote in the order of the appointment. The terms of each appointed member shall be six years. The terms of the ex-officio members shall correspond to their respective tenures.
- (b) *Compensation of members.* All members of the commission shall serve as such without compensation, and the appointed members shall hold no other municipal office, except that one such appointed member may be a member of the board of adjustment.
- (c) *Organization and rules.* The commission shall have and exercise all the duties conferred and

imposed upon it by law, and shall elect its chairperson from among the appointed members and create and fill such other of its offices as it may determine; it shall adopt rules for transaction of business and keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

- (d) *Meetings.* The commission shall meet in regular session at least once a month at a time and place selected by vote of its members; the town board, the chairperson of the planning commission or any three members of the commission shall have authority to call special meetings of the commission; written notice of the special meetings shall be given to all members.

(Ord. of 1-3-1977; Ord. No. 2005-003, 5-9-2005; Ord. No. 2010-004, 6-14-2010)

Sec. 2-6-30. Tree board.

- (a) *Established; membership.* There is created and established a tree board, which shall consist of five members, citizens and residents of the town, who shall be appointed by the mayor with the approval of the board of trustees. One member shall of the tree board shall be a member of the board of trustees, and one member of the tree board shall be a member of the planning commission.
- (b) *Term of office.* The term of the five persons to be appointed by the mayor shall be three years, except that the term of two of the members appointed to the first tree board shall be for one year and the term of three members of the first tree board shall be for two years. In the event that a vacancy occurs

during the term of any member, his successor be appointed for the unexpired portion of the term.

- (c) *Compensation.* Members of the tree board shall serve without compensation.
- (d) *Duties.*
 - (1) It shall be the responsibility of the tree board to study, investigate, counsel and develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in public ways, streets and alleys. Such plan will be presented annually to the board of trustees and, upon its acceptance and approval, shall constitute the official comprehensive town tree plan.
 - (2) The tree board, when requested by the board of trustees, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.
- (e) *Organization.* The tree board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

ARTICLE 7. ELECTIONS

Sec. 2-7-10. Colorado Municipal Election Code adopted.

All town elections shall be held and conducted in accordance with the Colorado Municipal Election Code of 1965. The town hereby adopts the Uniform Election Code of 1992 as the election code of the town with respect to any election in which it is necessary to coordinate said election

with the office of the county clerk and recorder, pursuant to provisions of Colorado Revised Statutes for coordinated elections.

Sec. 2-7-20. Write-in candidates, affidavit.

No write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the town clerk by the person whose name is written in prior to 64 days before the day of the election indicating that such person desires the office and is qualified to assume the duties of that office if elected.

(Ord. No. 1992-1, § 1, 4-8-1992)

Sec. 2-7-30. Cancellation of elections.

If the only matters before the voters is the election of persons to office and if, at the close of business on the 64th day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent, the clerk, if instructed by resolution of the town board of trustees either before or after such date, shall cancel the election and by resolution declare the candidates elected. Upon such declaration, the candidates shall be deemed elected. Notice of such cancellation shall be posted in order to inform the electors of the municipality and notice of such cancellation shall be posted at the polling place and in not less than one other public place.

(Ord. No. 1992-1, § 2, 4-8-1992)

Chapter 3

RESERVED

Chapter 4

REVENUE AND FINANCE

Article 1. General Provisions

- Sec. 4-1-10. Fiscal year established.
- Sec. 4-1-20. Claims against town.

Article 2. General and Special Funds

- Sec. 4-2-10. Custody and management of funds.
- Sec. 4-2-20. General fund created.
- Sec. 4-2-30. Capital improvement fund created.
- Sec. 4-2-40. Conservation trust fund created.

Article 3. Sales Tax

- Sec. 4-3-10. Sales tax imposed.
- Sec. 4-3-20. Definitions.
- Sec. 4-3-30. Collection of sales tax.
- Sec. 4-3-40. Sales tax vendor's fees.
- Sec. 4-3-50. License issuance; fee.
- Sec. 4-3-60. Scope of tax.
- Sec. 4-3-70. Determination of place of sale.
- Sec. 4-3-80. Gross receipts include delivery charges.
- Sec. 4-3-90. Schedule of sales tax.
- Sec. 4-3-100. Disposition of revenue.
- Sec. 4-3-110. Amendment of provisions.
- Sec. 4-3-120. Term of tax.

Article 4. Marijuana Sales Tax

- Sec. 4-4-10. Imposed.
- Sec. 4-4-20. Application of tax revenue.

ARTICLE 1. GENERAL PROVISIONS**Sec. 4-1-10. Fiscal year established.**

The fiscal year of the town shall commence on January 1 of each year and shall extend through December 31 of the same year. The board of trustees shall, within the last quarter of each fiscal year, pass the resolution required by law known as the annual appropriation resolution for the next fiscal year.

Sec. 4-1-20. Claims against town.

No account of claim against the town, except for the salaries of its officers, or for the payment of a special contract made by the board of trustees, or by some officer of the town authorized by the board of trustees to make the same, shall be audited or allowed unless the same is itemized; and no account or claim, except those mentioned in this section, shall be allowed at the meeting of the board of trustees to which the same is first presented, unless by consent of a majority of the trustees in office.

ARTICLE 2. GENERAL AND SPECIAL FUNDS**Sec. 4-2-10. Custody and management of funds.**

Monies in the funds created in this article shall be in the custody of and managed by the town treasurer. The town treasurer shall maintain accounting records and account for all of said monies as provided by law. Monies in the funds of the town shall be invested or deposited by the town treasurer in accordance with the provisions of law. All income from the assets of any fund shall become a part of the fund from which derived and shall be used for the purpose for which such fund was created, provided that, except as otherwise

provided in this Code or by other ordinances or laws, the board of trustees may transfer out of any fund, other than any enterprise funds, any amount at any time to be used for such purpose as the board of trustees may direct.

Sec. 4-2-20. General fund created.

There is hereby created a fund, to be known as the general fund, which shall consist of the following:

- (1) All cash balances of the town not specifically belonging to any existing special fund of the town.
- (2) All fixed assets of the town (to be separately designated in an account known as the general fund fixed assets) not specifically belonging to any existing special fund of the town.

Sec. 4-2-30. Capital improvement fund created.

There is established a special fund of the town to be known as the sales tax capital improvement fund. The revenues specified in section 4-3-110 shall be credited in said fund and used solely for the purpose of providing capital improvements for the town or paying debt service on bonds or other obligations of the town issued to provide capital improvements pursuant to C.R.S. § 29-2-111. Monies credited to such fund shall not be available to be pledged or expended, by interfund transfer or otherwise, for any general purposes of the town.

Sec. 4-2-40. Conservation trust fund created.

There is hereby created a special fund, to be known as the conservation trust fund, and the funds therein shall be used only for the purposes allowed by law.

ARTICLE 3. SALES TAX

Sec. 4-3-10. Sales tax imposed.

There is imposed and there shall be paid a sales tax in the amount set forth in section 4-3-100 on the sale of tangible personal property at retail and the furnishing of services as provided in C.R.S. § 29-2-105(1)(d), upon all taxable transactions in the town.

(Ord. No. 1993-3, § 1, 8-11-1993; Ord. No. 2000-1, § 1, 3-2-2000)

Sec. 4-3-20. Definitions.

For the purpose of sections 4-3-10 through 4-3-100, the words therein contained shall have the meanings as provided in C.R.S. § 39-26-102, and said definitions are incorporated herein by specific reference.

(Ord. No. 1993-3, § 4, 8-11-1993)

Sec. 4-3-30. Collection of sales tax.

The collection, administration and enforcement of this sales tax shall be performed by the executive director of the department of revenue of the state (executive director) in the same manner as the collection, administration and enforcement of the state sales tax. The provisions of C.R.S. Title 39, Article 26 (C.R.S. § 39-26-101 et seq.), and all rules and regulations promulgated thereunder by the executive director shall govern the collection, administration and enforcement of the town sales tax.

Sec. 4-3-40. Sales tax vendor's fees.

The vendor shall be entitled as collection agent for the town to withhold an amount equal to 3 1/3 percent of the total amount to be remitted by the vendor to the executive director of the state department of revenue each month to cover the

vendor's expense in the collection and remittance of the town sales tax. If any vendor is delinquent in remitting the tax, other than in unusual circumstances shown to the satisfaction of the executive director, the vendor shall not be allowed to retain any amounts to cover his expense in collecting and remitting the tax, and an amount equivalent to the full two percent shall be remitted to the executive director by any such delinquent vendor.

Sec. 4-3-50. License issuance; fee.

The license provided by this article shall be granted and issued by the town clerk at a rate as set forth in the consolidated fee schedule of town, appendix 2-F, per license, which said license shall be in force and effect until December 31 in the year in which it is issued unless sooner revoked.

Sec. 4-3-60. Scope of tax.

The amount subject to tax under this article shall not include the state sales and use tax imposed by C.R.S. Title 39, Article 26 (C.R.S. § 39-26-101 et seq.).

(Ord. No. 1993-3, § 3, 8-11-1993)

Sec. 4-3-70. Determination of place of sale.

- (a) For the purpose of the sales tax imposed by this article, all retail sales shall be considered consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer to a destination outside the town or to a common carrier for delivery to a destination outside the limits of the town.
- (b) In the event a retailer has no permanent place of business in the town or has more than one place of business, the place or places at which the retail sales are consummated, for the purposes of this sales tax, shall be

determined by the provisions of C.R.S. Title 39, Article 26 (C.R.S. § 39-26-101 et seq.), and by the rules and regulations promulgated by the department of revenue.

(Ord. No. 1993-3, § 2, 8-11-1993)

Sec. 4-3-80. Gross receipts include delivery charges.

The gross receipts from sales shall include delivery charges, when such charges are subject to the state sales and use tax imposed by C.R.S. Title 39, Article 26 (C.R.S. § 39-26-101 et seq.), regardless of the places to which delivery is made.

(Ord. No. 1993-3, § 2, 8-11-1993)

Sec. 4-3-90. Schedule of sales tax.

- (a) There is imposed on all sales of tangible personal property at retail and the furnishing of services as provided in C.R.S. § 39-26-104, a tax equal to three and one-half percent of the gross receipts.
- (b) The tangible personal property and services taxable by this article shall be the same as the tangible personal property and services taxable pursuant to C.R.S. § 39-26-104, and subject to the same exemptions as those specified in C.R.S. § 39-26-701 et seq., provided that the exemption for the sale of food pursuant to C.R.S. § 39-26-707, sales and purchases of electricity, coal, wood, gas, fuel oil or coke sold to occupants of residences, pursuant to C.R.S. § 39-26-715, and the exemption for purchases of machinery or machine tools as provided in C.R.S. § 39-26-709, shall not apply to the sales tax imposed by this article, and the sale of such items is expressly made taxable under this article. The imposition of the tax on individual sales shall be in

accordance with schedules set forth in the rules and regulations promulgated by the department of revenue.

- (c) If any vendor, during any reporting period, collects as a tax an amount in excess of three percent of the total taxable sales, he shall remit to the executive director the full amount of the tax imposed in this article, together with such excess.

(Ord. No. 2020-003, 11-9-2020)

Sec. 4-3-100. Disposition of revenue.

All of the revenue derived from the town's three-percent sales tax shall be credited to the general fund for use as directed by the board of trustees, except the marijuana sales tax as described in section 4-4-10.

(Ord. No. 1993-3, § 6, 8-11-1993; Ord. No. 2000-1, § 2, 3-2-2000)

Note—The electorate approved a one-half percent sales tax increase on April 7, 2020. Ord. No. 2020-003, adopted November 9, 2020, provides that this additional one-half percent sales tax be deposited into the water and sewer enterprise funds and used for operational expenses.

Sec. 4-3-110. Amendment of provisions.

Except as to the sales tax rate of three and one-half percent imposed in this article, the items taxed and revenues provided for in section 4-3-100, the board of trustees may amend, alter or change this article by the adoption of an amending ordinance in accordance with law. Such amendment, alteration or change need not be submitted to the electors of the town for their approval.

(Ord. No. 1993-3, § 7, 8-11-1993; Ord. No. 2020-003, 11-9-2020)

Sec. 4-3-120. Term of tax.

The three and one-half percent sales tax of the town imposed by this article shall continue in effect until repealed by the electors of the town at an election held for such purpose.

(Ord. No. 2020-003, 11-9-2020)

ARTICLE 4. MARIJUANA SALES TAX

Sec. 4-4-10. Imposed.

In accordance with a town election held on April 5, 2016, and the subsequent enactment of Ordinance No. 2016-002, there is hereby levied a five percent sales tax upon the price paid for the purchase of retail marijuana, marijuana accessories and marijuana infused products within the town.

Sec. 4-4-20. Application of tax revenue.

The revenue derived from such tax shall be used for the additional costs incurred for adequate enforcement and administration of retail marijuana regulations and other general purposes of the town.

Chapter 5

RESERVED

Chapter 6

BUSINESS LICENSES AND REGULATIONS

Article 1. General Licensing Provisions

- Sec. 6-1-10. Purpose.
- Sec. 6-1-20. License required.
- Sec. 6-1-30. License application.
- Sec. 6-1-40. License fees.
- Sec. 6-1-50. License nontransferable.
- Sec. 6-1-60. Term of license.
- Sec. 6-1-70. Issuance.
- Sec. 6-1-80. Carrying or posting license required.
- Sec. 6-1-90. Separate license for each location.
- Sec. 6-1-100. License register.
- Sec. 6-1-110. Renewal.
- Sec. 6-1-120. Suspension.
- Sec. 6-1-130. Revocation of license.
- Sec. 6-1-140. Notice and hearing prior to suspension or revocation.
- Sec. 6-1-150. Cease and desist.
- Sec. 6-1-160. Refund of fees.
- Sec. 6-1-170. Penalty.

Article 2. Alcoholic Beverage Licenses

- Sec. 6-2-10. Definitions.
- Sec. 6-2-20. Application of state statutes.
- Sec. 6-2-30. Power and purpose.
- Sec. 6-2-40. License required.
- Sec. 6-2-50. Suspension or revocation; fine.
- Sec. 6-2-60. Occupational tax.
- Sec. 6-2-70. Payment of occupational tax.
- Sec. 6-2-80. Delinquency not grounds for revocation.
- Sec. 6-2-90. Recovery of tax by suit.
- Sec. 6-2-100. Optional premises.
- Sec. 6-2-110. Alcohol beverage tastings authorized.
- Sec. 6-2-120. Educational requirements.

Article 3. Retail Marijuana Businesses

- Sec. 6-3-10. Purpose.
- Sec. 6-3-20. Definitions.
- Sec. 6-3-30. Collection of tax.
- Sec. 6-3-40. Audit of records.
- Sec. 6-3-50. Tax overpayments and deficiencies.

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- Sec. 6-3-60. Tax information confidential.
- Sec. 6-3-70. Forms and regulations.
- Sec. 6-3-80. Enforcement and penalties.
- Sec. 6-3-90. Tax lien.
- Sec. 6-3-100. Recovery of unpaid tax.
- Sec. 6-3-110. Status of unpaid tax in bankruptcy and receivership.
- Sec. 6-3-120. Hearings, subpoenas and witness fees.
- Sec. 6-3-130. Depositions.
- Sec. 6-3-140. Limitation on actions.
- Sec. 6-3-150. Retail marijuana business license fee.
- Sec. 6-3-160. Penalty.

Article 4. Retail Marijuana Stores

- Sec. 6-4-10. Incorporation of state law.
- Sec. 6-4-20. Authority.
- Sec. 6-4-30. Definitions.
- Sec. 6-4-40. License required for operation of a retail marijuana establishment.
- Sec. 6-4-50. Requirements of application for license; payment of application fee; denial of license.
- Sec. 6-4-60. Retail marijuana stores.
- Sec. 6-4-70. Retail marijuana products manufacturer facilities prohibited.
- Sec. 6-4-80. Retail marijuana cultivation facilities prohibited.
- Sec. 6-4-90. Retail marijuana testing facilities prohibited.
- Sec. 6-4-100. Location criteria.
- Sec. 6-4-110. Persons prohibited as licensees and employees.
- Sec. 6-4-120. Issuance of license; duration; renewal.
- Sec. 6-4-130. Authority to impose conditions on license.
- Sec. 6-4-140. Annual operations fee.
- Sec. 6-4-150. Display of license.
- Sec. 6-4-160. Management of licensed premises.
- Sec. 6-4-170. Change in manager; change in financial interest.
- Sec. 6-4-180. Transfer of ownership; change of location.
- Sec. 6-4-190. Hours of operation.
- Sec. 6-4-200. Signage and advertising.
- Sec. 6-4-210. Security requirements.
- Sec. 6-4-220. Required notices.
- Sec. 6-4-230. On-site consumption of marijuana.
- Sec. 6-4-240. Prohibited acts.
- Sec. 6-4-250. Visibility of activities; paraphernalia; control of emissions.
- Sec. 6-4-260. Disposal of marijuana byproducts.
- Sec. 6-4-270. Sales and business license required.

BUSINESS LICENSES AND REGULATIONS

- Sec. 6-4-280. Sales tax.
- Sec. 6-4-290. Required books and records.
- Sec. 6-4-300. Inspection of licensed premises.
- Sec. 6-4-310. Nonrenewal, suspension or revocation of license.
- Sec. 6-4-320. Violations and penalties.
- Sec. 6-4-330. No town liability; indemnification.
- Sec. 6-4-340. No waiver of governmental immunity.
- Sec. 6-4-350. Other laws remain applicable.
- Sec. 6-4-360. Rules and regulations.
- Sec. 6-4-370. Judicial review.

Article 5. Peddlers and Solicitors

- Sec. 6-5-10. Definitions.
- Sec. 6-5-20. Permit required.
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- Sec. 6-5-260. Reapplication.
- Sec. 6-5-270. Penalty for violation.

ARTICLE 1. GENERAL LICENSING PROVISIONS

Sec. 6-1-10. Purpose.

The purpose of this article is the regulation and registration of businesses operating within the town for the health, safety and welfare of the citizens of the town and to enable the town to enforce the obligation of businesses to remit sales, use and additional taxes to support the town.

Sec. 6-1-20. License required.

Every person must obtain a license from the town before operating, conducting or carrying on any retail trade, profession or business within the town; except that nonprofit state corporations, and federal, state or municipal corporations, are hereby exempt from the license requirements set forth in this article.

Sec. 6-1-30. License application.

An application for a business license shall be made to the town clerk on forms provided by the town. Every applicant shall state under oath or affirmation such facts as may be required for the granting of such license. It is unlawful for any person to make any false statement or misrepresentation in connection with any application for a license.

Sec. 6-1-40. License fees.

(a) Every person required to be licensed by the provisions of this article shall pay a fee as set forth in the consolidated fee schedule at appendix 2-F, for every license unless specified otherwise in this Code or any other ordinance.

(b) Before granting the license, the fee required for the license must be paid at the office of the clerk.

Sec. 6-1-50. License nontransferable.

No license issued under the provisions of this article shall be transferable from person to person or place to place without permission from the board of trustees.

Sec. 6-1-60. Term of license.

All licenses shall be granted for a period of no more than one year.

Sec. 6-1-70. Issuance.

Upon receipt of the required fee and compliance with section 6-1-30. The town clerk will issue a license that indicates that the license fee has been paid for the specified year.

Sec. 6-1-80. Carrying or posting license required.

The license for a particular business location shall be posted at all times in a conspicuous place in the place of business. If the business is not operated, conducted or carried on at a fixed location, then the licensee must carry the license upon his person when operating, conducting or carrying on any retail trade, profession or business. Every licensee shall produce his license for examination when requested to do so by any town code enforcement or police officer or by any person representing the town.

Sec. 6-1-90. Separate license for each location.

Any person operating, conducting or carrying on any retail trade, profession or business within the town must obtain a separate license for each location of such trade, profession or business.

Sec. 6-1-100. License register.

The town clerk shall keep a license register, in which shall be entered the name of each and every person licensed, the date of the license, the purpose for which granted, the amount paid therefor and the date at which the same expires.

Sec. 6-1-110. Renewal.

- (a) An application for renewal of a general business license shall be considered in the same manner as an original application.
- (b) Unless otherwise provided in this chapter, all renewal applications and fees shall be due at least 30 days prior to expiration of the existing license. Any applicant who fails to submit the renewal application and fee within the required time shall be subject to the following additional fees: an additional 25 percent of the license fee for the first 15 days, and thereafter, and an additional 50 percent of such fee.

Sec. 6-1-120. Suspension.

A license may be suspended:

- (1) When any money due the town has not been paid. This includes failure to pay civil penalties, fines, taxes, impact fees or any other money owed to the town.
- (2) When any activity conducted by the licensee or his employee or agent violates any federal, state or local rule, regulation or law.
- (3) Upon failure to comply with the terms and conditions of the license.
- (4) Upon any grounds of suspension provided by this Code.

Sec. 6-1-130. Revocation of license.

A license may be revoked by the town:

- (1) When it appears that the license was obtained by fraud, misrepresentation or false statements within the application.
- (2) When it appears that the activity conducted pursuant to such license is a public nuisance as defined by this Code or statute or violates any federal, state or local rule, regulation or law.
- (3) Upon failure to comply with the terms and conditions of the license.
- (4) Upon any grounds of revocation provided by this Code.

Sec. 6-1-140. Notice and hearing prior to suspension or revocation.

All hearings to revoke, suspend or cancel a license shall be before the board of trustees. The suspension or revocation of any license shall not release or discharge anyone from his civil liability for the payment of the taxes, penalty and interest or from the prosecution of the offense.

Sec. 6-1-150. Cease and desist.

If any business is operating without a license, the mayor may issue an order to the business to cease and desist all further operation until a license is issued for the business. The order shall give the business three days to pay all amounts due the town; or to post a bond in the amount owing the town and to request in writing a hearing with the town clerk. If the business does nothing, it shall cease operations on the third day. The hearing will be before the board of trustees. The proceedings shall not relieve or discharge anyone from

the civil liability for the payment of the taxes, penalty and interest or from the prosecution of the offense.

Sec. 6-1-160. Refund of fees.

Upon refusal by the town of any license or permit, the fee therefor paid in advance shall be returned to the applicant. In the event that any license or permit is revoked by the town, all monies paid therefor shall be and remain the monies of the town and no refund shall be made to any licensee or holder of a permit.

Sec. 6-1-170. Penalty.

Failure to comply with the terms of this article shall constitute a violation of this Code. Any person who is found guilty of, or pleads guilty or nolo contendere to, the violation of any section of this Code shall be punished in accordance with the provisions of section 1-4-10.

ARTICLE 2. ALCOHOLIC BEVERAGE LICENSES

Sec. 6-2-10. Definitions.

- (a) 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:

Retail license means a grant to a licensee to sell fermented malt beverages pursuant to the Colorado Beer Code (C.R.S. Title 44, Article 4) or a grant to a licensee to sell malt, vinous or spirituous liquors pursuant to the Colorado Liquor Code (C.R.S. Title 44, Article 3).

Retail licensee or *licensee* means the holder of a license to sell fermented malt beverages pursuant to the state beer code or the holder of a license to sell malt, vinous or spirituous liquors pursuant to the state liquor code.

- (b) All other terms shall be defined as set forth in the provisions of the state beer code, the state liquor code and special event permits, as the definitions presently exist or may hereafter be amended.

Sec. 6-2-20. Application of state statutes.

The Colorado Beer Code, C.R.S. § 44-4-101 et seq., the Colorado Liquor Code, C.R.S. § 44-3-101 et seq., and Special Event Permits, C.R.S. §§ 44-5-101 et seq., as they presently exist or may hereafter be amended, shall apply to the sale of fermented malt beverages, alcoholic beverages, special malt liquors, spirituous liquors and vinous liquors in the town.

Sec. 6-2-30. Power and purpose.

The board of trustees finds and determines that it is empowered by C.R.S. § 44-3-505 et seq., to fix and collect certain fees in connection with the application for issuance, transfer and renewal of certain types of beer, wine and liquor licenses. The board of trustees further finds that the fees, established in appendix 2-F, are reasonable and are in amounts sufficient to cover actual and necessary expenses incurred by the town in connection with the handling of such licenses and applications therefor.

Sec. 6-2-40. License required.

No person shall sell, vend, deal in or dispose of by gift or sale any alcoholic beverage within the town without first having received a license there-

for as provided or required by the state statutes and in conformity with the provisions of this article.

preceding the date of the motion or complaint which has resulted in a final decision to suspend the retail license.

Sec. 6-2-50. Suspension or revocation; fine.

(a) Whenever a decision of the board of trustees, acting as the local licensing authority (hereinafter, authority), suspending a retail license for 14 days or less becomes final, whether by failure of the retail licensee to appeal the decision or by exhaustion of all appeals and judicial review, the retail licensee may, before the operative date of the suspension, petition the authority for permission to pay a fine in lieu of having his retail license suspended for all or part of the suspension period. Upon the receipt of the petition, the authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if it is satisfied:

- (1) That the public welfare and morals would not be impaired by permitting the retail licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;
- (2) That the books and records of the retail licensee are kept in such a manner that the loss of sales of alcoholic beverages which the retail licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy therefrom; and
- (3) That the retail licensee has not had his license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two years immediately

- (b) The fine accepted shall be equivalent to 20 percent of the retail licensee's estimated gross revenues from sales of alcoholic beverages during the period of the proposed suspension; except that the fine shall be not less than \$200.00 nor more than \$5,000.00.
- (c) Payment of any fine pursuant to the provisions of this section shall be in the form of cash, certified check or cashier's check made payable to the town clerk and shall be deposited in the general fund of the town.
- (d) Upon payment of the fine pursuant to this section, the authority shall enter its further order permanently staying the imposition of the suspension.
- (e) In connection with any petition pursuant to this section, the authority is limited to the granting of such stays as are necessary for it to complete its investigation and make its findings and, if it makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.
- (f) If the authority does not make the findings required in subsection (a) of this section and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the authority.

Sec. 6-2-60. Occupational tax.

- (a) *Application fees.* Liquor licensing application fees shall be paid to the town clerk in

accordance with the consolidated fee schedule, appendix 2-F, and may be established by resolution of the board of trustees.

- (b) *Annual renewal fees.* Renewal fees are set forth in the consolidated fee schedule, appendix 2-F.

Sec. 6-2-70. Payment of occupational tax.

- (a) The annual renewal license occupation tax shall be due and payable to the town by January 2 of each year and, if not paid, shall be delinquent on February 1 of the same. Prepayment of the tax may be made in the month of December preceding the due date.
- (b) Upon receipt of such tax, it shall be the duty of the town clerk to execute and deliver to the operator paying the tax a receipt showing the name of the operator paying the tax, the date of payment, the annual period for which the tax is paid, the place at which the operator conducts business and the classification of the operator.
- (c) The licensee shall, at all times during the year, keep the receipt posted in a conspicuous place in his place of business.
- (d) The tax is assessed for the calendar year, or any portion thereof, and no proration shall be made where the business is used for only a portion of a year; and no refund shall be made to any person who discontinues said business during the year. Interest shall accrue on all delinquent taxes herein provided for from the day of delinquency at the statutory rate provided by law.
- (e) The licensee shall, at the time he pays his tax, designate to the town clerk under what classification his place of business is operated.

Sec. 6-2-80. Delinquency not grounds for revocation.

No delinquency in payment of the occupation taxes provided for in this article shall be grounds for suspension or revocation of any license granted to any such operator by any licensing authority pursuant to the state statutes. In the performance of any duties imposed upon the board of trustees as a licensing authority by said statutes, the board of trustees shall exclude from consideration any delinquency in payment of the tax provided in this article.

Sec. 6-2-90. Recovery of tax by suit.

The town shall have the right to recover all sums due by the terms of this section by judgment and execution thereon in a civil action, in any court of competent jurisdiction; such remedy shall be cumulative with all other remedies provided in this Code for the enforcement of this article.

Sec. 6-2-100. Optional premises.

- (a) *Issuance authority.* An optional premises license and optional premises for a hotel and restaurant license may be issued by the authority.
- (b) *Applicable standards.* The following standards shall be applicable to the issuance of a license under this section, in addition to all other applicable standards set forth in the state liquor code for optional premises license and optional premises for a hotel and restaurant license:
 - (1) *Eligible facilities.* Outdoor sports and recreational facilities as defined in C.R.S. §§ 44-3-415 and 44-3-103(33)(a), are el-

eligible for licensing as an optional premises or an optional premises for a hotel and restaurant.

- (2) *Number of optional premises.* There are no restrictions on the number of optional premises which any one licensee may have on an outdoor sports or recreational facility.
- (3) *Minimum size of facility.* There is no restriction on the minimum size of an outdoor sports or recreational facility which would be eligible for issuance of an optional premises license or optional premises for a hotel and restaurant license.

(c) *Accompanied information with application.* The application for an optional premises license or optional premises for a hotel or restaurant license shall be accompanied by the following:

- (1) A map or other drawing illustrating the outdoor sports or recreational facility boundaries and the approximate location of each optional premises requested;
- (2) A description of the method which shall be used to identify the boundaries of the optional premises when it is in use; and
- (3) A description of the provisions which have been made for storing malt, vinous and spirituous liquors in a secured area on or off the optional premises for the future use on the optional premises.

Sec. 6-2-110. Alcohol beverage tastings authorized.

Pursuant to C.R.S. §44-3-301(10)(a), the town authorizes alcohol beverage tastings for licensed

retail liquor stores and liquor licensed drug stores within the town. The town shall not require a further application prior to allowing retail liquor licensees to conduct alcohol beverage tastings and elects not to impose additional limitations on such tastings beyond those limitations set forth in C.R.S. Title 44, Article 3 (C.R.S. § 44-3-101 et seq.).

Sec. 6-2-120. Educational requirements.

Every hotel and restaurant licensee, registered manager and licensee's employee is encouraged to obtain a certificate of completion from an educational program of training for intervention procedures for servers of alcohol. Those registered managers obtaining a certificate of completion may file a copy of the certificate of completion with the authority with an application of renewal of a liquor license.

ARTICLE 3. RETAIL MARIJUANA BUSINESSES

Sec. 6-3-10. Purpose.

In accordance with a vote of the town electorate on April 5, 2016, the town board of trustees passed Ordinance No. 2016-002 approving the retail sale of marijuana within the town and imposing a five percent tax upon the sales of retail marijuana, marijuana accessories and marijuana infused products which is hereby allowed and the tax hereby imposed. The revenue derived from such tax will be used for the additional costs incurred for adequate enforcement and administration of retail marijuana regulations and other general purposes of the town.

(Ord. No. 2016-002, §§ 2, 3, 4-5-2016)

Sec. 6-3-20. 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:

Marijuana accessories has the same meaning as defined in Section 16(2)(g) of Article XVIII of the Colorado Constitution.

Person means an individual, partnership, firm, joint enterprise, limited liability company, corporation, estate or trust or any group or combination acting as a unit but shall not include the United States of America, the state or any political subdivision thereof.

Retail marijuana means "marijuana" or "marihuana," as defined in Section 16(2)(f) of Article XVIII of the Colorado Constitution, that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment that is grown and sold for a purpose authorized by Article XVIII, Section 16 of the Colorado Constitution.

Retail marijuana establishment or retail marijuana business means a retail marijuana store.

Retail marijuana products has the same meaning as the term "marijuana products," as defined in Section 16(2)(k) of Article XVIII of the Colorado Constitution that are produced at a retail marijuana products manufacturer.

Retail marijuana products manufacturer has the same meaning as the term "marijuana product manufacturing facility," as defined in Section 16(2)(j) of Article XVIII of the Colorado Constitution.

Retail marijuana store has the same meaning as defined in Section 16(2)(N) of Article XVIII of the Colorado Constitution and R103 of the Colorado Retail Marijuana Code of Regulations.

Sale means the furnishing for consideration by any person of retail marijuana, retail marijuana products or marijuana accessories to another person within the town.

Tax means the tax payable by the vendor or the aggregate amount of taxes due from vendor during the period for which the vendor is required to pay sales tax on the sale and purchase of retail marijuana, retail marijuana products or marijuana accessories under this article.

Taxpayer means the vendor obligated to pay the tax under the terms of this article.

Vendor means a person furnishing retail marijuana, retail marijuana products and marijuana accessories to a person for consideration within the town.

(Ord. No. 2016-002, § 4, 4-5-2016)

Sec. 6-3-30. Collection of tax.

- (a) Every vendor providing retail marijuana, retail marijuana products or marijuana accessories taxable under this article shall remit such tax on or before the fifth day of each month on account of retail marijuana, retail marijuana products or marijuana accessories transactions in the preceding month. Said payment shall be accompanied by a return which shall contain such information and be in such form as the town clerk may prescribe.
- (b) The burden of proving that any transaction is exempt from the tax shall be upon the vendor.
- (c) If the accounting methods regularly employed by the vendor from the transaction of business, or other conditions, are such that the returns aforesaid made on a calendar month basis will impose unnecessary hardship, the town clerk may, upon request of the

vendor, accept returns at such intervals as will, in the town clerk's opinion, better suit the convenience of the vendor and will not jeopardize the collection of the tax; provided, however, the town clerk may by rule permit a vendor whose monthly tax obligation is less than \$100.00 to make returns and pay taxes at intervals not greater than three months.

- (d) It shall be the duty of every vendor to maintain, keep and preserve suitable records of all sales made by the vendor and such other books or accounts as may be required by the town clerk in order to determine the amount of the tax for which the vendor is liable under this article. It shall be the duty of every such vendor to keep and preserve for a period of three years all such books, invoices and other records and the same shall be open for examination by the town clerk, the town finance director or their designees.

(Ord. No. 2016-002, § 5, 4-5-2016)

Sec. 6-3-40. Audit of records.

- (a) For the purpose of ascertaining the correct amount of the sales tax for retail marijuana, retail marijuana products and marijuana accessories transactions due from any person engaged in such retail marijuana business in the town under this article, the town clerk or an authorized agent may conduct an audit by examining any relevant books, accounts and records of such person.
- (b) All books, invoices, accounts and other records shall be made available within the town limits and be open at any time during regular business hours for examination by the town clerk or any authorized agent. If any taxpayer refuses to voluntarily furnish any of

the foregoing information when requested, the town clerk may issue a subpoena to require that the taxpayer or its representative attend a hearing and/or produce any such books, accounts and records for examination. Any such subpoena shall be enforced by the town municipal court.

- (c) Any exempt person claiming an exemption under the provisions of this article is subject to audit in the same manner as any other person engaged in the sale of retail marijuana, retail marijuana products and marijuana accessories in the town.

(Ord. No. 2016-002, § 6, 4-5-2016)

Sec. 6-3-50. Tax overpayments and deficiencies.

An application for refund of tax monies paid in error or by mistake shall be made within three years after the date of payment for which the refund is claimed. If the town clerk determines that within three years of the due date, a vendor overpaid the sales tax on the sale of retail marijuana, retail marijuana products, or marijuana accessories, he shall process a refund or allow a credit against a future remittance from the same taxpayer. If at any time the town clerk determines the amount paid is less than the amount due under this article, the difference, together with the interest shall be paid by the retail marijuana establishment within ten days after receiving written notice and demand from the town clerk. The town clerk may extend that time for good cause.

(Ord. No. 2016-002, § 7, 4-5-2016)

Sec. 6-3-60. Tax information confidential.

- (a) All specific information gained under the provisions of this article which is used to determine the tax due from a taxpayer, whether furnished by the taxpayer or ob-

tained through audit, shall be treated by the town and its officers, employees or legal representatives as confidential. Except as directed by judicial order or as provided in this article, no town officer, employee, or legal representative shall divulge any confidential information and shall be required to provide only such information as is directly involved in any action or proceeding. Any town officer or employee who shall knowingly divulge any information classified herein as confidential, in any manner except in accordance with proper judicial order, or as otherwise provided in this article or by law, shall be guilty of a violation hereof.

- (b) The town clerk may furnish to officials of any other governmental entity who may be owed sales tax any confidential information, provided that said jurisdiction enters into an agreement with the town to grant reciprocal privileges to the town.
- (c) Nothing contained in this article shall be construed to prohibit the delivery to a taxpayer or its duly authorized representative a copy of such confidential information relating to such taxpayer, the publication of statistics so classified as to prevent the identification of particular taxpayers or the inspection of such confidential information by an officer, employee, or legal representative of the town.

(Ord. No. 2016-002, § 8, 4-5-2016)

Sec. 6-3-70. Forms and regulations.

The town clerk is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said sales tax on the provision of retail marijuana, retail marijuana

products or marijuana accessories and in particular and without limiting the general language of this article to provide for:

- (1) A form of report on the provision of retail marijuana, retail marijuana products and marijuana accessories which shall be supplied to all vendors; and
- (2) The records which retail marijuana stores providing retail marijuana, retail marijuana products and marijuana accessories are to keep concerning the tax imposed by this article.

(Ord. No. 2016-002, § 9, 4-5-2016)

Sec. 6-3-80. Enforcement and penalties.

- (a) It shall be unlawful for any person to intentionally, knowingly, or recklessly fail to pay the tax imposed by this article, or to make any false or fraudulent return, or for any person to otherwise violate any provisions of this chapter. Any person convicted of a violation of this article shall be deemed guilty of a municipal offense. Each day, or portion thereof, that any violation of this article continues shall constitute a separate offense.
- (b) A penalty in the amount of ten percent of the tax due or the sum of \$10.00, whichever is greater, shall be imposed upon the retail marijuana establishment and become due in the event the tax is not remitted by the fifth day of the month as required by this article or such other date as prescribed by the town clerk, and 1½ percent interest shall accrue each month on the unpaid balance. The town clerk is hereby authorized to waive, for good cause shown, any penalty assessed.
- (c) If any part of a deficiency is due to negligence or intentional disregard of regula-

tions, but without intent to defraud, there shall be added ten percent of the total amount of the deficiency, and interest, from the retail marijuana establishment required to file a return. If any part of the deficiency is due to fraud with other intent to evade the tax, then there shall be added 50 percent of the total amount of the deficiency together with interest and in such case, the whole amount of the unpaid tax, including the additions, shall become due payable ten days after written notice and demand by the town clerk.

- (d) If any retail marijuana business fails to make a return and pay the tax imposed by this article, the town may make an estimate, based upon available information of the amount of tax due and add the penalty and interest provided above. The town shall mail notice of such estimate by certified mail, to the retail marijuana business at its address as indicated in the town records. Such estimate shall thereupon become an assessment and such assessment shall be final and due and payable from the taxpayer to the town clerk ten days from the date of service of the notice or the date of mailing by certified mail; provided, however, that within the ten-day period such delinquent taxpayer may petition the town clerk for a revision or modification of such assessment and shall, within such ten-day period, furnish the town clerk the documents, facts and figures showing the correct amount of such taxes due and owing.
- (e) Such petitions shall be in writing and the facts and figures submitted shall be submitted either in writing or orally and shall be given by the taxpayer under penalty of perjury. Thereupon, the town clerk may modify such assessment in accordance with the facts

submitted in order to effectuate the provisions of this article. Such assessment shall be considered the final order of the town clerk, and may be reviewed by a court of competent jurisdiction under the Rule 106(a)(4) of the Colorado Rules of Civil Procedure, provided that the taxpayer gives written notice to the town clerk of such intention within ten days after receipt of the final order of assessment.

(Ord. No. 2016-002, § 10, 4-5-2016)

Sec. 6-3-90. Tax lien.

- (a) The tax imposed by this article together with the interest and penalties herein provided and the costs of collection which may be incurred, shall be, and until paid, remain a first and prior lien superior to all other liens on all of the tangible personal property of a taxpayer within the town and may be foreclosed by seizing under distraint warrant and selling so much thereof as may be necessary to discharge the lien. Such distraint warrant may be issued by the town clerk whenever the taxpayer is in default in the payment of the tax, interest, penalty or costs. Such warrant may be served and the goods subject to such lien seized by any town peace officer, the county sheriff or any duly authorized employee of the town. The property so seized may be sold by the agency seizing the same or by the town clerk at public auction after ten days have passed following an advertised notice in a legal newspaper circulated in the town in the same manner as is prescribed by law in respect to executions against property upon judgment of a court of record, and the remedies of garnishment shall apply.
- (b) The tax imposed by this article shall be and remain a first and prior lien superior to all

other liens on the real property and appurtenant premises at which the taxable transactions occurred.

(Ord. No. 2016-002, § 11, 4-5-2016)

Sec. 6-3-100. Recovery of unpaid tax.

- (a) The town clerk may also treat any such taxes, penalties, costs or interest due and unpaid as a debt due the town from the taxpayer.
- (b) In case of failure to pay the taxes, or any portion thereof, or any penalty costs or interest thereon, when due, the town clerk may recover by law the amount of such taxes, penalties, costs, the reasonable value of any reasonable attorney's fees, including legal assistant's fees, charged by the town's contract attorney, plus interest in any county or district court of the county wherein the taxpayer resides or had a principal place of business (at the time the tax became due) having jurisdiction of the amount sought to be collected.
- (c) The return of the taxpayer or the assessment made by the town clerk shall be prima facie proof of the amount due.
- (d) Such actions may be actions in attachment, and writs of attachment may be issued to the county sheriff, as the case may be, and in any such proceedings no bond shall be required of the town clerk, nor shall any town peace officer or sheriff require of the town clerk any indemnifying bond for executing the writ of attachment or writ of execution upon any judgment entered in such proceedings. The town clerk may prosecute appeals in such cases without the necessity of providing a bond therefor.

(e) The town attorney may, when requested by the town clerk, commence an action for the recovery of taxes due under this article and this remedy shall be in addition to all other existing remedies or remedies provided in this article.

(f) The town may certify the amount of any delinquent tax, plus interest, penalties and the costs of collection as a charge against the property on which the taxable transaction occurred to the county treasurer for collection in the same manner as delinquent and valorem taxes pursuant to C.R.S. § 31-20-105.

(Ord. No. 2016-002, § 12, 4-5-2016)

Sec. 6-3-110. Status of unpaid tax in bankruptcy and receivership.

Whenever the business or property of a taxpayer subject to this article shall be placed in receivership, bankruptcy or assignment for the benefit of creditors, or seized under distraint for taxes, all taxes, penalties and interest imposed by this article and for which the taxpayer is in any way liable under the terms of this article shall be a prior and preferred lien against all the property of the taxpayer except as to other tax liens which have attached prior to the filing of the notice, and sheriff, receiver, assignee or other office shall sell the property of any person subject to this article under process or order of any court, without first ascertaining from the town clerk the amount of any taxes due and payable under this article, and if there be any such taxes due, owing and unpaid, it shall be the duty of such officer to first pay the amount of the taxes out of the proceeds of such sale before making payment of any monies to any judgment creditor or other claimants of whatso-

ever kind or nature, except the costs of the proceedings and other preexisting tax liens as above provided.

(Ord. No. 2016-002, § 13, 4-5-2016)

Sec. 6-3-120. Hearings, subpoenas and witness fees.

- (a) Hearings before the town clerk pursuant to provisions in this article shall be held in a manner that provides due process of law. Any subpoena issued pursuant to this article may be enforced by the town municipal judge pursuant to C.R.S. § 13-10-112(2). The fees of witnesses for attendance at hearings shall be the same as the fees of witnesses before the district court; such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the town clerk, such fees shall be paid in the same manner as other expenses under the terms of this article and when a witness is subpoenaed at the instance of any party to any such proceedings, the town clerk may require that the cost of service of the subpoena and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the town clerk, at his discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena issued pursuant to this article shall be served in the same manner as a subpoena issued out of a court of record.
- (b) The municipal judge, upon the application of the town clerk, may compel the attendance of witnesses, the production of books, papers, records or memoranda, and the giving of testimony before the town clerk or any duly authorized hearing officer, by an action

for contempt, or otherwise, in the same manner as production of evidence may be compelled before the court.

(Ord. No. 2016-002, § 14, 4-5-2016)

Sec. 6-3-130. Depositions.

The town clerk or any party in an investigation or hearing before the town clerk may cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in courts of this state and to that end compel the attendance of witnesses and the production of books, papers, records or memoranda.

(Ord. No. 2016-002, § 15, 4-5-2016)

Sec. 6-3-140. Limitation on actions.

- (a) Except as otherwise provided in this section, the taxes for any period, together with interest thereon and penalties with respect thereto, imposed by this article shall not be assessed, nor shall a notice of lien be filed, or distraint warrant be issued, or suit for collection be instituted, or any other action to collect the same be commenced, more than three years after the date on which the tax was or is payable, nor shall any lien continue after such period, except for taxes assessed before the expiration of such three year period when the notice of lien with respect to which has been filed prior to the expiration of such three-year period. In case of false or fraudulent return with intent to evade taxation, the tax, together with interest and penalties thereon, may be assessed or proceedings for the collection of such taxes may be commenced at any time.
- (b) Before the expiration of such period of limitation, the taxpayer and the town clerk may

agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

(Ord. No. 2016-002, § 16, 4-5-2016)

Sec. 6-3-150. Retail marijuana business license fee.

- (a) Each retail marijuana store shall pay an annual license fee to the town, in the amount of \$3,000.00. Such fee shall be paid on or before the initial issuance of a license or permit from the town clerk to operate a retail marijuana store and such fee shall thereafter be paid annually on or before January 31 of each year while such license or permit is in effect.
- (b) The town hereby limits the number of retail marijuana stores which may be operated only in the town commercial zoned district, to not more than three.
- (c) Such retail marijuana stores shall not be located within 500 linear feet from any school.
- (d) The town board of trustees is empowered to enact, by resolution, rules and regulations relating to the operation of retail marijuana stores within the town.

(Ord. No. 2016-002, §§ 17, 18, 20, 4-5-2016)

Sec. 6-3-160. Penalty.

Any person who violates the provisions of this article or the rules and regulations promulgated thereunder shall, upon conviction, be punished in accordance with the provisions of section 1-4-10.

(Ord. No. 2016-002, § 21, 4-5-2016)

ARTICLE 4. RETAIL MARIJUANA STORES

Sec. 6-4-10. Incorporation of state law.

The provisions of the state retail marijuana code, and any rules and regulations promulgated

thereunder as the same may be amended from time to time, are incorporated herein by reference except to the extent that more restrictive or additional regulations are set forth in this article.

(Ord. No. 013-2016, exh. A(§ 1-3), 6-13-2016)

Sec. 6-4-20. Authority.

The town board of trustees hereby finds, determines and declares that it has the power to adopt this article pursuant to:

- (1) Article XVIII, Section 16 of the Colorado Constitution;
- (2) The Colorado Retail Marijuana Code, C.R.S. § 44-12-101 et seq.;
- (3) The Local Government Land Use Control Enabling Act, C. R.S. title 29, article 20 (C.R.S. § 29-20-101 et seq.);
- (4) C.R.S. Title 31, Article 23, Part 3 (C.R.S. § 31-23-301 et seq.) (concerning municipal zoning powers);
- (5) C.R.S. § 31-15-103 (concerning municipal police powers);
- (6) C.R.S. § 31-15-401 (concerning municipal police powers);
- (7) C.R.S. § 31-15-501 (concerning municipal authority to regulate stores).

(Ord. No. 013-2016, exh. A(§ 1-4), 6-13-2016)

Sec. 6-4-30. Definitions.

- (a) 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:

Applicant means a person 21 years of age or older who has submitted an application for a license or renewal of a license

issued pursuant to this article. If the applicant is an entity and not a natural person, applicant shall include all persons who are the members, managers, officers and directors of such entity.

Colorado Medical Marijuana Code means C.R.S. § 44-12-101 et seq.

Consumer means a person 21 years of age or older who purchases marijuana or marijuana products for personal use by a person 21 years of age or older, but not for resale to others.

Cultivation or *cultivate* means the process by which a person grows a marijuana plant.

Dual operation means a business that operates as both a licensed medical marijuana business and a licensed retail marijuana establishment

Good cause (for the purpose of refusing or denying a license renewal under this article) means:

- (1) The licensee has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of this article and any rule and regulation promulgated pursuant to this article;
- (2) The licensee has failed to comply with any special terms or conditions that were placed on its license at the time the license was issued, or that were placed on its license in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or

(3) The licensee's retail marijuana store, retail marijuana products manufacturing operation, or retail marijuana cultivation facility has been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the retail marijuana store, retail marijuana products manufacturing operation, or retail marijuana cultivation facility is located. Evidence to support such a finding can include:

- a. A continuing pattern of offenses against the public peace, as defined in article 5 of chapter 13;
- b. A continuing pattern of drug-related criminal conduct within the premises of the retail marijuana store, retail marijuana products manufacturing operation, or retail marijuana cultivation facility or in the immediate area surrounding the retail marijuana store, retail marijuana product manufacturing operation, or retail marijuana cultivation facility arising out of the operation of the establishment; or
- c. A continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana store, retail marijuana prod-

ucts manufacturing operation, or retail marijuana cultivation facility.

Industrial hemp means the plant of the genus cannabis and any part of such plant, whether growing or not, with a Delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent on a dry weight basis.

License means a document issued by the town officially authorizing an applicant to operate a retail marijuana store, retail marijuana products manufacturing operation, or retail marijuana cultivation facility pursuant to this article.

Licensed premises means the premises specified in an application for a license under this article, which is owned or in possession of the licensee and within which the license is authorized to cultivate, manufacture, distribute, or sell retail marijuana or retail marijuana products in accordance with state and local law. Local licensing authority means the town board of trustees of the town.

Licensee means the person to whom a license has been issued pursuant to this article.

Marijuana means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. The term "marijuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the

plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana accessories means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body. The term "marijuana accessories" has the same meaning as defined in Section 16(2)(g) of Article XVII of the Colorado Constitution

Medical marijuana business means a medical marijuana center or medical marijuana infused products manufacturer as defined in the Colorado Medical Marijuana Code.

Person means an individual, partnership, firm, joint enterprise, limited liability company, corporation, estate or trust or any group or combination acting as a unit but shall not include the United States of America, the state of Colorado or any political subdivision thereof.

Retail marijuana means "marijuana" or "marihuana" as defined in Section 16(2)(f) of Article XVII of the Colorado Constitution that is cultivated, manufactured, distributed, or sold by a licensed retail marijuana establishment that is grown and sold for a purpose authorized by Section 16 of Article XVIII of the Colorado Constitution.

Retail marijuana cultivation facility means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

Retail marijuana establishment or retail marijuana business means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturer, or a retail marijuana testing facility.

Retail marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients that are intended for use or consumption, such as, but not limited to, edible products, ointments and tinctures. The term "retail marijuana products" has the same meaning as the term "marijuana products," as defined in Section 16(2)(k) of Article XVIII of the Colorado Constitution that are produced at a retail marijuana products manufacturer.

Retail marijuana products manufacturer has the same meaning as "marijuana product manufacturing facility" as defined in Section 16(2)(N) of Article XVIII of the Colorado Constitution.

Retail marijuana products manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Retail marijuana store has the same meaning as defined in Section 16(2)(N) of Article XVIII of the Colorado Constitution and R103 of the Colorado Retail Marijuana Code of Regulations.

Retail marijuana testing facility means an entity licensed by the town and state to analyze and certify the safety and potency of marijuana.

Sale means the furnishing for consideration by any person of retail marijuana, retail marijuana products or marijuana accessories to another person within the town.

State licensing authority means the authority created by the state department of revenue for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale and testing of retail marijuana in the state pursuant to C.R.S. § 44-12-101 et seq.

Tax means the tax payable by the vendor or the aggregate amount of taxes due from vendor during the period for which the vendor is required to pay sales tax on the sale and purchase of retail marijuana, retail marijuana products or marijuana accessories under this article.

Taxpayer means the vendor obligated to pay the tax under the terms of this article.

Vendor means a person furnishing retail marijuana, retail marijuana products and marijuana accessories to a person for consideration within the town.

- (b) In addition to the definitions provided in subsection (a) of this section, other terms used in this article shall have the meaning ascribed to them in Section 16 of Article XVIII of the Colorado Constitution, or the

Colorado Retail Marijuana Code, and such definitions are hereby incorporated into this article by reference.

(Ord. No. 2016-002, § 4, 8-8-2016)

Sec. 6-4-40. License required for operation of a retail marijuana establishment.

The town hereby authorizes the operation of retail marijuana stores in the town as set forth in this article. It shall be unlawful for any person to establish or operate a retail marijuana establishment in the town without first having obtained a license for such business from the local licensing authority. Such license shall be kept current at all times, and the failure to maintain a current license shall constitute a violation of this section.

Sec. 6-4-50. Requirements of application for license; payment of application fee; denial of license.

(a) A person seeking a license or renewal of a license issued pursuant to this article shall submit an application to the local licensing authority on forms provided by the town clerk. At the time of application, each applicant shall pay a nonrefundable operating fee to the town in an amount to be determined by the town by separate resolution to defray the costs incurred by the town for costs including, but not limited to, inspection, administration, and enforcement of retail marijuana stores. In addition, the applicant shall present one of the following forms of identification:

- (1) An operator' s, chauffer' s or similar type of driver's license issued by any state within the United States or a U.S. Territory;

- (2) An identification card, issued by any state for purpose of proving age using requirements similar to those in C.R.S. §§ 42-2-302 and 42-2-303;
 - (3) A United States military identification card;
 - (4) A valid passport; or
 - (5) An enrollment card issued by the government authority of a federally recognized Tribe located in the state.
- (b) The applicant shall also provide the following information on a form approved by, or acceptable to the town, which information shall be required for the applicant, all employees, including the proposed manager of the retail marijuana establishment, and all persons having a ten percent or more financial interest in the retail marijuana establishment that is the subject of the application or, if the applicant is an entity, having a ten percent or more financial interest in the entity:
- (1) Name, address, date of birth;
 - (2) A complete set of fingerprints;
 - (3) Suitable evidence of proof of lawful presence, residence, if applicable, and good character and reputation that the town may request;
 - (4) If the applicant is a business entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the secretary of state, as applicable;
 - (5) The name and complete address of the proposed retail marijuana establish-

ment, including the facilities to be used in furtherance of such business, whether or not such facilities are, or are planned to be, within the territorial limits of the town;

(6) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a retail marijuana establishment;

(7) A copy of any deed, lease, contract or other document reflecting the right of the applicant to possess the proposed licensed premises along with the conditions of occupancy of the premises;

(8) Evidence of a valid sales tax license for the business;

(9) If the retail marijuana establishment will be providing retail marijuana products in edible form, evidence of at a minimum a pending application for any food establishment license or permit that may be required by the state;

(10) A to-scale diagram of the premises, showing, without limitation, a site plan, building layout, all entry ways and exits to the marijuana store and cultivation facility, loading zones and all areas in which retail marijuana will be stored, grown or dispensed;

(11) A comprehensive business operation plan for the retail marijuana establishment which shall contain, without limitation, the following:

a. A security plan meeting the requirements of section 6-4-210;

b. A description by category of all products to be sold;

c. A signage plan that is in compliance with all applicable requirements of this article and other applicable provisions of this Code, as well as the state retail marijuana code and all rules and regulations promulgated thereunder; and

d. A plan for the disposal of marijuana and related byproducts meeting the requirements of section 6-4-260.

(12) For retail marijuana products manufacturing operation license applications, a copy of any and all contracts between the applicant and any retail marijuana cultivation operation from which it will be purchasing retail marijuana for use in the production of retail marijuana products; and

(13) Any additional information that the local licensing authority reasonably determines to be necessary in connection with the investigation and review of the application.

(c) The applicant shall verify the truthfulness of the information required by this section by the applicant's signature on the application.

(d) A license issued pursuant to this article does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the retail marijuana establishment, including, without limitation, a license from the state licensing authority

and any development approvals or building permits required by this article and any other applicable provisions of this Code.

- (e) Upon receipt of a completed application, the local licensing authority shall circulate the application to all affected departments of the town to determine whether the application is in full compliance with all applicable laws, rules and regulations. Upon receipt of an application for a new license, the local licensing authority shall schedule a public hearing on the application to be held not less than 30 days after the date of the completed application. The local licensing authority shall cause a notice of such hearing to be posted in a conspicuous place upon the proposed licensed premises and published in a newspaper of general circulation within the town not less than ten days prior to the hearing. Such posted notice given by posting shall include a sign of suitable material, not less than 22 inches wide and 26 inches high, composed of letters of not less than one inch in height. Both the posted and the published notice shall state the type of license applied for, the date of the hearing, the name and address of the applicant and such other information as may be required to fully apprise the public of the nature of the application.
- (f) Not less than five days prior to the date of the public hearing for a new license, the local licensing authority shall cause its preliminary findings based on its investigation to be known in writing to the applicant and other parties in interest. The local licensing authority shall deny any application that does not meet the requirements of this article. The local licensing authority shall also deny any application that contains any false, misleading or incomplete information. The local licensing authority shall also deny or refuse to issue a license for good cause. Denial of an application for a license shall not be subject to further administrative review but only to review by a court of competent jurisdiction.
- (g) Before entering a decision approving or denying the application for a local license, the local licensing authority may consider, except where this article specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license for which application has been made, including the number, type and availability of retail marijuana stores located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed. The local licensing authority shall issue its decision within 90 days of the receipt of the complete license application. Such decision shall be by resolution and shall state the reasons for the decision. The resolution shall be sent via certified mail to the state licensing authority and the applicant at the address shown in the application.
- (h) The town shall, prior to issuance of the license, perform an inspection of the proposed licensed premises, including, without limitation, any associated dual operation facility, if applicable, to determine compliance with any applicable requirements of this article or other applicable requirements of this Code.

(Ord. No. 013-2016, exh. A(§ 1-5), 6-13-2016)

Sec. 6-4-60. Retail marijuana stores.

(a) A licensed retail marijuana store may sell retail marijuana or retail marijuana products to persons 21 years of age or older in the following quantities:

- (1) Up to one ounce of retail marijuana or its equivalent in retail marijuana products during a single sales transaction to state residents; or
- (2) Up to one-quarter ounce of retail marijuana or its equivalent in retail marijuana products during a single sales transaction to a non-state resident.

(b) The following forms of identification may be accepted for purposes of determining state residency: a valid state of state driver's license; a valid state identification card; or any other valid government issued picture identification that demonstrates that the holder of the identification is a state resident.

(c) The licensee shall use the total weight of its on-hand inventory at the end of the month preceding the purchase.

(d) Retail marijuana store licensees are prohibited from selling, soliciting or receiving orders for retail marijuana or retail marijuana products over the Internet.

(e) Retail marijuana store licensees are prohibited from selling or giving away any consumable product that is not a retail marijuana product, including, but not limited to, cigarettes or tobacco products, alcohol beverages, and food products or non-alcohol beverages that are not retail marijuana products.

(Ord. No. 013-2016, exh. A(§ 1-6), 6-13-2016)

Sec. 6-4-70. Retail marijuana products manufacturer facilities prohibited.

Retail marijuana products manufacturing is prohibited in the town.

(Ord. No. 013-2016, exh. A(§ 1-7), 6-13-2016)

Sec. 6-4-80. Retail marijuana cultivation facilities prohibited.

Retail marijuana cultivation facilities are prohibited in the town.

(Ord. No. 013-2016, exh. A(§ 1-8), 6-13-2016)

Sec. 6-4-90. Retail marijuana testing facilities prohibited.

Retail marijuana testing facilities are prohibited in the town.

(Ord. No. 013-2016, exh. A(§ 1-9), 6-13-2016)

Sec. 6-4-100. Location criteria.

Prior to the issuance of a license for a retail marijuana establishment, the local licensing authority shall determine whether the proposed location of the retail marijuana establishment complies with the requirements of this section. Failure to comply with the requirements of this section shall preclude issuance of a license.

(1) No retail marijuana establishment shall be located at the following locations: Within 500 feet of any school or facility where minors frequent.

(2) The distances described in subsection (1) of this section shall be computed by direct measurement from the nearest property line of the land used for the above purposes to the unit within a building or structure housing the retail marijuana establishment using a route of direct pedestrian access.

- (3) Each retail marijuana establishment shall be operated from a permanent location. No retail marijuana establishment shall be permitted to operate from a moveable, mobile or transitory location.
- (4) The suitability of a location for a retail marijuana establishment shall be determined at the time of the issuance of the first license for such business. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a retail marijuana establishment under this section shall not be grounds to suspend, revoke or refuse to renew the license for such business so long as the license for the business remains in effect.
- (5) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the local licensing authority;
- (6) Any sheriff, deputy sheriff, police officer, prosecuting officer, and state or local licensing authority or any of its members, inspectors or employees;
- (7) Any natural person under 21 years of age;
- (8) Any person for a licensed location that is also a retail food establishment or wholesale food registrant;
- (9) Any person who has not been a resident of the state for at least two years prior to the date of the application;

(Ord. No. 013-2016, exh. A(§ 1-11), 6-13-2016)

Sec. 6-4-110. Persons prohibited as licensees and employees.

- (a) No license shall be issued to, held by, or renewed by any of the following:
 - (1) Any person until all applicable fees have been paid;
 - (2) Any person who is not of good moral character satisfactory to the local licensing authority;
 - (3) Any corporation, any of whose officers, directors or stockholders are not of good moral character satisfactory to the local licensing authority;
 - (4) Any partnership, association or company, any of whose officers are not of good moral character satisfactory to the local licensing authority;
- (10) Any person who has discharged a sentence for a felony conviction within the past five years;
- (11) Any person who, at any time, has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he applied for the license;
- (12) Any entity whose directors, shareholders, partners or other persons having a financial interest in said entity do not meet the criteria set forth above;
- (13) Any person who employs another person at a retail marijuana establishment who has not submitted fingerprints for

a criminal record history check or whose criminal record history check reveals the employee is ineligible; or

(14) Any person who has made a false, misleading or fraudulent statement on his application.

(b) No licensee shall employ or contract with any person to perform work functions directly related to the possession, cultivation, dispensing, selling, serving or delivering of marijuana for a licensed retail marijuana establishment, any of the following:

(1) Any person who is not of good moral character satisfactory to the local licensing authority;

(2) Any person who is under 21 years of age;

(3) Any person who is not currently a resident of the state;

(4) Any person who has discharged a sentence for a felony conviction within the past five years;

(5) Any person who, at any time, has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he applied for the license; or

(6) Any sheriff, deputy sheriff, police officer, prosecuting officer, and state or local licensing authority or any of its members, inspectors or employees.

(c) Jurisdiction.

(1) In investigating the qualifications described herein, the local licensing authority may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the local licensing authority takes into consideration information concerning the applicant's criminal history record, the local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including, but not limited to, evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

(2) As used in subsection (c)(1) of this section, the term "criminal justice agency" means any federal, state, or municipal court or any governmental agency or sub-unit of such agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

(Ord. No. 013-2016, exh. A(§ 6-564), 6-13-2016)

Sec. 6-4-120. Issuance of license; duration; renewal.

(a) Upon issuance of a license, the town shall provide the licensee with one original of such license for each retail marijuana establishment to be operated by the licensee in the

town. Each such copy shall show the name and address of the licensee, the type of facility or establishment for which it is issued, and the address of the facility at which it is to be displayed.

- (b) Each license issued pursuant to this article shall be valid for one year from the date of issuance and may be renewed only as provided in this article. All renewals of a license shall be for no more than one year. An application for the renewal of an existing license shall be made to the local licensing authority not more than 60 days and not less than 30 days prior to the date of expiration of the license. It is incumbent upon the licensed applicant to pay the renewal fee and complete renewal request within the above prescribed timeframe or the license shall be revoked. The timely filing of a completed renewal application shall extend the current license until a decision is made on the renewal.
- (c) Notwithstanding state law to the contrary, a licensee whose license expires and for which a renewal application has not been received by the expiration date shall be deemed to have forfeited its license under this article. The town shall not accept renewal applications after the expiration date of such license.
- (d) A licensee whose license expires shall not process, manufacture, distribute or sell retail marijuana or retail marijuana products until all necessary new licenses have been obtained.

(Ord. No. 013-2016, exh. A(§ 6-565), 6-13-2016)

Sec. 6-4-130. Authority to impose conditions on license.

The local licensing authority shall have the authority to impose such terms and conditions on

a license as may be necessary to protect the public health, safety and welfare, and to obtain compliance with the requirements of this article and applicable law.

(Ord. No. 013-2016, exh. A(§ 1-12), 6-13-2016)

Sec. 6-4-140. Annual operations fee.

Upon issuance of a license or any renewal of a license, the licensee shall pay to the town a fee in an amount determined by the town by separate resolution to be sufficient to cover the annual cost of inspections conducted pursuant to section 6-4-300 by the county sheriff's department, and such other departments of the town as may be designated by the local licensing authority, for the purpose of determining compliance with the provisions of this article and any other applicable state or local laws or regulations.

(Ord. No. 013-2016, exh. A(§ 1-13), 6-13-2016)

Sec. 6-4-150. Display of license.

- (a) Each license shall be limited to use at the premises specified in the application for such license.
- (b) Each license shall be continuously posted in a conspicuous location at the retail marijuana establishment.

(Ord. No. 013-2016, exh. A(§ 1-14), 6-13-2016)

Sec. 6-4-160. Management of licensed premises.

Licensees who are natural persons shall either manage the licensed premises themselves or employ a separate and distinct manager on the premises and report the name of such manager to the local licensing authority. Licensees that are entities shall employ a manager on the premises and report the name of the manager to the local licensing authority. All managers must be natural persons who are at least 21 years of age. No

manager shall be a person who has discharged a sentence for a felony conviction within the past five years, or who has been convicted of a felony for drug possession, distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he applied for the license.

(Ord. No. 013-2016, exh. A(§ 1-15), 6-13-2016)

Sec. 6-4-170. Change in manager; change in financial interest.

(a) Each licensee shall report any change in managers to the local licensing authority within 30 days after the change. Such report shall include all information required for managers under section 6-4-50.

(b) Each licensee shall report in writing to the local licensing authority any transfer or change of financial interest in the license holder or in the retail marijuana establishment that is the subject of the license. Such report must be filed with the local licensing authority within 30 days after any such transfer or change. A report shall be required for any transfer of the capital stock of a public corporation totaling more than ten percent of the stock in any one year, as well as any transfer of a controlling interest in the corporation whenever a sufficient number of shares have been transferred to effectuate the transfer of a controlling interest. No person having or acquiring a financial interest in the retail marijuana establishment that is the subject of a license shall be a person who has discharged a sentence for a felony conviction within the past five years, or who has been convicted of a felony for drug possession,

distribution or use, unless such felony drug charge was based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he applied for the license.

(c) Whenever any licensee causes a change in its officers, directors or manager, a license addendum is required to be filed with the state, and an application fee in the amount of \$100.00 shall be paid to the town at the time of filing the addendum with the town and resubmitting a new application.

(Ord. No. 013-2016, exh. A(§ 1-16), 6-13-2016)

Sec. 6-4-180. Transfer of ownership; change of location.

(a) *Transfer of ownership.* For a transfer of ownership, a license holder shall apply to the state and local licensing authority on forms provided by the state licensing authority. In considering whether to permit a transfer of ownership, the local licensing authority shall consider only the requirements of this article, the state retail marijuana code, and the regulations promulgated in conformance therewith. The local licensing authority may hold a hearing on the application for a transfer of ownership, but such hearing shall not be held until a notice of such hearing has been posted on the licensed retail marijuana establishment premises for a period of at least ten days prior to such hearing, and the applicant has been provided at least ten days prior notice of such hearing.

(b) *Change of location.* A licensee from another jurisdiction that has previously obtained a license from the state and any other local licensing authority as applicable may move

his permanent location to the town so long as the applicant and the new location conform to the requirements of this article.

(Ord. No. 013-2016, exh. A(§ 1-17), 6-13-2016)

Sec. 6-4-190. Hours of operation.

A retail marijuana business may open no earlier than 11:00 a.m. and shall close no later than 8:00 p.m. the same day. A retail marijuana business may be open seven days a week.

(Ord. No. 013-2016, exh. A(§ 1-18), 6-13-2016)

Sec. 6-4-200. Signage and advertising.

All signage and advertising for a retail marijuana establishment shall comply with all applicable state laws as well as the provisions of this article and other applicable provisions of this Code, including the sign code of the town, as the same may be amended from time to time.

(Ord. No. 013-2016, exh. A(§ 1-19), 6-13-2016)

Sec. 6-4-210. Security requirements.

(a) Security measures at retail marijuana stores shall include at a minimum the following:

- (1) Security surveillance cameras installed to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
- (2) Robbery and burglary alarm systems which are professionally monitored and maintained in good working condition;
- (3) A locking safe permanently affixed to the premises that is suitable for storage of all marijuana and cash stored overnight on the licensed premises;

(4) Exterior lighting that illuminates the exterior walls of the licensed premises and complies with applicable provisions of this article and other applicable provisions of this Code; and

(5) Deadbolt locks on all exterior doors.

(b) All security recordings shall be preserved for at least 72 hours by the licensee and be made available to the police department or county sheriff's department upon request for inspection.

(Ord. No. 013-2016, exh. A(§ 1-20), 6-13-2016)

Sec. 6-4-220. Required notices.

There shall be posted in a conspicuous location in each retail marijuana establishment, a legible sign containing the following warnings:

- (1) That the use of marijuana or marijuana products may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of or impaired by marijuana;
- (2) That loitering in or around a retail marijuana establishment is prohibited by law;
- (3) That possession and distribution of marijuana is a violation of federal law; and
- (4) That no one under the age of 21 years is permitted on the premises.

(Ord. No. 013-2016, exh. A(§ 1-21), 6-13-2016)

Sec. 6-4-230. On-site consumption of marijuana.

The use, consumption, ingestion or inhalation of retail marijuana or retail marijuana products on or within the premises of a retail marijuana establishment is prohibited.

(Ord. No. 013-2016, exh. A(§ 1-22), 6-13-2016)

Sec. 6-4-240. Prohibited acts.

It shall be unlawful for any licensee to:

- (1) Employ any person at a retail marijuana establishment who is not at least 21 years of age or who has a criminal history as described in section 6-4-110(a)(10) and (11);
- (2) Purchase or otherwise obtain retail marijuana from any source that is not properly authorized under state and local law to sell marijuana for retail consumption;
- (3) Permit the sale or consumption of alcohol beverages on the licensed premises;
- (4) Post or allow to be posted signs or other advertising materials identifying cultivation facilities as being associated with the use or cultivation of marijuana; or
- (5) Dispense marijuana to a person that is or appears to be under the influence of alcohol or under the influence of any controlled substance, including marijuana.

(Ord. No. 013-2016, exh. A(§ 1-23), 6-13-2016)

Sec. 6-4-250. Visibility of activities; paraphernalia; control of emissions.

- (a) Devices, contrivances, instruments and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers and related tools, water pipes,

and vaporizers may lawfully be sold at a retail marijuana store. No retail marijuana or paraphernalia shall be displayed or kept in a retail marijuana establishment so as to be visible from outside the licensed premises.

- (b) Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a retail marijuana establishment must be provided at all times. In the event that any odors, debris, dust, fluids or other substances exit a retail marijuana establishment, the owner of the subject premises and the licensee shall be jointly and severally liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The licensee shall properly dispose of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state and local laws and regulations.

(Ord. No. 013-2016, exh. A(§ 1-24), 6-13-2016)

Sec. 6-4-260. Disposal of marijuana byproducts.

The disposal of marijuana, marijuana products, byproducts and paraphernalia shall be done in accordance with plans and procedures approved in advance by the local licensing authority.

(Ord. No. 013-2016, exh. A(§ 1-25), 6-13-2016)

Sec. 6-4-270. Sales and business license required.

At all times while a permit is in effect the licensee shall possess a valid license issued under section 6-4-110.

(Ord. No. 013-2016, exh. A(§ 1-26), 6-13-2016)

Sec. 6-4-280. Sales tax.

Each licensee shall collect and remit town sales tax on all retail marijuana, retail marijuana products, paraphernalia and other tangible personal property sold by the licensee.

(Ord. No. 013-2016, exh. A(§ 1-27), 6-13-2016)

Sec. 6-4-290. Required books and records.

(a) Every licensee shall maintain an accurate and complete record of all retail marijuana purchased, sold or dispensed by the retail marijuana store in any usable form. Such record shall include the following:

- (1) The identity of the seller and purchaser involved in each transaction;
- (2) The total quantity of, and amount paid for, the retail marijuana and/or the retail marijuana products; and
- (3) The date, time and location of each transaction.

(b) All transactions shall be kept in a numerical register in the order in which they occur.

(c) All records required to be kept under this article must be kept in the English language in a legible manner and must be preserved and made available for inspection for a period of three years after the date of the transaction. Information inspected by the town law enforcement officer or other town departments pursuant to this article shall be used for regulatory and law enforcement purposes only and shall not be a matter of public record.

(Ord. No. 013-2016, exh. A(§ 1-28), 6-13-2016)

Sec. 6-4-300. Inspection of licensed premises.

During all business hours and other times of apparent activity, all licensed premises shall be

subject to inspection by the town law enforcement officer and all other town departments designated by the local licensing authority for the purpose of investigating and determining compliance with the provisions of this article and any other applicable state and local laws or regulations. Said inspection may include, but need not be limited to, the inspection of books, records and inventory. Where any part of the licensed premises consists of a locked area, such area shall be made available for inspection, without delay, upon request.

(Ord. No. 013-2016, exh. A(§ 1-29), 6-13-2016)

Sec. 6-4-310. Nonrenewal, suspension or revocation of license.

(a) The local licensing authority may, after notice and hearing, suspend, revoke or refuse to renew a license for good cause, including suspension or revocation of the licensee's state license. The local licensing authority is authorized to adopt rules and procedures governing the conduct of such hearings.

(b) The local licensing authority may, in its discretion, revoke or elect not to renew any license if it determines that the licensed premises has been inactive, without good cause, for at least one year.

(Ord. No. 013-2016, exh. A(§ 1-30), 6-13-2016)

Sec. 6-4-320. Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this article, any person, including, but not limited to, any licensee, manager or employee of a retail marijuana establishment, or any customer of such business, who violates any of the provisions of this article, shall be subject to the following penalties:

- (1) The operation of a retail marijuana establishment without a valid license is-

sued pursuant to this article may be enjoined by the town in an action brought in a court of competent jurisdiction, including the municipal court.

- (2) The operation of a retail marijuana establishment without a valid license issued pursuant to this article is also specifically determined to be a public nuisance pursuant to section 6-1-130.

(Ord. No. 013-2016, exh. A(§ 1-31), 6-13-2016)

Sec. 6-4-330. No town liability; indemnification.

- (a) By accepting a license issued pursuant to this article, the licensee waives and releases the town, its officers, elected officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of retail marijuana establishment owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.
- (b) By accepting a license issued pursuant to this article, all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the town, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the retail marijuana establishment that is the subject of the license.

(Ord. No. 013-2016, exh. A(§ 1-32), 6-13-2016)

Sec. 6-4-340. No waiver of governmental immunity.

In adopting this article, the town board of trustees is relying on and does not waive or intend to waive by any provision of this article, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq., as from time to time amended, or any other limitation, right, immunity, or protection otherwise available to the town, its officers or its employees.

(Ord. No. 013-2016, exh. A(§ 1-33), 6-13-2016)

Sec. 6-4-350. Other laws remain applicable.

- (a) To the extent the state has adopted or adopts in the future any additional or stricter law or regulation governing the sale or distribution of retail marijuana or retail marijuana products, the additional or stricter regulation shall control the establishment or operation of any retail marijuana establishment in the town. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this article, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.
- (b) Any licensee may be required to demonstrate, upon demand by the local licensing authority or by law enforcement officers that the source and quantity of any marijuana found upon the licensed premises are in full compliance with any applicable state law or regulation.
- (c) If the state prohibits the sale or other distribution of marijuana through retail marijuana stores, any license issued hereunder

shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

- (d) The issuance of any license pursuant to this article shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of marijuana.

(Ord. No. 013-2016, exh. A(§ 1-34), 6-13-2016)

Sec. 6-4-360. Rules and regulations.

The town board of trustees shall have the authority from time to time to adopt, amend, alter and repeal administrative rules and regulations, and file the same with the town clerk, as may be necessary for the proper administration of this article.

(Ord. No. 013-2016, exh. A(§ 1-35), 6-13-2016)

Sec. 6-4-370. Judicial review.

In accordance with Article XVIII, Section 16 of the Colorado Constitution, decisions by the local licensing authority are subject to judicial review pursuant to C.R.S. § 24-4-106. The board of trustees hereby finds, determines, and declares that this article is promulgated under the general police power of the town, that it is promulgated for the health, safety, and welfare of the public, and that this article is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The board of trustees further determines that this article bears a rational relation to the proper legislative object sought to be attained.

(Ord. No. 013-2016, exh. A(§ 1-36), 6-13-2016)

ARTICLE 5. PEDDLERS AND SOLICITORS

Sec. 6-5-10. 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:

Applicant means any person or entity who has submitted an application for a permit.

Commercial solicitor means any person, whether as volunteer, owner, agent, consignee or employee, who engages in door-to-door commercial solicitation.

Door-to-door commercial solicitation means attempting to make personal contact with a resident at his residence, without prior specific invitation by or appointment with the resident, for the primary purpose of:

- (1) Attempting to sell, for present or future delivery, any goods, wares or merchandise, other than newspaper or magazine subscriptions, or any services to be performed immediately or in the future, whether or not the person has, carries or exposes a sample of such goods, wares or merchandise, and whether or not he is collecting advance payments for such sales; or
- (2) Personally delivering to the resident a handbill or flyer advertising a commercial event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a future time.

Door-to-door noncommercial solicitation means attempting to make personal contact with

a resident at his residence, without prior specific invitation by or appointment with the resident, for the primary purpose of:

- (1) Seeking or asking for a gift or donation for a tax-exempt section 501(c)(3) organization;
- (2) Soliciting the sale of goods, wares or merchandise for present or future delivery, or the sale of services to be performed immediately or in the future, with the entire proceeds of such sale to be paid directly to, or used exclusively for the benefit of, a tax exempt organization;
- (3) Personally delivering to the resident a handbill or flyer advertising a future, not-for-profit event, activity, good or service;
- (4) Proselytizing on behalf of a religious organization;
- (5) Soliciting support for a political candidate or organization or ballot measure or ideology; or
- (6) Soliciting the sale of newspaper or magazine subscriptions.

Employer means any person, company, corporation, business, partnership, organization or any other entity on behalf of whom a person is acting.

Noncommercial solicitor means any person, whether as volunteer, owner, agent, consignee or employee, who engages in door-to-door non-commercial solicitation.

Peddler means any person, whether or not a resident of the town, who goes from business to business or residence to residence, conveying or

transporting goods, wares or merchandise, offering or exposing the same for sale or making sales and delivering articles to purchasers.

Permit means a document issued by the town clerk authorizing a commercial solicitor to engage in door-to-door commercial solicitation.

Person means a natural person or business entity, such as, without limitation, a corporation, association, firm, joint venture, estate, trust, business trust, syndicate, fiduciary, partnership or any group or combination thereof.

Residence means a private residence in the town, including, but not limited to, condominium units and apartments, including the yards, grounds or hallways thereof.

Solicitor means any person, whether or not a resident of the town, who goes from business to business or residence to residence, soliciting, taking or attempting to take orders for the sale of goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever for future delivery, for service to be performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order, or whether or not he is collecting advance orders. The term "solicitor" includes any person who, for himself or another person, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or other place within the town for the primary purpose of exhibiting samples and taking orders for future delivery.

Transient merchant means any person, whether as owner, agent, consignee or employee, whether or not a resident of the town, who engages in a temporary business of selling and delivering goods, wares and merchandise within the

town and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, railroad boxcar, boat, public room in a hotel lodging house, apartment, shop or any street, alley or other place within the town for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction, provided that such definition does not include any person who, while occupying such temporary location, does not sell from stock but exhibits samples for the purpose of securing orders for future delivery within the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of or in the name of any local dealer trader, merchant or auctioneer.

Sec. 6-5-20. Permit required.

It is unlawful for any peddler, solicitor or transient merchant to engage in any commercial solicitation within the town without first obtaining a permit in compliance with the provisions of this article.

Sec. 6-5-30. Exemptions.

The terms of this article do not include the acts of persons selling personal property at wholesale to dealers in such articles, newspaper subscriptions or the acts of merchants or their employees in delivering goods in the regular course of business. Nothing contained in this article prohibits any sale required by statute or by order of any court or prevents any person from conducting a bona fide auction pursuant to law.

Sec. 6-5-40. All solicitation prohibited by posting of "no solicitation" or "no trespassing" sign.

No peddler, solicitor or transient merchant, whether commercial or noncommercial, shall en-

ter or remain upon any public or private premises in the town if a "No Solicitation" or "No Trespassing" sign is posted at or near the entrance to such premises. This provision shall apply to all solicitation, including, without limitation, all activities that are religious, charitable or political in nature and all solicitation of newspaper or magazine subscriptions.

Sec. 6-5-50. Permit required for all commercial solicitors.

- (a) Any person seeking to engage in commercial door-to-door solicitation must obtain a permit from the town clerk and pay the permit fee as provided in the consolidated fee schedule, appendix 2-F, before commencing any such commercial, door-to-door solicitations.
- (b) All permits shall be issued in the name of the applicant. Upon issuance of each permit, the town clerk shall create and maintain a list of all persons authorized to engage in door-to-door commercial solicitation under the permit. It shall be the sole responsibility of the permit holder to:
 - (1) Provide a copy of the permit to each person authorized to engage in solicitation under the permit;
 - (2) Ensure that each person authorized to solicit under the permit complies with the terms and conditions of the permit within the provisions of this article;
 - (3) Notify the town clerk in writing of any persons to be added to or deleted from the list of authorized solicitors; and
 - (4) Submit to the town clerk, for each person to be added to such list, the information required under subsection (b)

of this section, together with payment of the permit fee required under section 6-5-60(c).

- (c) The town clerk shall, within ten business days of the town's receipt, via mail or in person, of a complete application or a permit under this article, issue such permit, for all persons authorized to engage in door-to-door solicitation under the permit, unless the town clerk determines that the permit application should be denied under the criteria stated in section 6-5-90.
- (d) Subsequent to the issuance of any permit, and upon receipt of the information and fee required under subsection (b)(4) of this section, the town clerk shall, within five business days, issue a permit to any new or additional person to be authorized to solicit under the permit. The town clerk shall also, within five business days, issue a replacement permit to any solicitor who, by affidavit, notifies the town clerk that his permit has been lost or stolen, and who pays an additional permit fee as established under section 6-5-60(a).

Sec. 6-5-60. Application contents; fees.

- (a) Each person applying for a door-to-door commercial solicitation permit shall file with the town clerk an affidavit on a form supplied by the town clerk stating:
 - (1) The full name, business address and business telephone number of the applicant.
 - (2) Information regarding the business as required by the town clerk, including, without limitation, its legal status, and

proof of registration with, or a certificate of good standing from, the secretary of state.

- (3) A complete list of all persons to be authorized to solicit under the permit.
- (4) For each person authorized to solicit under a permit, the following information:
 - a. Name, address, telephone number and date of birth.
 - b. A current copy of the person's criminal background check, as maintained by the state bureau of investigation, dated no more than 60 days prior to the date of the application.
 - c. A description of the individual, including height, weight, color of eyes and color of hair.
 - d. The number and state of issuance of the individual's motor vehicle operator's license or chauffeur's license, if any, or other state-issued photo identification.
 - e. In the case of transient merchants, the local address from which sales will be made.
 - f. The length of time for which the right to do business is desired.
 - g. The source of supply of the goods or property proposed to be sold for the sale of which orders are proposed to be taken, where such goods or products are located at the time the application is filed and the proposed method of delivery.

- h. The names of at least two property owners in the San Luis Valley who will certify the applicant's good character and business respectability or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.
 - i. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed therefor.
 - j. The last cities or towns, not to exceed three, where the applicant carried on business immediately preceding the date of application, and the addresses from which such business was conducted in those municipalities.
- (5) A list of all cities and towns in which a peddler's, solicitor's or transient merchant's permit or license is presently held by the applicant.
 - (6) A brief explanation of the nature of the solicitation activity that requires a permit under this article and a description of any goods to be sold.
 - (7) If the applicant is a foreign corporation or an employee of such corporation, the name, address and telephone number of an agent for process residing in the state.
 - (8) Proof that the applicant has obtained a valid town sales and use tax license.
 - (9) Proof that the applicant has deposited the sales tax deposit or has received a valid waiver of such sales tax deposit.
 - (10) Any other information determined to be relevant by the town clerk.
- (b) At the time of application, the applicant shall also submit a photograph of each person to be authorized to solicit under the permit, taken no more than six months prior to the date of application, which photograph fairly depicts the appearance of the proposed solicitor as of the date of application.
 - (c) At the time of application, each applicant shall pay a fee in an amount set forth on the consolidated fee schedule, appendix 2-F, determined to defray the costs incurred by the town in processing the application, plus an additional fee to defray the costs of preparing and issuing a permit for each person to be authorized to solicit under the permit, including the applicant. Said fees shall be non-refundable.

Sec. 6-5-70. Duration of permit; renewal.

- (a) Each permit shall be valid for two years, effective from the date of issuance.
- (b) Any permittee wishing to renew a permit issued under this article must apply for the renewal of the permit no less than 30 days prior to the expiration of its term. Said application shall be accompanied by a criminal background check as required under section 6-5-60(a)(4)b for each person who is to be

authorized to solicit under the permit during the renewal term thereof. If a permittee fails to apply for such renewal within said 30-day period of time, the permit will expire. The renewal fee for each permittee shall be determined by the town clerk in an amount sufficient to defray the costs incurred by the town in processing the renewal application. Said fee shall be non-refundable.

Sec. 6-5-80. Sales tax deposit.

- (a) If, at the time of filing the application, the applicant has not maintained a town sales tax license for at least the previous 24 months, the applicant shall deposit with the town clerk a sales tax deposit in the sum of \$250.00. The town clerk may waive the sales tax deposit upon a showing that the applicant has maintained a town sales tax license for at least the previous 24 months and has a record of promptly paying any sales tax due.
- (b) Upon issuance of the solicitation permit and subsequent verification by the town that the permittee has paid the sales tax due the town, the balance of the deposit required under subsection (a) of this section, if any, shall be returned to the permittee. If the permittee fails to pay the town's sales tax and does not seek return of the sales tax deposit within 90 days from the expiration of the permit, the town clerk may declare the deposit forfeited and notify the permittee thereof at the address shown on the permit. Forfeiture of the sales tax deposit, however, shall not release the permittee from the obligation to remit the correct amount of sales tax due.

Sec. 6-5-90. Denial of permit.

The town clerk shall deny an application for a permit or any renewal of a permit under this article if the town clerk determines that the applicant has:

- (1) Made any material misrepresentation or false statement in the application for the permit; or
- (2) Failed to obtain a sales and use tax license as required by the town or to remit any sales tax due the town.

Sec. 6-5-100. False or deceptive representation prohibited.

No person shall attempt to obtain, by telephone or otherwise, an invitation to visit any private residence for the purpose of soliciting the purchase or sale of goods, services or any other thing of value, by knowingly making a false or deceptive representation or statement.

Sec. 6-5-110. Duty to exhibit permit.

- (a) Any commercial peddler, solicitor or transient merchant engaging in door-to-door commercial solicitation under a permit issued pursuant to this article shall conspicuously display his permit.
- (b) Whenever requested by any police officer or by any customer or prospective customer, any commercial peddler, solicitor or transient merchant engaged in door-to-door commercial solicitation under a permit issued pursuant to this article shall exhibit his permit.

Sec. 6-5-120. Permissible times.

All door-to-door commercial solicitation and all door-to-door noncommercial solicitation shall

be undertaken and completed between the hours of 8:00 a.m. and 30 minutes after sunset as announced and published by the National Weather Service, daily.

Sec. 6-5-130. Transfer of permits prohibited.

No permit issued pursuant to this article shall be transferred to any person.

Sec. 6-5-140. Nonrenewal or revocation of permit.

The town clerk shall revoke and shall not renew any permit issued pursuant to this article if the town clerk determines that any of the following have occurred:

- (1) Fraud, misrepresentation or false statement in the application for the permit or any renewal application, including, without limitation, representations made as to the criminal history of any person to be authorized to solicit under the permit.
- (2) Failure to obtain a sales and use tax license as required by the town or to remit any sales tax due the town.
- (3) Failure to ensure that all persons authorized to solicit pursuant to a permit issued by the town are in compliance with the terms of said permit and with the provisions of this article.
- (4) Conducting the activity authorized by the permit in an unlawful manner, or in such a manner as to constitute a menace to the health, safety or general welfare of the public.

Sec. 6-5-150. Records.

The town clerk shall maintain records showing each permit issued and any alleged violations of this article.

Sec. 6-5-160. Appeal.

An applicant may appeal any decision relating to his permit by the town clerk to the board of trustees. The board of trustees' decision shall be final.

Sec. 6-5-170. Religious and charitable organization exemptions.

- (a) Any organization, society, association or corporation desiring to solicit or have solicited in its name money, donations of money or property or financial assistance of any kind, or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organization, upon the streets, in offices or office buildings, by house-to-house canvass or in public places for a charitable, religious, patriotic or philanthropic purpose, other than organizations based outside of the town, or organizations which do not have a branch or representative organization within the town, shall be exempt from the provisions of this article, provided that there is filed a sworn application in writing, on a form to be furnished by the town clerk, which shall give the following information:
 - (1) The name and purpose of the cause for which the solicitation is sought.
 - (2) The names and addresses of the officers and directors of the organization.
 - (3) The period during which solicitation is to be carried on.

- (4) Whether or not any commission fees, wages or emoluments are to be expended in connection with such solicitation, and the amount thereof.
- (b) Such organizations shall be subject to investigation as provided in section 6-5-180. Upon being satisfied that such organization, association or corporation is a religious, charitable, patriotic or philanthropic organization, the town clerk shall approve such application without charge to such organization, association or corporation to solicit in the town. Such organization, association or corporation shall furnish to all of its members, agents or representatives conducting solicitation credentials in writing stating the name of the organization, the name of the agent and purpose of solicitation. If such organization is not based within the town or does not have a branch representative organization within the town, then section 6-5-60(a)(4)g through j shall be applicable to the application for such solicitation, in addition to the information required in this section. Failure to provide such information shall preclude the organization or any of its representatives from conducting solicitation or distribution activities within the town. Sections 6-5-180 and 6-5-190, relating to investigation and application approval/disapproval, shall likewise be applicable to such organizations; provided, however, that no application or license fee shall be charged to any religious, charitable or philanthropic organization.

Sec. 6-5-180. Investigation.

Upon receipt of each application under this article, it shall be referred to the chief of police, who shall immediately institute such investigation

of the applicant's business and character as he deems necessary for the protection of the public good, and who shall endorse the application in the manner prescribed in sections 6-5-190 and 6-5-200 within five days, unless a longer time is necessary to complete the investigation, after it has been filed by the applicant with the town clerk.

Sec. 6-5-190. Disapproval of permit application.

If, as a result of the investigation described in section 6-5-180, the applicant's character or business responsibility is found to be unsatisfactory based on a background and criminal investigation, the chief of police shall endorse on the application his disapproval and his reason for the same, and return the application to the town clerk, who shall notify the applicant that his application is disapproved and that no permit will be issued.

Sec. 6-5-200. Approval of permit application.

If, as a result of the investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police shall endorse on the application his approval and return the application to the town clerk, who shall, upon payment of the prescribed permit fee, deliver to the applicant his permit. Such permit shall contain the signature of the issuing officer and shall show the name, address and photograph of the permittee, the class of permit issued, the kind of goods to be sold thereunder, the amount of the fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such licensed business. Each peddler, solicitor or transient merchant must secure a personal permit. No permit shall be used at any time by any person other than the one to whom it is issued. The town clerk shall keep a permanent record of all permits issued.

Sec. 6-5-210. Permit fee.

The fee for each application under this article shall be uniform and shall be set on a yearly basis by resolution of the board of trustees, which fee schedule is set forth in appendix 2-F.

Sec. 6-5-220. Exhibition.

Permittees under this article are required to exhibit their permits at the request of any person.

Sec. 6-5-230. Cause for revocation.

In addition to all other causes provided by law, permits issued under the provisions of this article may be revoked by the board of trustees after notice and hearing for any of the following causes:

- (1) Fraud, misrepresentation or incorrect statement contained in the application for permit.
- (2) Fraud, misrepresentation or incorrect statement made in the course of carrying on his business as solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.
- (3) Any violation of this article.
- (4) Conviction of any crime or misdemeanor.
- (5) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant or itinerant vendor, as the case may be, in violation of federal, state or local laws or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

Sec. 6-5-240. Hearing on revocation.

Notice of the hearing for revocation of a permit issued under this article shall be given by the town clerk in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. The notice shall be mailed, postage prepaid, to the permittee at his last-known address at least ten days prior to the date set for hearing or shall be delivered by a police officer in the same manner as a summons at least ten days prior to the date set for hearing.

Sec. 6-5-250. Appeal.

Any person aggrieved by the action of the chief of police or the town clerk in the denial of a permit, as provided in section 6-5-90, may appeal to the board of trustees. Such appeal shall be taken by filing with the board of trustees, within 14 days after notice of the action complained of, written statement setting forth fully the grounds for the appeal. The board of trustees shall set a time and place for a hearing on the appeal and notice of such hearing shall be given to the appellant in the same manner as provided in section 6-5-240, for notice of the hearing on revocation. At the time set for hearing as provided in this section, the board of trustees shall either affirm or reverse the action aggrieved of, and the board of trustees' decision shall be final.

Sec. 6-5-260. Reapplication.

No permittee under this article whose permit has been revoked shall make further application until at least six months have elapsed since the last previous revocation.

Sec. 6-5-270. Penalty for violation.

Any person violating any of the provisions of this Code shall be deemed guilty of an ordi-

nance violation, and, upon conviction, shall be punished in accordance with the provisions of section 1-4-10.

Chapter 7

UTILITIES

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ARTICLE 1. MUNICIPAL WATER SYSTEM**Sec. 7-1-10. Creation of system.**

- (a) There is hereby created a municipal water system for the town, which shall be known as the town water system and which shall be used to supply the town and its inhabitants with water. The municipal water service areas shall be the same as the boundaries of the town, as shown on the attached water and sanitation schematics map of the town and marked as attachment A, as such map may be supplemented from time to time by resolution of the town board of trustees.
- (b) The town's engineer shall direct the design and construction of the water system and additions thereto which shall be installed as determined by the town board of trustees and in accordance with good and approved engineering practices and in accordance with state regulations and standards.
- (c) Such water system, and all things pertaining thereto, shall be under the control of the town board of trustees, who shall direct the maintenance and operation thereof and the construction of all additions thereto and in all cases not particularly provided for by ordinance, shall determine in what manner, and upon what terms, water may be taken from the water system by any water consumer and the character of the connections and appliances which may be made or used therefore in accordance with CDPHE standards. The board of trustees shall appoint, employ or contract a water system operator to carry out the duties and functions connected with the water system.

(d) Fire hydrants.

- (1) The town's engineer, with the approval of the fire chief, shall determine the location and size of fire hydrants to insure adequate fire protection.
 - (2) All fire hydrants shall be under the control of and shall be kept in repair by the water system operator, who shall cause the same to be frequently tested to see that the hydrants are in good working order.
 - (3) In case of fire, members of the fire department and such other persons as may be authorized by the water system operator, or the fire chief or the chief's authorized assistants, shall have free access to such fire hydrants.
- (e) All new or replacement waterlines or water systems shall be designed to eliminate infiltration of flood waters into the system.
(Ord. No. 2008-006, 9-8-2008; Ord. No. 2013-004, 2-11-2013)

Sec. 7-1-20. Taps, connections, meters and extensions.

- (a) Each business, dwelling, establishment, or building under separate ownership and desiring town water service, shall have a separate water service tap, provided further that the property owner or developer of any new construction within the water service boundary of the town shall be required to connect such new construction to the water system of the town. Application for waiver of the requirement for new construction to connect to the town's water service shall be considered by the board of trustees on a case-by-case basis.

- (b) All work, labor, and services of tapping town water mains and/or extending service lines from town water mains to property or curb lines shall be done and performed only by town employees or under town contract operations.
- (c) The location of water taps, main service valves and water meters shall be determined by the town after consultation with property owners and/or users.
- (d) The size of residential water taps and water meters shall be three-quarter inch; commercial taps will be at least one inch. Larger water taps will be required by the water system operator as determined necessary.
- (e) Water service lines from the town water main to the meter pit shall be installed and maintained by the town. Water lines extending from the meter pit shall be installed and maintained by the property owner and/or user in accordance with the state plumbing code.
- (f) Any person desiring to have a tap made to the pipes or mains of the town water system or any connection therewith to use water therefrom, shall make application in writing for a permit to do so to the town clerk, agreeing to pay such rates for the use of water as may be then or thereafter established by the town board of trustees, and also agreeing to conform to and be governed by such rules and regulations that may from time to time be adopted by the town board for the government and control of the town water system or any part thereof. Such application shall also state the nature or character of the tap or connection; the location by lot, block and street number thereof; the number of taps; the premises upon which the water is to be used; the character and size of the premises; and the nature and purpose for which the water is to be used. Every application shall be accompanied by the applicable tap fee. If the application is complete and the proposed tap and use conform to applicable rules and regulations, the town clerk shall issue a permit for such tap. In cases where it would be detrimental to the water system or the customer to provide a connection, the permit may be denied.
- (g) Requests for extensions of the town water main from town customers who reside outside the boundaries of the town water system must receive approval from the board of trustees. The property owner requesting the extension shall pay all costs associated with extending the town water main.
- (h) All permits shall be signed by the town clerk and shall set forth the name of the person for whose benefit they shall be granted, the date thereof, the point on the water main at which the tapping is to be done, the size and number of taps, the premises to which the water is to be conducted and the use to be made of the water. The town clerk shall keep a record of all permits issued and shall deliver the permit to the water system operator, with directions to him to make or cause to be made the connection therein provided.
- (i) No connection with the town water system, or use of water therefrom, shall be made through any extension of a water pipe serving any other premises under another separate ownership. Any premises containing an accessory dwelling unit (ADU), which is there-

after divided and conveyed to separate ownership from the primary premises, shall require a separate water tap.

(j) Tap specifications.

(1) General specifications.

a. Every tap inserted in or connected with the main water line shall use a bronze tapping saddle with a corporation stop, and have an orifice of a diameter prescribed by the town; the service pipe shall be connected with such tap by polyethylene pipe, pressure class 200 psi, and the service pipe shall extend from the main to the curb stop and meter, at such point as the water system operator shall direct, so that the same shall be accessible for the purpose of turning on or shutting off water.

b. The town may install such taps and water lines at the request of water consumers for such charges and tap fees as the town board may, from time to time, establish by resolution. Such fees are set forth in appendix 2-F. All such taps and waterlines shall meet the specifications set by the town, and all taps, service lines, and meters shall become the property of the town.

(2) Specific criteria. Specific criteria for water taps, lines, fixtures, trenching, materials, installation, testing, and valves are contained in criteria (1) which is referenced at the end of this article.

(k) No connections and extensions having to do with serving water from the town shall be covered or put to use until the same have been inspected and approved by the town.

(l) For customers whose water pressure is below 20 psi, the town will mandate the customer to install a pressure boosting device, under oversight by the town. Thereafter, it shall be the customer's continuing responsibility to maintain the pressure-boosting device and replace it if needed.

(m) Maintenance and repair of fixtures.

(1) The owner and/or user of any premises for which a connection is made and a backflow prevention device is required by the Colorado Department of Public Health and Environment, shall keep such backflow prevention device in good condition at his own expense, so that the water system operator shall be able to turn on and shut off water from the service pipes at any time. The backflow prevention device shall be constructed and placed so as to comply with all town ordinances on plumbing and the state plumbing code and the owner shall, at his own expense, at all times, keep all pipes, fixtures and appliances on his premises tight and in good working order so as to prevent waste of water. Additionally, the owner shall have the backflow prevention device tested annually and will forward the results of testing to the town, care of the water system operator.

(2) In case any pipe or pipeline shall break or become defective or so as to waste-

water, the owner and/or user shall forthwith repair the same and keep the same in repair.

- (3) In case the water system operator shall ascertain that any plumbing or fixtures or any premises are so defective as to waste any water or are being used so as to waste any water, he shall notify the owner and/or user of water to forthwith repair the same or remedy the defect. If the owner and/or user fail to remedy the same, the water operator may forthwith shut off the water to such premises, and the same shall remain shut off until such plumbing and/or fixtures are repaired or such defects remedied.
- (4) The town board, through its authorized employees, reserves the right to cause water to be shut off from any street main when deemed necessary for repairing the same or making connections or extensions of the same, or for any necessary work in repairing the pipe line or other appliances or connections of the water system, and in case of repair of the pipe line or in case of security or any reason deemed necessary to town purposes, may temporarily restrict the use of water and, if need be, may forbid sprinkling and otherwise regulate the time, place and manner of use of water and purposes for which the same may be used, as occasions may require. In case of an emergency, the mayor, or his designee, may restrict or regulate the use of town water until the next meeting of the town board.

- (n) **Meters.** Water meters, approved by the town, will be installed on all service lines connected to the town water system, and the cost of said installation is included in the tap fee. All installed meters will remain the property of the town. The installation specifications of such meters shall be subject to the approval of the water system operator, who after consultation with the property owner, shall retain the authority to direct the installation of and location of water meters and the property owner shall grant permission to the town to access such pits and meters as necessary for maintenance.

- (o) **Water line extensions.**

- (1) A property owner requesting extension of water lines to his property shall be required to bear the total cost of such extension to a location specified by the town. The property owner shall also bear the cost of surveying, inspections, engineering, parts, excavation, geotechnical services, and any other costs incurred in connection with the work. The property owner may engage an outside contractor to perform the line extension work provided that the contractor is approved by the town, and the application process is completed and approved before commencement of the work.
- (2) A performance bond or cash equal to 100 percent of contract (or construction cost) shall be furnished to the town on all water main construction. The board may waive the requirements for said bond based upon the prior satisfactory performance of the contractor.

- (3) All parts must be purchased pursuant to town specifications supplied by the town water operator, purchased by the town and paid for by developer and all work shall be subject to inspections by the town engineer or town water operator.
- (4) Prior to work commencing, the developer shall deposit with the town certified funds, which funds equal to the amount of ten percent of the total estimated cost of the work (the "deposit"). The purpose of the deposit is to cover any unanticipated costs incurred by the town for the work and acceptance of the line extension by the town. The deposit will be returned to the developer upon completion, less any costs incurred by the town associated with the work.
- (5) Should other developers or property owners subsequently request to connect to the water line extensions, such developer or property owner shall be required to pay his pro rata share of the actual cost of the extension, in addition to applicable tap fees, at the time of application and in accordance with table in appendix 2-F (consolidated fee schedule pertaining to utility charges). Developers or property owners who have previously paid for a line extension shall be entitled to a partial reimbursement of such cost based on the subsequent pro rata contributions of other developers or property owners that connect to the extension as described in such table, provided that a final invoice for the work was submitted to and approved by the water operator. Nothing contained in this subsection shall negate the right of the original developers, subsequent owners, and additional property owners who wish to connect to the line extension from negotiating among themselves a negotiated agreement, in writing, presented to the town and signed by all such parties, which varies from the above described in appendix 2-F, so long as such agreement does not negate any tap fees or other charges payable to the town.
- (6) Inspections shall be performed pursuant to town policy as adopted by resolution with accompanying criteria.
- (7) Upon inspection and acceptance by the town, the water lines and appurtenances will be considered town property and the lender, subcontractor, or developer shall then deed the lines and appurtenances to the town prior to service being provided by the town. New connections should not proceed past meter pits before testing and acceptance of the line.
- (Ord. No. 2008-006, 9-8-2008; Ord. No. 2013-006, 5-13-2013; Ord. No. 2016-001, 3-18-2016; Ord. No. 2018-002, 4-9-2018; Ord. No. 2019-002, 2-11-2019)

Sec. 7-1-30. Fees, rates, charges, and delinquencies.

The fees, rates and charges pursuant to the implementation of this article are designed to address initial costs and operation of the town water system and may be amended from time to time by resolution of the town board of trustees; said fees, rates and charges are set forth in appendix 2-F, to

which reference is made. The above fees described in the referenced appendix include the tap, meter and backflow prevention device at the customer's property line. Such tap fees are due and payable prior to tapping into the town water system, and all paid water tap fees are non-refundable.

(1) *Monthly rates.*

- a. Monthly water charges begin when a customer activates a service line to the water tap regardless of the usage made of the water.
- b. Monthly rates are hereby levied for all residential and commercial taps and set forth in appendix 2-F.
- c. Fire protection fees. In addition to the charges stated above, the annual fees are hereby levied for the purpose of fire hydrant maintenance within the town and any properties served outside town limits and are set forth in appendix 2-F.
- d. Outside town limit rates. Outside town limit water rates are hereby levied at twice (two times) inside town rates. Such rates include all those mentioned in subsections(c)(1) b and c of this section.

(2) *Billing procedure.* All charges for town water service shall be computed on a monthly basis, and bills shall be mailed on or about the 15th day of each month. Such charges shall be due and payable on the fifth day of the following month.

(3) *Delinquent accounts; arrears penalty; service discontinuance.* Accounts in arrears will be charged a penalty of 1.5 percent

per month of the arrears account. Services may be discontinued (water shut off) on accounts 30 days in arrears. In addition, a service charge of \$50.00, which may be amended by resolution of the town board, shall be levied for the reconnection of service to the town water supply. An additional deposit of \$100.00 will be required and will be refunded after 12 months if no late payments are received.

(4) *Lien imposed.*

- a. All arrearages shall constitute a perpetual lien upon any lots, tanks, buildings or premises served or for which water service may be made or kept available. Such unpaid arrearages shall be certified by the town treasurer to the county treasurer at the time of certification of ad valorem taxes to be added to the tax roll upon said property and to be collected and paid to the town by the county treasurer.
- b. In addition, payment of such charges may be enforced by any remedy provided by the state statutes and otherwise provided by law; all such remedies are declared to be cumulative.

(Ord. No. 2008-006, 9-8-2008; Ord. No. 2013-004, 2-11-2013; Ord. No. 2022-002, 2-14-2022)

Sec. 7-1-40. Unlawful acts.

The following acts concerning the town water system are declared to be unlawful and a violation of this article:

- (1) Use or permitting the use of town water system in a wasteful manner or allowing water to run to waste upon his prem-

ises, buildings, or lots, in, through or out of any lavatory, bathtub, hose, hydrant, faucet or other fixture or in any manner through neglect or by reason of faulty or imperfect plumbing or fixtures, and allowing water to continually run down a gutter or drain or into a public right-of-way, shall be prima facie evidence of wasting water.

- (2) Making or causing to be made, whether as a plumber, mechanic craftsman, artisan or employee, or as owner or occupant of any premises within the town, any connection to the town water system or any alteration, extension, major repair, replacement or change of any existing connection, or any pipe, valve, or appliance used to regulate the flow of water in the town water system, or any part thereof, or to change or alter the position of any valve or appliance regulating the flow of water therein to said system, without first obtaining a permit to do so from the town clerk and thereafter making such connections or alterations in a manner contrary to the state plumbing code.
- (3) Tampering with, shutting off or opening any fire plug, meter, service valve or pumping facility, except as a duly authorized town employee, or a firefighter or peace officer in the line of duty.
- (4) Using water through any tap or service pipe connected with the town's water system contrary to the provisions of this article or to turn or cause to be turned on water to any premises, lot, building or house when the water has been shut off by the town.

- (5) Using water from the town water system on any premises or property if the flow of such water is not metered.
- (6) Making any connection with any pipeline forming a part of the town water system other than by the water system operator or licensed plumber authorized to do so by the town.
- (7) Extension of a pipe serving a water tap to another premises in such a manner as to allow two premises to be served by a single tap, subject to the provisions of section 7-1-20(i).
- (8) Creating any cross connection or continuing any previously existing cross connection.
- (9) Any person who violates any of the provisions contained in subsection (1) of this section shall be subject to a fine not exceeding \$2,650.00. Each day of continuing violation shall be considered a separate offense.

(Ord. No. 2008-006, 9-8-2008; Ord. No. 2014-004, 6-9-2014)

Sec. 7-1-50. Cross-connection control.

- (a) *Purpose.* The purpose of this section is:
 - (1) To protect the public potable water supply of the town from the possibility of contamination or pollution by isolating within the customer's internal distribution system or the customer's private water system such contaminants or pollutants that could backflow into the town water system;
 - (2) To eliminate existing cross-connections, actual or potential, between the customer's in-plant potable water system and

nonpotable water systems, plumbing fixtures, and industrial piping systems; and

- (3) To provide for the maintenance of a continuing program of cross-connection elimination that will systematically and effectively prevent the contamination or pollution of all potable water systems.

- (b) *Responsibility.* The town water system operator shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in his judgment, an approved backflow prevention assembly is required for the safety of the water system, the town water operator shall give notice in writing to said customer to install such an approved backflow prevention assembly at specific locations on his premises. The customer shall immediately install such approved assembly at his own expense and, failure, refusal, or inability on the part of the customer to install, have tested, and maintain said assembly shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.

- (c) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Air gap means unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water or waste to a tank, plumbing fixture, receptor, or other assembly, and the flood level rim of the receptacle. These

vertical, physical separations must be at least twice the diameter of the water supply outlet, never less than one inch (25 mm).

Approved means accepted by the authority responsible for meeting an applicable specification stated or cited in this section or as suitable for the proposed use.

Auxiliary water supply means any water supply on or available to the premises other than the purveyor's approved public water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source, such as a well, spring, river, stream, harbor, and so forth; used waters; or industrial fluids. These waters may be contaminated or polluted, or they may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

Backflow means the undesirable reversal of flow in a potable water distribution system as a result of a cross-connection.

Backflow prevention device means an assembly or means designed to prevent backflow.

Backpressure means a pressure, higher than the supply pressure, caused by a pump, elevated tank, boiler, or any other means that may cause backflow.

Backsiphonage means backflow caused by negative or reduced pressure in the supply piping.

Contamination means an impairment of a potable water supply by the introduction or admission of any foreign substance that degrades the quality and creates a health hazard.

Cross-connection means a connection or potential connection between any part of a potable water system and any other environment containing other substances in a manner that, under any circumstances would allow such substances to enter the potable water system. Other substances may be gases, liquids, or solids, such as chemicals, waste products, steam, water from other sources (potable or nonpotable), or any matter that may affect water quality.

Double check valve assembly means the approved double check valve assembly consisting of two internally check valves, either spring-loaded or internally weighted, installed as a unit between two tightly closing resilient-seated shutoff valves and fittings with properly located resilient-seated test cocks. This assembly shall only be used to protect against a non-health hazard (that is, a pollutant).

Hazard, degree of, is derived from an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

Hazard, health, means a cross-connection or potential cross-connection involving any substance that could, if introduced into the potable water supply, cause death or illness, spread disease, or have a high probability of causing such effects.

Hazard, non-health, means a cross-connection or potential cross-connection involving any substance that generally would not be a health hazard but would constitute a nuisance or be aesthetically objectionable, if introduced into the potable water supply.

Hazard, plumbing, means a plumbing-type cross-connection in a consumer's potable water system.

Hazard, system, means an actual or potential threat of severe damage to the physical properties of the public potable water system or the consumer's potable water system or of a pollution or contamination that would have a protracted effect on the quality of the potable water in the system.

Industrial fluids system means any system containing a fluid or solution that may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration, such as would constitute a health, system, pollution, or plumbing hazard, if introduced into an approved water supply. This may include, but not be limited to, polluted or contaminated waters; all types of process waters and used waters originating from the public potable water system that may have deteriorated in sanitary quality; chemicals in fluid form; plating acids and alkalis; circulating cooling waters connected to an open cooling tower; and/or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters, such as wells, springs, streams, rivers, bays, harbors, seas, irrigation canals or systems, and so forth; and oils, gases, glycerin, paraffins, caustic and acid solutions, and other liquid and gaseous fluids used in industrial, firefighting or other purposes.

Pollution means the presence of any foreign substance in water that tends to degrade its quality so as to constitute a non-health hazard or impair the usefulness of the water.

Reduced-pressure backflow prevention device means the approved reduced-pressure principle backflow prevention device consisting of two independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and below the first check valve. These units are located between two tightly-closing resilient-seated shutoff valves as an assembly and equipped with properly located resilient-seated test cocks.

Service connection means the terminal end of a service connection from the public potable water system, that is, where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the customer's water system. If a meter is installed at the end of the service connection, then the service connection shall mean the downstream end of the meter. There should be no unprotected takeoffs from the service line ahead of any meter. The term "service connection" shall also include water service connection from a fire hydrant and all other temporary or emergency water service connections from the public potable water system.

Water, nonpotable, means water that is not safe for human consumption or that is of questionable quality.

Water, potable, means water that is safe for human consumption as described by the public health authority having jurisdiction.

Water, used, means any water supplied by a water purveyor from a public potable water system to a consumer's water system

after it has passed through the point of delivery and is no longer under the sanitary control of the water purveyor.

(d) *Requirements.*

- (1) The water system shall be considered as made up of two parts: the utility system and the customer system.
- (2) The utility system shall consist of the source facilities and the distribution system and shall include all those facilities of the water system under the complete control of the utility, up to the point where the customer's system begins.
- (3) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the distribution system.
- (4) The distribution system shall include the network of conduits used for the delivery of water from the source to the customer's system.
- (5) The customer's system shall include those parts of the facilities beyond the termination of the utility distribution system that are utilized in conveying utility-delivered domestic water to points of use.

(e) *Policy.*

- (1) No water service connection to any premises shall be installed or maintained by the water purveyor unless the water supply is protected as required by state law and regulations and this section. Service of water to any premises shall be discontinued by the water purveyor if a backflow prevention device required by law is not installed, tested,

and maintained, or if it is found that a backflow prevention device has been removed, bypassed, or if a cross-connection exists on the premises. Service will not be restored until such condition or defects are corrected.

- (2) The customer's system should be open for inspection at all reasonable times to the town water system operator to determine whether cross-connections or other structural or sanitary hazards, including violations of these regulations, exist. When such a condition becomes known, the town water system operator or his designee shall deny or immediately discontinue service to the premises by providing for a physical break in the town's service line until the customer has corrected the condition in conformance with state/provincial and town statutes relating to plumbing and water supplies and the regulations adopted pursuant thereto.
- (3) An approved backflow prevention device shall be installed on each service line to a customer's water system at or near the property line; but in all cases, before the first branch line leading off the service line wherever the following conditions exist:
 - a. In the case of premises having an auxiliary water supply that is not or may not be safe bacteriological or chemical quality and that is not acceptable as an additional source by the town water system operator or public works supervisor, that water supply must be plumbed completely separate from the town water system.
 - b. In the case of premises on which any industrial fluids or any other objectionable substances are handled in such a fashion as to create an actual or potential hazard to the town water system, the public system shall be protected against backflow from the premises by complete separation of the two systems. This shall include the handling of process waters and waters originating from the utility system that have been subject to deterioration in quality.
 - c. In the case of premises having:
 1. Internal cross-connections that cannot be permanently corrected and controlled; or
 2. Intricate plumbing and piping arrangements or where entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross-connections exist;
 service from the town water system shall be denied or disconnected until such conditions have been eliminated.
- (4) The type of protective assembly required under subsections (e)(3)a through c of this section shall depend upon the degree of hazard that exists, as follows:
 - a. In the case of any premises where there is an auxiliary water supply as stated in subsection (e)(3)a of this section and it is not subject to

any of the following rules, the town water system shall be protected by an approved air-gap separation or an approved reduced-pressure principle backflow prevention assembly.

- b. In the case of any premises where there is water or substance that would be objectionable but not hazardous to health if introduced into the town water system, the town water system shall be protected by an approved double check valve assembly.
- c. In the case of any premises where there is any material dangerous to health that is handled in such a fashion as to create an actual or potential hazard to the town water system, the town water system shall be protected by an approved air-gap separation or an approved reduced-pressure principle backflow prevention device. Examples of premises where these conditions will exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries, and plating plants.
- d. In the case of any premises where, in the opinion of the town water system operator, an undue health threat is posed because of the presence of extremely toxic substances, the town water system operator or public works supervisor may require an air gap at the service connection to protect the town water

system. This requirement will be at the discretion of the town water system operator and is dependent on the degree of hazard.

- (5) Any backflow prevention device required herein shall be a model and size approved by the town water system operator. The term "approved backflow prevention device" means an assembly that has been manufactured in full conformance with the standards established by the American Water Works Association titled:

- a. ANSIIAWWA C510-89—Standard for Double Check Valve Backflow-Prevention Assembly, and AWWA C511-89—Standard for Reduced-Pressure Principle Backflow-Prevention Assembly, and have met completely the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research (FCCCHR) of the University of Southern California established by Specification of Backflow-Prevention Assemblies, section 10 of the most current issue of the Manual of Cross-Connection Control.
- b. Said AWWA and FCCCHR standards and specifications have been adopted by the town board of trustees. Final approval shall be evidenced by a certificate of approval issued by an approved testing laboratory certifying full compliance with said AWWA standards and FCCCHR specifications.

c. Testing must be performed annually by companies or individuals who are certified to perform such testing. The following schedules will establish criteria to be utilized by the water systems operator based upon the design and necessities of each system to be inspected.

1. Schedule (1) specific criteria: To be established by the water systems operator.
2. Schedule (2) inspections: To be established by the water systems operator.

(Ord. No. 2008-006, 9-8-2008; Ord. No. 2016-001, 3-18-2016; Ord. No. 2018-002, 4-9-2018; Ord. No. 2019-002, 2-11-2019)

ARTICLE 2. MUNICIPAL WATER ENTERPRISE

Sec. 7-2-10. 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:

Governing body means the town board of trustees, provided that the town board of trustees may delegate by resolution any or all of said functions to a committee which shall be known as and shall function as the town water enterprise.

Grant means any direct cash subsidy or other direct contribution of money from the state or any local government in the state which is not required to be repaid. The term "grant" does not include:

- (1) Any indirect benefit conferred upon the utility enterprise from the state or any local government in the state;

- (2) Any revenues resulting from rates, fees, assessments or other charges imposed by the water enterprise for the provision of goods or services by such enterprise; or
- (3) Any federal funds, regardless of whether such federal funds pass through the state or any local government of the state prior to receipt by the water enterprise.

Water activity includes, but is not limited to, the diversion, storage, carriage, delivery, distribution, collection, treatment, use, reuse, augmentation, exchange or discharge of water services, and the acquisition of water or water rights in accordance with applicable provisions of state law, and this article. The term "water activity" means any one or more works and improvements used in and as a part of the collection, treatment or distribution of water for the beneficial uses and purposes for which the water has been or may be appropriated.

Water enterprise means the water activity business owned by the town, which business receives under ten percent of its annual revenues in grants from all state and local governments combined and which is authorized to issue its own revenue bonds pursuant to this article or other applicable law.

(Ord. No. 2007-005, § I, 10-8-2007)

Sec. 7-2-20. Water enterprise.

The water enterprise shall be maintained and operated as an "enterprise," as defined and recognized in Section 20, Article X of the Colorado Constitution, and as a "water activity enterprise," as defined and recognized in C.R.S. § 37-45.1-101 et seq., as hereafter amended and any other applicable law. In addition to any of the powers it may have by virtue of C.R.S. § 37-45.1-101 et seq., and

any of the applicable provisions of state law, and this article, the water enterprise shall have the power under this section:

- (1) To acquire by gift, purchase, lease or exercise of the right of eminent domain, to construct, reconstruct, improve, better and extend water activities, wholly within or wholly without the town or partially within and partially without the town and to acquire in the name of the town, by gift, purchase or the exercise of the right to eminent domain, lands, easements and rights in land in connection therewith;
- (2) To operate and maintain water activities for its or the town's own use and for the use of public and private consumers and users within and without the territorial boundaries of the town;
- (3) To accept federal funds under any federal law in force to aid in financing the cost of engineering, architectural or economic investigations, or studies, surveys, designs, plans, working drawings, specifications, procedures or other actions preliminary to the construction of water activities;
- (4) To accept federal funds under any federal law in force for the construction of necessary water activities;
- (5) To enter into joint operating agreements, contracts or arrangements with consumers concerning water activities, whether acquired or constructed by the water enterprise or the consumer, and to accept any contributions from consumers for the construction of water activities.
- (6) To prescribe, revise and collect in advance or otherwise, from any consumer or any owner or occupant of any real property connected therewith or receiving service therefrom, rates, fees, tolls and charges or any combination thereof for the services furnished by, for the direct or indirect connection with, or the use of or any commodity from such water activities; in anticipation of the collection of revenues of such water activities, to issue revenue bonds to finance in whole or in part the cost of acquisition, construction, reconstruction, improvement, betterment or extension of the water activities; and to issue temporary bonds until permanent bonds and any coupons appertaining thereto have been printed and exchanged for the temporary bonds.
- (7) To pledge, to the punctual payment of said bonds and interest thereon, all or any part of the revenues of the water activities, including the revenues of improvements, or extensions thereto thereafter constructed or acquired, as well as the revenues from existing water activities;
- (8) To enter into and perform contracts and agreements with other governmental entities and utility activity enterprises for or concerning the planning, construction, lease or other acquisition and the financing of water activities and the maintenance and operation thereof;
- (9) To make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers

granted in this section or elsewhere in state law, or this article, in the performance of its covenants or duties, or in order to secure the payment of its bonds if no encumbrance, mortgage or other pledge of property, excluding any pledged revenues, of the water enterprise or town is recreated thereby, and if no property, other than money, of the water enterprise or town is liable to be forfeited or taken in payment of said bonds, and if no debt on the credit of the water enterprise or town is thereby incurred in any manner for any purpose; and

- (10) To issue water refunding bonds pursuant to this article or other applicable law to refund, pay or discharge all or any part of its outstanding water revenue bonds issued under this section or under any other law, including any interest thereon in arrears or about to become due, or for the purpose of reducing interest costs, effecting a change in any particular year in the principal and interest payable thereon or in the related utility rates to be charged, affecting other economies or modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds, or to any municipal water activities.

(11) To engage in any lawful water activity.
(Ord. No. 2007-005, § II, 10-8-2007)

Sec. 7-2-30. Revenue bonds.

- (a) In accordance with and through the provisions of this section and C.R.S. § 37-45.1-104, the water enterprise, through the board

of trustees, is authorized to issue bonds or other obligations payable solely from the revenues derived or to be derived from the functions, services, benefits or activities of such enterprise or from any other available funds of such enterprise. Such bonds or other obligations shall be authorized by ordinance, adopted by the governing body of the water enterprise in the same manner as other ordinances of the town. Such bonds or other obligations may be issued without voter approval, provided that, during the fiscal year of the town preceding the year in which the bonds or other obligations are authorized, the water enterprise received under ten percent of its annual revenue in grants or, during the current fiscal year of the town, it is reasonably anticipated that such enterprise will receive under ten percent of its revenue in grants. Nothing in this section shall be construed so as to require voter approval where such approval is not otherwise required by the constitution and laws of the state.

- (b) The terms, conditions and details of said bonds or other obligations, and the procedures related thereto, shall be set forth in the ordinance authorizing said bonds or other obligations and shall, as nearly as may be practicable, be substantially the same as those provided in C.R.S. Title 31, Article 35, Part 4 (C.R.S. § 31-35-401 et seq.), relating to water revenue bonds; except that the purposes for which the same are issued shall not be so limited and except that said bonds or other obligations may be sold at public or private sale in accordance with town ordinances. Each bond, note, or other obligation issued under this section shall recite in substance that said bond, note or other obligation, including the

interest thereon, is payable from the revenues and other available funds of the water enterprise pledged for the payment thereof. Notwithstanding any other provision of law to the contrary, such bonds or other obligations may be issued to mature at such times as are authorized by town ordinance, shall bear interest at such rates, and shall be sold at, above or below the principal amount thereof, all as shall be determined by the governing body of the water enterprise. Notwithstanding anything in this section to the contrary, in the case of short-term notes or other obligations maturing not later than one year after the date of issuance thereof, the governing body of the water enterprise may authorize enterprise officials to fix principal amounts, maturity dates, interest rates and purchase prices of any particular issue of such short-term notes or obligations, subject to such limitations as to maximum term, maximum principal amount outstanding and maximum net effective interest rates as the board of trustees of the water enterprise shall prescribe. Refunding bonds of the utility enterprise shall be issued as provided in C.R.S. Title 11, Article 56, Part 1 (C.R.S. § 11-56-101 et seq.). The powers provided in this section to issue bonds or other obligations are in addition and supplemental to, and not in substitution for, the powers conferred by any other law, and the powers provided in this section shall not modify, limit or affect the powers conferred by any other law, either directly or indirectly. Bonds, notes or other obligations may be issued pursuant to this section without regard to the provisions of any other law. Insofar as the provisions of this section are inconsistent with and not preempted by the provisions of any other

law, the provisions of this section shall control with regard to any bonds lawfully issued pursuant to this section.

- (c) Any pledge of revenue or other funds of the utility enterprise shall be subject to any limitation on future pledges thereof contained in any ordinance of the governing body of the water enterprise or of the town authorizing the issuance of any outstanding bonds or other obligations separately issued by the town and the water enterprise but secured by the same revenues or other funds and which shall be treated as having the same obligor and as being payable in whole or in part from the same source.

(Ord. No. 2007-005, § III, 10-8-2007)

Sec. 7-2-40. Exemption from Article X, Section 20, of the Colorado Constitution.

- (a) It is the intent of the town that the water enterprise be operated and maintained so as to exclude its activities from the application of Article X, Section 20 of the Colorado Constitution, to the fullest extent possible.
- (b) All funds of the water activity enterprise shall be segregated and separately accounted from other town funds in a fund known as the water activity enterprise fund.
- (c) Any tax, fee or charge imposed by the provisions of this article shall be so imposed as an exception and exemption from the provisions of Article X, Section 20 of the Colorado Constitution.

(Ord. No. 2007-005, § IV, 10-8-2007)

ARTICLE 3. MUNICIPAL SEWER SYSTEM

Sec. 7-3-10. Introduction-explanatory material.

- (a) *Scope.* This article shall be treated and considered as a new and comprehensive article,

governing the operations and functions of the town sewage collection system, and shall supersede any previous ordinances of the town, which are in conflict with the provisions hereof.

- (b) *Policy and purpose.* It is hereby declared that this article hereinafter set forth will serve a public use and is necessary to ensure and protect the health, safety, prosperity, security and ensure equity of service fees, proper and economic operation of the town's sewage collection system and general welfare of the inhabitants of the town.
- (c) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Contractor means any person, firm or corporation licensed by the town to perform work and to furnish materials therefor within the town.

Customer means any person, corporation, or governmental agency authorized to connect to the public sewer under a permit issued by the town.

Deleterious wastes mean any wastes contained in special sewage that would be harmful to the town's sewer mains or the sewage treatment works utilized by the town.

Developer means any person who owns land and is subdividing the land for resale and seeks to have the land served by the town.

Lateral line means a sewer main, which connects to the existing town trunk system; used to deliver sewage to trunk or outfall lines.

Manager means the sewer manager of the town, or in his absence, his authorized deputy. For purposes of administrating this article, the manager or town board may designate one or more individuals to represent the town and perform the duties assigned to the manager.

Permit means written permission of the town to connect to the sewer main of the town pursuant to the ordinances of the town.

Pretreatment facilities means structures, devices or equipment for the purposed of removing deleterious wastes from special sewage generated into the town sewer mains.

Sampling means the periodic collection of sewage samples for analysis.

Sanitary sewerage system means all facilities owned by the town and used for collecting and pumping of sewage.

Service line means pipe, system of piping and appurtenances used as a conduit for sewage from a building used for residential, commercial or industrial purposes to a connection with the sewer main or lateral line.

Sewage means any organic or inorganic material in suspension or solution originating from within residential, commercial or industrial buildings.

Sewer main means any pipe, system of piping and appurtenances used as a conduit for sewage, owned by the town.

Tap or connection means the connecting of the service line to the structure, which it is to serve.

Tap fee means the required payment to the town for the physical hookup to the town's sewer system.

Testing means the analysis of samples of sewage.

Town clerk means the appointed clerk of the town, or, in his absence, his duly authorized deputy.

Unit means one parcel of real property used as a living unit in single or joint ownership.

(Ord. No. 2002-2, § 1, 2-12-2002; Ord. No. 2018-003, § 1, 8-13-2018; Ord. No. 2018-006, § 1, 8-13-2018)

Sec. 7-3-20. Ownership and operation of facilities.

(a) *Policy.* The town is responsible for the operation and maintenance of the sewage collection system in a sound and economical manner, in accordance with this article; it shall not be liable or responsible for interruption of service brought about by circumstances beyond its control.

(b) *Liability.* It is expressly stipulated that no claim for damage shall be made against the town by reason of the following: Blockage in the system causing the backup of effluent; damage caused by "smoking" of lines to determine drainage connections to town lines, breakage of service mains by town personnel; or for interruption of sewer service and the conditions resulting therefrom where said interruption is brought about by request of claimant, or by circumstances beyond the town's control.

(c) *Ownership.* All existing and future sewer mains connected with and forming an integral part of the sanitary sewage system shall become and are the property of the town. Said ownership will remain valid whether the sewer

mains are constructed, financed, paid for, or otherwise acquired by the town, or by other persons.

(d) *Powers and authority of agents.* The town clerk, sewer manager and other duly authorized employees of the town, bearing proper credentials and identification, shall be permitted to enter upon all properties within said town for the purpose of inspection, observation, measurement, sampling, and testing, in accordance with the provisions of this article. Any such information obtained therein may be shared with the town's contracting entity, Baca Grande Water and Sewer District.

(Ord. No. 2002-2, § 2, 2-12-2002; Ord. No. 2018-003, § 2, 8-13-2018; Ord. No. 2018-006, § 2, 8-13-2018)

Sec. 7-3-30. Use of the sewer system.

(a) *Classification of wastes.*

(1) *Purpose.* This section shall provide the basic policies of the town for classification of wastes and for control of discharge of wastes into the sanitary sewerage system.

(2) *Policy statement.* It shall be the policy of the town to classify wastes into three main categories, termed "normal sewage", "special sewage" and "prohibited sewage", which are generally defined below. The classification of wastes shall be the responsibility of the manager and shall follow recommended procedures of the state board of health, and, subject to approval of the board, shall be final and binding.

- (3) *Normal sewage.* Normal sewage means sewage which can be treated in standard treatment works without pretreatment and within normal operating procedures, and which, when analyzed, shows by weight a daily average of not more than 300 parts per million of suspended solids and not more than 250 parts per million BOD.
- (4) *Special sewage.* Special sewage means any sewage which does not conform to the definition for normal sewage, but which can be accepted by the town after pretreatment by the user.
- (5) *Prohibited sewage.* Prohibited sewage means any sewage that may reasonably be anticipated to have a deleterious effect upon the sanitary sewerage system, or any persons or property, and, therefore, in the opinion of the town, cannot be serviced by the town. Prohibited sewage shall include clear water injected into the sewage system by means of a drainage collection system. Said drainage water is detrimental to the sewage system since it interferes with the town's volume capacity.
- (6) *Analysis of sewage.* The manager shall be responsible for all sampling, testing, analysis and classifying of sewage. Testing and analysis shall be determined in accordance with Standard Methods for the Examination of Water and Waste Water, latest edition. Results of tests shall be made available to the user by the town.
- (b) *Responsibilities of the customer.* No unauthorized person shall uncover, make any connection with, or opening into, use, alter, or disturb any sewer main or appurtenance without first obtaining a written permit from the town.
- (1) The admission into the system of any special sewage shall be subject to the review and approval of the board, which may prescribe limits on the strength and character of such sewage. Where necessary, in the opinion of the board, the owner shall provide, at his expense, such pretreatment facilities as may be necessary to treat such special sewage prior to discharge into the sewer main. Plans, specifications, and any other pertinent information relating to proposed pretreatment facilities shall be submitted for the approval of the town and of the state board of health, and no construction of such facilities shall be commenced until such approval is obtained in writing. Where pretreatment facilities are provided for any special sewage, they shall be maintained continuously in satisfactory and effective operation by the owner, at his own expense.
- (2) When required by the town, the owner of any property served by a service line carrying special sewage shall install and maintain, at his expense, a suitable control manhole in the service line to facilitate observation, sampling and measurement of the wastes. All measurements, tests, and analyses of the characteristics of waters and wastes shall be determined in accordance with standard methods for the examination of water and sewage, and shall be determined at the control manhole, or upon suitable samples taken at said control manhole. In the event that no special

manhole has been required, the control manhole shall be considered to be the nearest down-stream manhole in the sewer main to the point at which the service line is connected. Grease, oil and sand interceptors of a design recommended by the state board of health shall be provided when, in the opinion of the said Inspector, they are necessary for the proper handling of special sewage or liquid wastes containing grease in the excessive amount, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. Where installed, they shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

- (3) Each customer shall be responsible for maintaining the entire length of the service line serving his property. Leaks or breaks in the service line shall be repaired by the property owner within 72 hours from the time of notification of such condition by the town. If satisfactory progress toward repairing the said leak has not been completed within the same time period, the Manager, or other authorized town official, may shut off the service until the leaks or breaks have been repaired; in addition, the town shall have the right to effect the repair and collect the cost therefor from the customer, and shall be entitled to place a lien against the property of such customer, securing payment of such cost.

- (c) *Protection from damage.* No unauthorized person shall maliciously, willfully, or negli-

gently, break, damage, destroy, uncover, deface or tamper with any portion of the town's sanitary sewer system.

- (d) Any person violating any of the provisions of this section shall become liable to the town for any expense loss or damage occasioned by reason of such violation and any person violating sections 3.2, or 3.3 of this article shall be subject to a fine not exceeding \$2,650.00, or to one year incarceration in the county jail or to both such fine and imprisonment.

(Ord. No. 2002-2, § 3, 2-12-2002; Ord. No. 2018-003, § 3, 8-13-2018; Ord. No. 2018-006, § 3, 8-13-2018)

Sec. 7-3-40. Application for service.

- (a) *Application for service.* Each business dwelling establishment or building under separate ownership and deserving town sewer resources shall have a separate town sewer tap. Application for service must be filed with the town on forms provided by the town and accompanied by appropriate fees prior to any action to connect to the system. Only upon authorized approval of the application and a receipt, therefor, may a connection to the system be made. Such tap fees are due and payable prior to tapping into the town sewer system, and all paid sewer tap fees are non-refundable.

- (b) *Denial of application.* The town reserves the exclusive right to deny application for service when, in the opinion of the town board, the service applied for would create an excessive seasonal, physical, or other, demand on the facilities or installation. Denial may also be based upon an unresolved obligation between the town and the applicant, inade-

quate easements for main lines serving the property, or other valid reasons. In the case that a tap fee has previously been paid and the town exercises the right to deny service, the tap fee shall be refunded without interest. (Ord. No. 2002-2, § 4, 2-12-2002; Ord. No. 2018-003, § 4, 8-13-2018; Ord. No. 2018-006, § 4, 8-13-2018; Ord. No. 2019-005, 11-11-2019)

Sec. 7-3-50. Extensions.

All work, labor, and services of tapping town sewer mains and/or extending service lines from town sewer mains to property or curb lines shall be done and performed only by town employees or under town contract operations when the line extension is performed by the town.

- (1) *Sewer main extensions.* A property owner requesting extension of sewer lines to his property shall be required to bear the full cost of such extension to a location specified by the town. The property owner shall also bear the cost of surveying, inspections, engineering, parts, excavation, geotechnical services, and any other costs incurred in connection with the work. The property owner may engage an outside contractor to perform the line extension work provided that the contractor is approved before commencement of the work upon completion and final inspection of the work.
- (2) *Performance and maintenance bond.* A performance and maintenance bond equal to 100 percent of contract (or construction cost) shall be furnished to the town on all sewer main construction. The board may waive the requirements for said bond based upon the prior satisfactory performance of the contractor.
- (3) *Sewer system parts.* All parts must be purchased pursuant to town specifications supplied and purchased by the town, and paid by the developer, and all work shall be subject to final inspection by the town associated with the work.
- (4) *Deposit for construction.* Prior to work commencing, the developer shall deposit with the town funds equal to the amount of ten percent of the total estimated cost of the work (deposit). The purpose of the deposit is to cover any unanticipated costs incurred by the town for the work and acceptance of the line extension by the town. The deposit will be returned to the developer, less any costs incurred by the town associated with the work.
- (5) *Connection.* Any person desiring to have a tap made to the pipes or mains of the town sewer system or any connection therewith, shall make application in writing for a permit to do so to the town clerk, agreeing to pay such rates as may be then or thereafter established by the town board of trustees, and also agreeing to conform to and be governed by such rules and regulations that may from time to time be adopted by the town board for the government and control of the town sewer system or any part thereof. Such application shall also state the nature or character of the tap or connection; the location by lot, block and street number thereof; the number of taps; the premises upon which the

sewer is to be used; the character and size of the premises; and the nature and purpose for which the sewer is to be used. Every application shall be accompanied by the applicable tap fee. If the application is complete and the proposed tap and use conform to applicable rules and regulations, the town clerk shall issue a permit for such tap.

- (6) *Deposit of additional line users.* Should other developers or property owners subsequently request to connect to the sewer line extensions, such developer or property owner shall be required to deposit with the town his pro rata share of the actual cost of the extension, in addition to applicable tap fees, at the time of application. Developers or property owners who have previously paid for a line extension shall be entitled to a partial reimbursement of the cost based on the subsequent pro rata contributions of other developers or property owners that connect to the extension, provided that a final invoice for the work was submitted to and approved by the town board, and that the line extension project chose to participate in the reimbursement program (see exhibit A).
- (7) *Inspection.* Inspections shall be performed pursuant to town policy as adopted by resolution.
- (8) *Out of town extensions.* Requests for extensions of the town sewer main from residents who reside outside of the boundaries of the town sewer system must receive approval from the board of trustees and shall pay rates double those of inside town users. The out-of-

town property owner requesting the extension shall pay all costs associated with extending the town sewer main.

(Ord. No. 2002-2, § 6, 2-12-2002; Ord. No. 2003-6, 8-11-2003; Ord. No. 2013-005, 5-13-2013; Ord. No. 2018-003, § 5, 8-13-2018; Ord. No. 2018-006, § 5, 8-13-2018)

Sec. 7-3-60. Construction of service lines.

- (a) Construction of all service lines shall be done by the owner or experienced pipe layers in accordance with the technical plumbing code of the state.
- (b) Existing sewer service lines may be used in connection with new buildings only when found, on examination by the manager, to meet all requirements of these rules and regulations.
- (c) The service line shall be PVC pipe with minimum wall thickness meeting S.D.R.-45 thickness with preformed watertight joints. The line shall be watertight, and on a constant grade, and not closer than three feet from any bearing wall. No service lines shall be less than four inches in diameter.
- (d) Connection of the service line to the sewer main shall be made by installing a saddle on the sewer pipe. The saddle will be furnished by the town. Except for the saddle, all costs associated with the connection shall be borne by the owner.
- (e) All excavations required for the installation of service lines shall be open-trench work, unless otherwise approved by the manager. Pipe laying and backfill shall be performed in accordance with the pipe manufacturer's guidelines. No excavations shall remain open for more than 96 hours. All excavations shall

be backfilled to an elevation equal to original conditions. Backfill in trenches and other excavations within the public right-of-way shall be compacted to a density at least equal to adjacent undisturbed soil. Gravel surfacing shall be replaced on streets and asphalt patched to the satisfaction of the town.

- (f) **Inspection notification.** The applicant for the sewer line service permit shall notify the Manager when the service is ready for inspection and connection to the sewer main.
- (g) **Protection of public.** All excavations for sewer service installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public or private property disturbed in the course of the work shall be restored in a manner satisfactory to the manager.
- (h) **Inspection and tapping charges.** All taps must be made by the customer with the town furnishing all four- and six-inch saddles, and all service lines must be inspected by the manager. Constructors of service lines shall call the manager for an open ditch inspection of all service lines. If said inspection is not made within 48 hours of the call, construction may proceed. Stub-outs must be inspected, but there shall be no charge.

Tap fees shall be set from time to time by resolution of town board of trustees.

(Ord. No. 2002-2, § 5, 2-12-2002; Ord. No. 2014-008, 12-8-2014; Ord. No. 2018-003, § 6, 8-13-2018; Ord. No. 2018-006, § 6, 8-13-2018)

Sec. 7-3-70. Rates and charges.

- (a) **General.** The information contained in this section is pertinent to all charges of whatever

nature to be levied for the provision of sanitary sewer service. Said rates and charges as herein established are in existence and effect at this time, as per appendix 2-F, and shall remain in effect until modified by the board under the provisions of this article, and under the applicable statutes of the state. Nothing contained herein shall limit the board from properly modifying rates and charges, or from modifying any classification.

- (b) **Application of this section.** The rates, charges, and other information shown herein shall apply only to customers inside the town and shall in no way obligate the town to provisions outside the town under any of the conditions contained in this section.
- (c) **Classification of customers.** For the purpose of levying fair, reasonable, uniform and equitable charges, the following classifications and appropriate definitions are provided.
 - (1) **Single unit dwelling.** A single-unit dwelling shall be construed as a living unit suitable for occupancy of one or more individuals and forming a separate and unattached structure from any other dwelling unit.
 - (2) **Multiple unit dwelling.** A multiple unit dwelling shall consist of a single structure or structures otherwise unattached to any other dwelling unit.
 - (3) **Hotel, motel, bed and breakfast (B&B), lodge, or any other short-term rental.** A hotel, motel or lodge shall be defined as a unit providing overnight sleeping facilities for transient usage. The charges shown herein for hotel, motel, or lodge units shall be charges levied only for the sleeping accommodations, and shall not

reflect charges for attendant facilities included at the hotel, motel, or lodge, such as, but not limited to, restaurants, bars, swimming pools, automatic laundries, etc.

- (4) *Mobile or manufactured homes.* Mobile or manufactured homes shall, for the purpose of this article, be classified as any unit capable of being transported on wheels behind a standard power unit, and which can be moved on normal streets, roads, and highways. Said unit must be suitable for living quarters and provide for normal domestic sanitary conveniences.
- (5) *Retail business outlet.*
 - a. A retail business outlet shall be any structure providing for normal commerce or business.
 - b. A retail business outlet shall be any structure providing for normal commerce or business services except for those business services otherwise defined herein, and where said outlet is provided only with the required sanitary conveniences for the personnel employed at that business outlet. Where more than one business outlet is used in one structure, the board, at its sole discretion, shall determine the number of equivalent business outlets used therein.
- (6) *Cafes, restaurants, bars, and private clubs.* This classification shall include any establishment providing food or beverage service to the general public or to private membership, and whereby charges

for such service of food and beverages are secured. Such units shall be classified by the seating capacity in increments of 35 individual seats.

- (7) *Filling stations and garages.* Filling stations and garages shall be defined as service outlets providing for the servicing of vehicular units. Under the basic definition of filling stations and garages, no provision is made for automatic washing or wash rack facilities. The charges established therefor are for filling stations and garages without washing facilities. A separate charge is provided herein for facilities providing wash rack or manual washing facilities. The definitions shown herein, and the charges provided for filling stations and garages do not apply to automatic or mechanical auto or vehicular washing facilities for which special charges shall be determined by the town.
- (8) *Public laundries.* Public laundries, as used herein, shall refer to coin operated laundries and drying facilities for clothing and textile usage.
- (d) *Tap fee.* A tap fee shall be charged to all customers of the town. Such fee shall represent a "privilege to serve" fee, assessed and paid before the permit for service is issued. Tap fees shall be assessed as provided for in the town's consolidated fee schedule, attached as appendix 2-F, and as amended, from time to time, by resolution of the board of trustees.
- (e) *Monthly service charge.* Upon the securing of a permit for sanitary sewer service and upon payment of the tap fee, the monthly sewer service charges shall immediately commence,

except for rental homes and new construction, with service charges for them to commence with first occupancy and request for service must be accompanied by proof satisfactory to the town of the date of first occupancy. Sewer service charges shall be as reflected in the consolidated fee schedule in appendix 2-F, and as amended, from time to time, by resolution of the board of trustees.

- (f) *Amended tap fees.* In those situations where a prospective user applies for a permit for sanitary sewer service for a structure not defined in the preceding article, or where, in the board's opinion, said structure represents a classification not contemplated in the establishment of the previously defined tap fees, the board shall, at its sole discretion, establish a fair, reasonable, and equitable tap fee for said structure, at its first regular board meeting after request for service is received.
- (g) *Amended monthly service charges.* In those situations where, in the board's sole discretion, the monthly service charges shown in the previous articles do not represent a fair, reasonable, and equitable charge for the intended use, the board, at its sole discretion, may adjust said rates.
- (h) *Payment of monthly service charges.* It shall be the policy of the town to bill all monthly service charges in advance. Likewise, all monthly service charges shall be paid in advance as herein set forth.
 - (1) The monthly service charges shall be mailed to each customer on a once-a-month basis.
 - (2) The board shall notify all customers in writing as to the schedule of billing dates for the monthly service charge.

The customer shall pay to the town the full amount of that statement, within 20 days after the date of billing, except where the customer feels said statement is in error, in which even, the customer must file, in writing, a notice to the town of the presumed error, and request a clarification from the manager. Upon review by the manager and/or the board, and resubmittal and/or revision of the statement, payment shall be due no later than ten days after the date of the resubmitted statement. The customer's payment shall be considered delinquent if not received in full by 40 days after the date of billing/re-billing.

- (3) *Penalty for late payment.* At any time the customer is delinquent in payment of any charges due the town, the town shall have the right to assess an interest charge at a rate of \$2.50 the first month, \$5.00 the second month, and \$10.00 the third month late or thereafter on the unpaid balance. Customers shall be notified of delinquencies in payment for sewer services. Such delinquencies shall become an immediate and perpetual lien upon the real estate served. Such delinquencies shall be collected by additions to the assessment schedules of such real estate and as certified by the town clerk yearly to the county treasurer. In addition, the town shall have the right to assess to any customer who is tardy in payment of his account, all legal, court, and other costs necessary to or incidental to the collection of said account.

(i) *Schools and libraries applicable.* Schools or libraries are subject to the terms of this article.

(Ord. No. 2002-2, § 7, 2-12-2002; Ord. No. 2018-003, § 7, 8-13-2018; Ord. No. 2018-006, § 7, 8-13-2018)

ARTICLE 4. MUNICIPAL SEWER ENTERPRISE

Sec. 7-4-10. 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:

Governing body shall be the board of trustees, provided that the board of trustees may delegate by resolution any or all of said functions to a committee which shall be known as and shall function as the town sewer authority.

Grant means any direct cash subsidy or other direct contribution of money from the state or local government in the state which is not required to be repaid. The term "grant" does not include:

- (1) Any indirect benefit conferred upon the sewer enterprise from the state or local government in the state;
- (2) Any revenues resulting from rates, fees, assessments or other charges imposed by the sewer enterprise for the provision of goods or services by such enterprise; or
- (3) Any federal funds, regardless of whether such federal funds pass through the state or any local government of the state prior to receipt by the sewer enterprise.

Sewer activity includes, but is not limited to, the diversion, storage, carriage, delivery, distribution, collection, treatment, use, reuse, or discharge of sewer services and the acquisition of sewer or sewer rights-of-way in accordance with applicable provisions of state law, and this article.

Sewer enterprise means the sewer activity business owned by the town, which business receives under ten percent of its annual revenues in grants from all state and local governments combined and which is authorized to issue its own revenue bonds pursuant to this article or other applicable law.

Sewer facilities means any one or more works and improvements used in and as a part of the collection, treatment or distribution of sewage and any one or more of the various devices used in the collection, treatment, or disposition of sewage or industrial wastes of a liquid nature or store, flood, or surface drainage waters, including all inlets; collection, drainage, or disposal lines; intercepting sewers; joint storm and sanitary sewers; sewage disposal plants; outfall sewers; all pumping, power, and other equipment and appurtenances; all extensions, improvements, remodeling, additions, and alterations thereof; and any and all rights or interests in such sewerage facilities.

Sec. 7-4-20. Sewer enterprise.

The sewer enterprise shall be maintained and operated as an enterprise as defined in the Water Activity Enterprise Act, C.R.S. § 37-45.1-101 et seq. In addition to any of the powers it may have by virtue of any of the applicable provisions of state law and this article, the sewer enterprise shall have the power under this section:

- (1) To acquire by gift, purchase, lease or exercise of the right of eminent domain, to construct, reconstruct, im-

prove, better and extend sewage facilities, wholly within or wholly without the town or partially within and partially without the town, and to acquire in the name of the town, by gift, purchase or the exercise of the right to eminent domain, lands, easements and rights in land in connection herewith.

- (2) To operate and maintain sewerage facilities for it's or the town's own use and for the use of public and private consumers and users within and without the territorial boundaries of the town.
- (3) To accept federal funds under any federal law in force to aid in financing the cost of engineering, architectural or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures or other actions preliminary to the construction of sewer facilities.
- (4) To accept federal funds under any federal law in force for the construction of necessary sewer facilities.
- (5) To enter into joint operating agreements, contracts or arrangements with consumers concerning sewerage facilities, whether acquired or constructed by the sewer enterprise or the consumer, and to accept monies and contributions from consumers for the construction of sewer facilities.
- (6) To prescribe, revise and collect in advance or otherwise, from any consumer or any owner or occupant of any real property connected therewith or receiving service therefrom, rates, fees, tolls and charges or any combination thereof

for the services furnished by, for the direct or indirect connection with, or the use of or any commodity from such sewerage facilities; in anticipation of the collection of revenues of such sewer facilities, to issue revenue bonds to finance in whole or in part the cost of acquisition, construction, reconstruction, improvement, betterment or extension of the sewerage facilities; and to issue temporary bonds until permanent bonds and any coupons appertaining thereto have been printed and exchanged for the temporary bonds.

- (7) To pledge, to the punctual payment of said bonds and interest thereon, all or any part of the revenues of the sewerage facilities, including the revenues of improvements or extensions thereto thereafter constructed or acquired, as well as the revenues from existing sewer facilities.
- (8) To enter into and perform contracts and agreements with other governmental entities and utility activity enterprises for or concerning the planning, construction, lease or other acquisition and the financing of sewer facilities and the maintenance and operation thereof.
- (9) To make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted in this section or elsewhere in state law or this article, in the performance of its covenants or duties, or in order to secure the payment of its bonds if no encumbrance, mortgage or other pledge of property, excluding any pledged revenues of the sewer enter-

prise is recreated thereby, and if no property, other than money, of the sewer enterprise is liable to be forfeited or taken in payment of said bonds, and if no debt on the credit of the sewer enterprise or town is thereby incurred in any manner for any purpose.

- (10) To issue sewer refunding bonds pursuant to this article or other applicable law to refund, pay or discharge all or any part of its outstanding sewer revenue bonds issued under this section or under any other law, including any interest thereon in arrears or about to become due, or for the purpose of reducing interest costs, effecting a change in any particular year in the principal and interest payable thereon or in related utility rates to be charged, affecting other economies or modifying or eliminating restrictive contractual limitations appertaining to the issuance of additional bonds, or to any municipal sewer facilities.

Sec. 7-4-30. Revenue bonds.

- (a) In accordance with and through the provisions of this section and C.R.S. § 37-45.1-104, the sewer enterprise, through the board of trustees, is authorized to issue bonds or other obligations payable solely from the revenues derived or to be derived from the functions, services, benefits or facilities of the sewer enterprise or from any other available funds of the sewer enterprise. Such bonds or other obligations shall be authorized by ordinance and adopted by the governing body of the sewer enterprise in the same manner as other ordinances of the town. Such bonds

or other obligations may be issued without voter approval, provided that, during the fiscal year of the town preceding the year in which the bonds or other obligations are authorized, the sewer enterprise received under ten percent of its annual revenue in grants or, during the fiscal year of the town, it is reasonably anticipated that such enterprise will receive under ten percent of its revenue in grants. Nothing in this section shall be construed so as to require voter approval where such approval is not otherwise required by the constitution and laws of the state.

- (b) The terms, conditions and details of said bonds or other obligations, and the procedures related thereto, shall be set forth in the ordinance authorizing said bonds or other obligations and shall, as nearly as may be practicable, be substantially the same as those provided in C.R.S. Title 31, Article 35.1, Part 4 (C.R.S. § 31-35-401 et seq.), relating to sewer revenue bonds; except that the purposes for which the same are issued shall not be so limited and except that said bonds or other obligations may be sold at public or private sale in accordance with this Code. Each bond, note or other obligation issued under this section shall recite in substance that said bond, note or other obligation, including the interest thereon, is payable from the revenues and other available funds of the sewer enterprise pledged for the payment thereof. Notwithstanding any other provision of law to the contrary, such bonds or other obligations may be issued to mature at such times as are authorized by town ordinance, shall bear interest at such rates, and shall be sold at, above or below the principal amount thereof, all as shall be determined by

the governing body of the sewer enterprise. Notwithstanding anything in this section to the contrary, in the case of short-term notes or other obligations maturing not later than one year after the effective date of issuance thereof, the governing body of the sewer enterprise may authorize sewer enterprise officials to fix principal amounts, maturity dates, interest rates and purchase prices of any particular issue of such short-term notes or obligations, subject to such limitations as to maximum term, maximum principal amount outstanding and maximum net effective interest rates as the board of trustees of the sewer enterprise shall prescribe. Refunding bonds of the sewer enterprise shall be issued as provided in C.R.S. Title 11, Article 56, Part 1 (C.R.S. § 11-56-101 et seq.). The powers provided in this section to issue bonds or other obligations are in addition and supplemental to, and not in substitution for, the powers conferred by any other law, and the powers provided in this section shall not modify, limit or affect the powers conferred by any other law, either directly or indirectly. Bonds, notes or other obligations may be issued pursuant to this section without regard to the provisions of any other law. Insofar as the provisions of this section are inconsistent with and not preempted by the provisions of any other law, the provisions of this section shall control with regard to any bonds lawfully issued pursuant to this section.

- (c) Any pledge of revenue or other funds of the utility enterprise shall be subject to any limitation on future pledges thereof contained in any ordinance of the governing body of the sewer enterprise or of the town authorizing the issuance of any outstanding bonds or

other obligations separately issued by the town and the sewer enterprise but secured by the same revenues or other funds and which shall be treated as having the same obligor and as being payable in whole or in part from the same source or sources.

Sec. 7-4-40. Exemption.

Exemption from Article X, Section 20 of the Colorado Constitution. It is the intent of the town that the sewer enterprise be operated and maintained so as to exclude its activities from the application of Article X, Section 20 of the Colorado Constitution, to the fullest extent possible.

Chapter 8

STREETS, SIDEWALKS AND PUBLIC PROPERTY

Article 1. Excavations and Obstructions

- Sec. 8-1-10. Standards, regulations and specifications.
- Sec. 8-1-20. Reporting.
- Sec. 8-1-30. Unauthorized excavations prohibited.
- Sec. 8-1-40. Excavations; public safety measures.
- Sec. 8-1-50. Obstruction by construction activities.
- Sec. 8-1-60. Openings in sidewalks or streets; safety requirements.

Article 2. Parks and Recreation Areas

- Sec. 8-2-10. Parks, public lots and recreation areas.
- Sec. 8-2-20. Definitions.
- Sec. 8-2-30. Authority of town.
- Sec. 8-2-40. Existing areas.
- Sec. 8-2-50. Adoption of rules and regulations.
- Sec. 8-2-60. Hours of operation.
- Sec. 8-2-70. Destruction of property prohibited.
- Sec. 8-2-80. Fires prohibited.
- Sec. 8-2-90. Horseback riding restricted.
- Sec. 8-2-100. Construction; permit required.
- Sec. 8-2-110. Motor vehicles restricted.
- Sec. 8-2-120. Peddling; permit required.

Article 3. Historic Landmarks (Reserved)

Article 4. Cemeteries

- Sec. 8-4-10. Control and management.
- Sec. 8-4-20. Issuance of interment agreements.
- Sec. 8-4-30. Care and maintenance; jurisdiction.
- Sec. 8-4-40. Damage or vandalism prohibited.
- Sec. 8-4-50. Alcoholic beverage prohibited.
- Sec. 8-4-60. Vehicle restrictions.
- Sec. 8-4-70. Noise prohibitions.
- Sec. 8-4-80. Littering in cemeteries prohibited.
- Sec. 8-4-90. Violation; penalty.

**ARTICLE 1. EXCAVATIONS AND
OBSTRUCTIONS**

Sec. 8-1-10. Standards, regulations and specifications.

In addition to the provisions contained in this article, the public works department, in consultation with the town clerk and the public works director, shall develop such additional standards, regulations and specifications governing access, utilization and restoration of all streets, alleys and rights-of-way within the corporate limits of the town, which standards, regulations and specifications shall not constitute a barrier to the use and excavation of town facilities, but shall preserve the integrity of the facilities at the least possible cost to town taxpayers.

Sec. 8-1-20. Reporting.

The public works director shall report to the board of trustees the particulars of such regulations, specifications and standards as soon as possible, whereupon the same shall be adopted by the board of trustees.

Sec. 8-1-30. Unauthorized excavations prohibited.

Any person who digs a hole, drain or ditch in any street or alley in the town; digs, removes, carries away or causes the same to be done, any sod, stone, earth, sand or gravel from any street, alley or public ground; damages, tears up or destroys any sidewalk; or obstructs the making or repairing of any pavement, sidewalk or crosswalk which is in the course of construction, pursuant to this Code or authority of the board of trustees; or hinders or obstructs any employee of the board of trustees or person working under such employee

in making or repairing any public work or improvement shall, upon conviction, be fined for each offense.

Sec. 8-1-40. Excavations; public safety measures.

- (a) Any town officer, contractor or other person who digs any hole, drain or ditch or makes any excavation in any highway or thoroughfare in the town without providing during the night a light temporary fence or suitable protection on or around the same to prevent persons, animals or vehicles from falling therein shall, upon conviction, be fined for each offense.
- (b) Whoever, in the nighttime, leaves open any cellar, cellar door, vault, well, cistern, excavation, ditch or other hole or mantrap adjoining or near any street or alley, so as to endanger the safety of passing persons or animals, shall be liable to a fine.

Sec. 8-1-50. Obstruction by construction activities.

- (a) No person, whether a builder, contractor, owner or otherwise, during the construction or repair of any building or other work in the town, shall use or occupy more than one-third of the width of any street with building materials, implements, machinery or other thing. As soon as any such building or other work is completed or work thereon permanently ceases, such builder or the person in charge of the premises shall, without expense to the town, remove all such material or other thing from the street, leaving the same clean to the proper grade and as near as possible to its former condition.
- (b) Any person violating any provision of this section shall be liable for any damage occa-

sioned thereby and shall be fined, upon conviction, for each offense. Each day's refusal or neglect to comply with any such provision shall be considered a separate offense.

Sec. 8-1-60. Openings in sidewalks or streets; safety requirements.

Any person who leaves or keeps open any cellar door, pit, vault or other subterraneous opening on any sidewalk, street or alley, suffers the same when in his charge to be so left or kept open or to be in an insecure condition so that passersby are in danger of falling into the same, or suffers any sidewalk in front of any premises owned or occupied by him to become or continue so broken as to endanger life or limb, shall, upon conviction, be fined for each offense.

ARTICLE 2. PARKS AND RECREATION AREAS

Sec. 8-2-10. Parks, public lots and recreation areas.

The parks, public parking lots, parkways and recreational areas, which are the subject of this article within the town, shall normally be opened daily to the public during daylight hours, except as set forth in section 8-2-60. No person who is not an employee of the town having jurisdiction over a particular park, public parking lot, parkway or recreational area of the town, acting in the scope of his employment, shall remain in any such park, public parking lot, parkway or recreational area at any other time; provided, however, that the town may, by permit or authorization first had or obtained or by regulation duly posted in the area affected, extend to a later hour the nighttime closing hour with respect to particular areas, or parks, public parking lots, parkways or recreational ac-

tivities in such parks, public parking lots, parkways or recreational area; and that nothing contained in this article shall present or make unlawful the conduct of or attendance at a nighttime athletic event or activity in areas set aside and lighted for such events or activities by or with the permission of the town.

Sec. 8-2-20. 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:

Park and recreation area means any area owned or managed by the town which is devoted to active or passive recreation.

Person means any person, firm, partnership, association, corporation, company or organization of any kind.

Sec. 8-2-30. Authority of town.

The town shall have authority to acquire, establish and maintain public parks and other recreation areas according to the state statutes covering such subject matter.

Sec. 8-2-40. Existing areas.

A park and a recreation area shall be those areas now existing at the time of the adoption of this Code and any other property acquired as provided by law for park and recreation purposes.

Sec. 8-2-50. Adoption of rules and regulations.

The town clerk is empowered and authorized to adopt rules and regulations for the management, operation and control of parks, parkways and recreational areas.

Sec. 8-2-60. Hours of operation.

The parks shall be open daily to the public from 5:00 a.m. until 11:00 p.m., and no person nor any employee of the parks shall remain in them at any other time; provided, however, that the town clerk may, by permit first having been obtained, extend or limit the time herein specified.

Sec. 8-2-70. Destruction of property prohibited.

It is unlawful to cut, mark, remove, break, climb upon or in any way injure, damage or deface the trees, shrubs, plants, turf or any of the buildings, fences, bridges or other structures or property within or upon park premises; or in any other way injure, damage or impair the natural beauty or usefulness of any park or recreation area.

Sec. 8-2-80. Fires prohibited.

It is unlawful to light, make or use any unenclosed picnic or trash fire within the parks, parkways or other recreation facilities owned or operated by the town; provided, however, that this section shall not apply to authorized park employees. Fires may only be built in fireplaces or grills constructed for that purpose in such areas and under such rules and regulations as may be prescribed by the town clerk. All fires must not be left unattended and shall be put out by the persons building the same.

Sec. 8-2-90. Horseback riding restricted.

It is unlawful for any person to ride or lead any horse or other livestock in any public park or recreational area except upon paths or other ways expressly provided for that purpose.

Sec. 8-2-100. Construction; permit required.

It is unlawful to build or place any tent, building, booth, stand or other structure in or

upon any of the parks, parkways or other recreational facilities without having first obtained a permit to do so from the town clerk.

Sec. 8-2-110. Motor vehicles restricted.

No motor vehicle of any kind or mobile vehicle shall drive upon any fenced park or recreational area at any time. No motor vehicle of any kind, mobile vehicle or self-contained mobile unit shall park on such parks, parkways or other recreational facilities except in designated areas, at designated times and for purposes as designated by the town clerk.

Sec. 8-2-120. Peddling; permit required.

It is unlawful to offer any goods, services or thing for sale within parks, parkways or recreational facilities or upon any street or sidewalk within 50 feet of the boundary of the same, except upon receiving a permit to do so in the manner and pursuant to the terms and conditions fixed by the town clerk.

**ARTICLE 3. HISTORIC LANDMARKS
(RESERVED)****ARTICLE 4. CEMETERIES****Sec. 8-4-10. Control and management.**

- (a) The control and management of the town cemetery, including the power to sell cemetery lots, is assigned to the board of directors of the cemetery association of the town.
- (b) A separate bank account is hereby established by the town, which is designated as the natural burial fund and shall be utilized for the sole purposes associated with natural burials in the town cemetery and in accordance

with standards, criteria and guidelines established for natural burial ground certification.

- (c) One hundred percent of all burial plot sales by the town shall be allocated to said fund. In addition, the town shall be entitled to amend said fund as it may, from time to time by resolution, determine.
- (d) The town treasurer is designated as custodian of said fund for the purposes therein set forth.
- (e) Plot numbers 4, 5, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 60, 61, 62, 63, 64, 69, 70, and 71 are hereby dedicated as "natural burial grounds," in accordance with the rules and regulations of the green burial council, in perpetuity and set aside for such purposes in the town cemetery. Such designation and covenant shall run with the land, reference being made to the plat attached hereto as exhibit 1 and 1A and incorporated herein by reference.

(Ord. No. 2012-004, 7-9-2012; Ord. No. 2012-005, 8-13-2012; Ord. No. 2013-012, 12-9-2013)

Sec. 8-4-20. Issuance of interment agreements.

The town clerk shall issue interment agreements without charge for all lots to be transferred in the cemetery upon request by persons wishing to purchase such lots. Records of the sales shall be carefully maintained by the town clerk. The agreements shall be signed by the mayor and attested by the town clerk.

Sec. 8-4-30. Care and maintenance; jurisdiction.

- (a) The town shall not be responsible for the care and maintenance of the cemetery, other than to maintain the roads and alleys.

- (b) The town and the board of trustees nevertheless shall have full police power over the land, the sold and unsold lots and the alleys, streets and byways for the purpose of maintaining order in the cemetery and, by this article, specifically makes the cemetery and all land therein and all public and private ways subject to this article.

Sec. 8-4-40. Damage or vandalism prohibited.

- (a) It is an offense for any person to, any way at any time, disturb, damage or injure any portion of the cemetery, any lot, any decoration, monument or other type of fixed or unfixed remembrance placed upon such lot or within such cemetery, regardless of the ownership of the lot, land or any type of property thereon and therein.
- (b) In the context of this section, the term "disturb" means an act which desecrates a grave, scatters, mars or moves the ground and earth or any monument or decoration, or removes any portion of any lot or any monument or decoration with the intent to destroy, damage, injure or assert ownership thereof.

Sec. 8-4-50. Alcoholic beverage prohibited.

No alcoholic beverage of any kind shall be consumed on the premises of the cemetery. Violation of this section shall be an offense.

Sec. 8-4-60. Vehicle restrictions.

No powered vehicle except cemetery maintenance equipment shall be left in the roads, streets, alleys, or byways for longer than three hours; and no such vehicle shall be driven faster than ten miles per hour within the cemetery or be driven any place except on a road, street or alley. A violation of this section shall be an offense.

Sec. 8-4-70. Noise prohibitions.

No act constituting a disturbance of the peace or any unseemly noise shall be permitted at any time upon the cemetery grounds. A violation of this section shall be an offense.

Sec. 8-4-80. Littering in cemeteries prohibited.

No litter or debris of any kind shall be left upon or brought into the cemetery property of a kind which is trash. Any person thus littering the cemetery shall be deemed to have violated this section, and such violation shall be an offense.

Sec. 8-4-90. Violation; penalty.

The violation of any provision of this article shall be an offense and, upon conviction, any offender shall be punished in accordance with the provisions of section 1-4-10.

Chapter 9

ANNEXATION

Article 1. Annexation Procedures

- Sec. 9-1-10. Purpose.
- Sec. 9-1-20. Responsibilities of applicant.
- Sec. 9-1-30. Application content.
- Sec. 9-1-40. Fees.
- Sec. 9-1-50. Application; informal review; setting for hearing.
- Sec. 9-1-60. Hearing procedure.
- Sec. 9-1-70. Annexation impact report.
- Sec. 9-1-80. Final submission.
- Sec. 9-1-90. State provisions applicable when.

ARTICLE 1. ANNEXATION PROCEDURES**Sec. 9-1-10. Purpose.**

The purpose of this article is to establish a procedure to bring land under the jurisdiction of the town in compliance with the Colorado Municipal Annexation Act of 1965, as amended.

Sec. 9-1-20. Responsibilities of applicant.

(a) Any request for a proposed annexation shall be submitted in writing to the town clerk, who shall notify the secretary of the planning commission not later than the third Monday of each month concerning the application.

(b) In addition to other duties imposed upon all applicants by this Code and the Colorado Municipal Annexation Act of 1965, as amended, all applicants shall have the following responsibilities:

- (1) The applicant is responsible for having a representative at all meetings where the request is reviewed. Failure to have a representative present will be cause to have the item withdrawn from the agenda of that meeting.
- (2) The applicant shall consult with the planning department to discuss any special conditions pertaining to the annexation and to obtain an annexation petition.

Sec. 9-1-30. Application content.

(a) The proposed annexation application shall contain the following requirements and cover the following subject matter:

- (1) Name of owners.

- (2) Proof in writing that all owners have agreed to the annexation.
 - (3) Legal description of the property proposed to be annexed.
 - (4) Map of the property sufficient in detail to show property lines, elevations, contour lines, vegetation and any other matters which the planning commission may deem necessary to properly inform itself.
 - (5) Present existing use of the land.
 - (6) Proposed land use, together with request for the desired zoning if the same is annexed.
 - (7) Availability of water, gas and other municipal or utility service.
 - (8) Projected cost of the services for such utility or other municipal charges.
 - (9) The present zoning of the land if already zoned by the county.
 - (10) A complete statement of intent as to the construction of streets and alleys and the proposed method of payment for the same.
 - (11) A complete statement of intent as to construction of utilities to serve the proposed area to be annexed and zoned and the proposed method of payment for the same.
 - (12) Any other requirements which may be necessary to comply with applicable state statutes.
- (b) The applicant shall state in such application the name of the person, together with the address, upon whom communications at any time shall be served.

Sec. 9-1-40. Fees.

- (a) At the time of filing of the application before the planning commission, the applicant shall pay to the town clerk an application fee as set forth in the consolidated fee schedule, appendix 2-F, to apply on any and all costs connected with the application and processing.
- (b) The fee shall not be refundable.
- (c) Cost of publication of notices and posting and cost of any transcript of hearing shall be paid by the person requesting the same. The cost of publishing the annexation ordinance and recording any necessary information concerning the same with the county clerk and recorder shall be paid by the town.

Sec. 9-1-50. Application; informal review; setting for hearing.

The planning commission at its next regular meeting shall informally review the application and shall determine whether any further information is necessary or required. If such information is required, notification shall be sent to the applicant at once concerning the same in detail by the town clerk. Such further information shall be returned to the town clerk no later than the third Monday of each month and shall be again considered. When the application has been accepted in the form suitable to the planning commission, the planning commission shall set a date for hearing. The planning commission may, if it so desires or if circumstances warrant, shorten the time between acceptance of the application and the time set for hearing, which date of hearing shall be set no later than 45 days from the date of acceptance of the application.

Sec. 9-1-60. Hearing procedure.

- (a) The planning commission shall send notice of the date of the hearing to the applicant for

such annexation, and shall require such applicant to post a notice on the property sought to be annexed and zoned, no smaller than four feet by four feet with letters no less than one inch in height. The notice shall be posted no less than 15 continuous days on a conspicuous place on the property. Such notice shall state the date, time and place of hearing and the purpose of the hearing, including the proposed zoning. A notice containing the same information shall be placed in a local newspaper at least once, 15 days prior to the date of hearing.

- (b) The hearing shall be public and all persons wishing to appear and present evidence in support of or in opposition to such proposal shall be heard after being sworn. The testimony may be taken by an electronic device unless any person in interest shall require the services of a stenographic reporter, in which case the person so requesting shall pay for the services.
- (c) The planning commission shall have no later than 15 days from the date of the hearing to approve, disapprove or make any modifications for such annexation and zoning, which decision must be in writing and must be voted upon in public according to the requirements of the applicable state statutes. Notice of the date that the planning commission vote will be had shall be announced at the public hearing so that all interested parties may be informed of the date.
- (d) The finding and decision of planning commission, either approving, disapproving or modifying the proposal, shall at once be transmitted to the town clerk. The town clerk shall transmit such finding and decision to

the board of trustees at the first regular meeting of the board of trustees after the date of the planning commission's decision.

- (e) The board of trustees shall at such regular meeting fix a time, place and date for public hearing upon such proposal, which shall be at least 15 days, but in no event more than 25 days from the date of the regular board of trustees meeting date. Thereafter, the posting of the property, publication and procedure shall be the same as set forth in subsections (a) and (b) of this section.
- (f) The board of trustees, after the hearing, shall render a written decision no later than the next regular meeting of the board of trustees, and the decision shall be sent at the same time by certified mail to all persons in interest. The term "person in interest," for the purposes of this subsection, shall be only those persons who request in writing a copy of the decision and who pay for the mailing and the copy of the decision the sum of \$2.00 per copy, giving to the town clerk their address for said purpose.
- (g) At the hearing before the board of trustees, all persons who wish to be heard may be heard either in person, by an agent or attorney, or by filing a written protest, objection or statement favoring or opposing the, annexation and zoning. Persons wishing to be heard shall be sworn.
- (h) If the decision is favorable, an ordinance shall be at once prepared, passed and published in the form and manner provided by law. If the decision is not favorable, applicants may proceed under the applicable provisions of the state statutes and the applicable Rules of Civil Procedure.
- (i) In the event the board of trustees considers and disapproves such ordinance, no similar request may be heard for a period of one year from the date of denial.

Sec. 9-1-70. Annexation impact report.

- (a) For all annexations in excess of ten acres, the town shall prepare an impact report regarding the proposed annexation not less than 25 days before the date of the annexation hearing. One copy of the impact report shall be filed with the board of county commissioners governing the area proposed to be annexed within five days thereafter. The preparation and filing of the annexation impact report may be waived upon approval of the board of county commissioners governing the area proposed to be annexed.
- (b) The annexation impact report shall include the following:
 - (1) A map of the town and adjacent territory showing the following information:
 - a. The present and proposed boundaries of the town in the vicinity of the proposed annexation.
 - b. The present streets, major trunk water lines, sewer interceptors and outfalls, other utility lines and ditches and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation.
 - c. The existing and proposed land use pattern in the areas to be annexed.
 - (2) A copy of any draft or final pre-annexation agreement, if available.

- (3) A statement of the town's plans for extending or providing for municipal services within the area to be annexed.
- (4) A statement of the town's plans for the financing of municipal services to be extended into the area to be annexed.
- (5) A statement identifying all existing districts within the area to be annexed.
- (6) A statement of the effect of the annexation upon the school district governing the area to be annexed, as is more fully set forth in section 9-1-30.

Sec. 9-1-80. Final submission.

In the event the board of trustees approves an annexation ordinance, the applicant shall submit to the planning department two Mylars of the final annexation map and two Mylars of the annexation master plan within ten days of the effective date of the annexation ordinance.

Sec. 9-1-90. State provisions applicable when.

If annexation is accomplished by means other than voluntary petition of all landowners requesting the same, all procedures hereunder shall be as required by the then applicable state statutes relative to annexation by means other than voluntary petition; provided, however, that, in the event such annexation is accomplished by other than voluntary petition, any necessary zoning under the provisions of the state statutes or of this chapter shall apply insofar as such zoning is concerned.

Chapter 10

RESERVED

Chapter 11

VEHICLES AND TRAFFIC

Article 1. Model Traffic Code

- Sec. 11-1-10. Adoption.
- Sec. 11-1-20. Penalties.
- Sec. 11-1-30. Application.
- Sec. 11-1-40. Validity.
- Sec. 11-1-50. Repeal.
- Sec. 11-1-60. Interpretation.
- Sec. 11-1-70. Certification.

ARTICLE 1. MODEL TRAFFIC CODE**Sec. 11-1-10. Adoption.**

Pursuant to C.R.S. Title 31, Article 16, Parts 1 and 2 and Title 30, Article 15, Part 4 (C.R.S. §§ 31-16-101 et seq., 31-16-201 et seq. and 30-15-401 et seq.), there is hereby adopted by reference the model traffic code, promulgated and published as such by the Town of Crestone, P.O. Box 64, Crestone, CO 81131, in May 2011. The subject matter of the model traffic code relates primarily to comprehensive traffic control regulations for the town. The purpose of this article and the code adopted herein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the state and the nation. Three copies of the model traffic code adopted herein are now filed in the office of the clerk of the town and may be inspected during regular business hours. (Ord. No. 2011-003, § 1, 7-11-2011)

Sec. 11-1-20. Penalties.

The following penalties designated by code section, herewith set forth in full, shall apply to this article:

- (1) It is unlawful for any person to violate any of the provisions of this code for which no specific penalty has been provided or for which the sole penalty provided is a fine, which violations are hereby deemed traffic infractions. All provisions of the model traffic code which have been deemed traffic infractions, in identical substantive provisions of C.R.S. Title 42, are hereby deemed traffic infractions under this code and are thereby decriminalized. A traffic infraction shall be a civil matter

for which punishment by imprisonment shall not be available, and for which a penalty assessment notice shall be issued. Every person who is convicted of a traffic infraction is subject to a penalty of at least \$10.00, but not more than \$1,000.00, exclusive of any court costs and surcharges.

- (2) For any violation of any provision of this code which is a traffic infraction, no trial by jury shall be available, no arrest warrant shall be issued for failure to appear or to pay, no privilege against self-incrimination shall apply, the standard of proof shall be a preponderance of the evidence, and the conduct of all proceedings applicable to such a violation shall otherwise be in conformity with those generally applicable to civil matters.
- (3) For any violation of any provision of this code which is a traffic infraction, the municipal court may enter a judgment of liability by default against the defendant for failure to appear or to pay, and may assess such penalty, together with such court costs and surcharges, as are established by law. The municipal court may establish, by written order, rules and regulations for the administration of any violation of this code which is a traffic infraction, including, but not limited to, schedules establishing the amount of penalties payable without a court appearance as a supplement to the schedule set forth in this article. The municipal court and the town's law enforcement official will utilize state procedures for any penalty

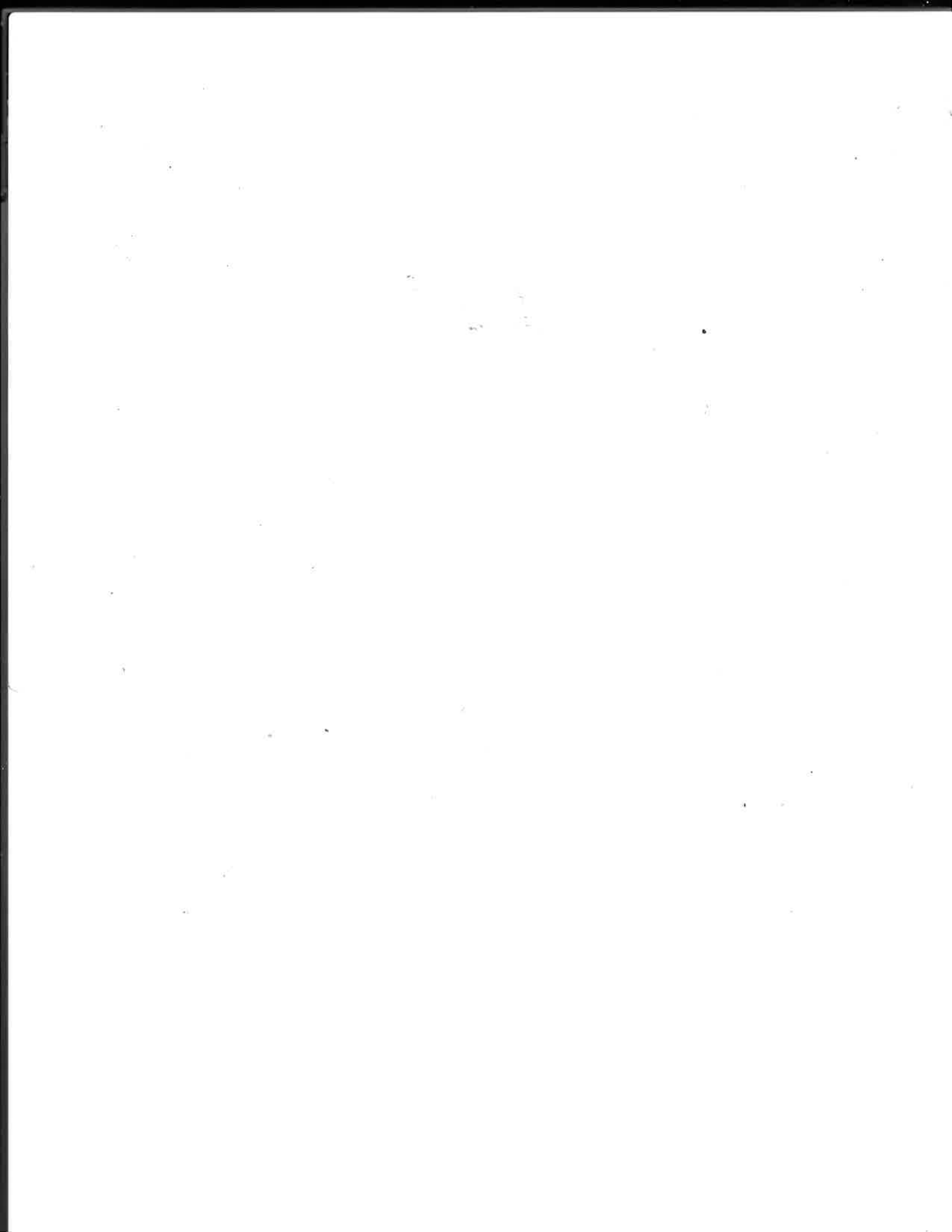
assessment notice which constitutes a traffic infraction and as may be printed upon any notice. Any penalty assessment notice which is paid within 20 days of issuance of said notice shall result in the following reduction in points:

- a. A four-point or three-point violation will be reduced to a two-point violation.
 - b. A two-point violation will be reduced to a one-point violation.
 - c. A one-point violation will be reduced to a zero-point violation.
- (4) It is unlawful for any person to violate any of the provisions of this code that are specified by its terms or otherwise as traffic offenses. Every person convicted of a traffic offense shall be punished by a fine not exceeding \$1,000.00, exclusive of any court costs and surcharges, or by imprisonment not exceeding one year, or by both such fine and imprisonment.
- (5) The violation of the following provisions are deemed traffic offenses:
- a. Section 107: Obedience to police officers.
 - b. Section 1101: Where the speed as driven is 20 miles per hour or more over the lawful speed.
 - c. Section 1103: Minimum speed regulation.
 - d. Section 1105: Speed contest.
 - e. Section 1401: Reckless driving.
 - f. Section 1402: Careless driving.
 - g. Section 1409: No insurance.

- h. Section 1413: Eluding or attempting to elude a police officer.
 - i. Section 1903: Stopping for school buses.
 - j. Any injury accident.
 - k. Any single offense over four points.
 - l. Any non-injury accident where estimated damage exceeds \$2,000.00.
 - m. Any section that by its terms states that a violation is a traffic offense.
- (6) Each day of continued violation of this code shall be considered a separate offense.
- (7) Section 1702: Presumptive penalty and surcharge schedule. (May be increased or decreased by the municipal court.)

SCHEDULE OF PENALTIES AND SURCHARGES

<i>Section Violated</i>	<i>Penalty</i>
109—Motorized Bicycles, Animals, Skis, Skates, Toy and Recreation Vehicles on Highways	\$35.00
109.5—Neighborhood Electric Vehicles	\$35.00
109.6—Low-Speed Electric Vehicles; Effective Date; Rules	\$35.00
116—Restrictions of Minor Drivers	\$50.00
117—Personal Mobility Devices	\$50.00
201—Obstruction of View or Driving Mechanism	\$70.00
202—Unsafe vehicle	\$70.00
204—When Lighted Lamps are Required	\$70.00



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<i>Section Violated</i>	<i>Penalty</i>
205—Headlamps on Motor Vehicles	\$55.00
206—Tail Lamps and Reflectors	\$55.00
207—Clearance and Identification	\$55.00
208—Stop Lamps and Turn Signals Required	\$55.00
209—Lamp or Flag on Projecting Load	\$55.00
210—Lamps on Parked Vehicle	\$15.00
211—Lamps on Farm Equipment and Other Vehicles and Equipment	\$55.00
212—Spot/Auxiliary Lamps	\$55.00
213—Audible/Visual on Emergency Vehicles	\$70.00
214—Visual Signals on Service	\$70.00
215—Signal Lamps and Devices; Additional Lighting Equipment	\$55.00
216—Multiple Beam Road Lights	\$55.00
217—Failed to Dim Beam Lights	\$70.00
218—Single-Beam Road-Lighting Equipment	\$55.00
219—Number of Lights Permitted	\$55.00
220—Motorized Bicycles; Motor Driven Cycles; Lighting Equipment	\$30.00
221—Bicycle Equipment	\$35.00
222(1)—Volunteer/Lights/Alarms	\$55.00
223—Brakes Required	\$55.00
224—Horns/Warning Device	\$55.00

<i>Section Violated</i>	<i>Penalty</i>
225(1)—Mufflers-Prevention of Noise	\$55.00
226—Mirrors Required	\$55.00
227—Windows Unobstructed; Certain Materials Prohibited; Windshield Wiper Requirements	\$70.00
228—Restrictions on Tire Equipment	\$50.00
229—Vehicle Not Equipped with Safety Glass	\$55.00
230—Failed to Use Emergency Lighting	\$55.00
231—Parking Lights	\$70.00
232—Minimum Safety Standards for Motorcycles and Motor-Driven Cycles	\$60.00
234—Slow-Moving Vehicles; Display of Emblem	\$55.00
236—Child Restraint Systems Required	\$80.00
237—Seatbelt Required	\$65.00
239(5)(a)—Misuse of Wireless Telephone	\$50.00
239(5)(b)—Misuse of Wireless Telephone-Second and Subsequent Violation	\$100.00
240—Low Speed Electric Vehicle Equipment Requirements	\$35.00
501—Size and Weight Violations	\$70.00
502—Width of Vehicles	\$70.00
503—Projecting Loads on Passenger Vehicles	\$70.00
504—Height and Length of Vehicles	\$75.00

<i>Section Violated</i>	<i>Penalty</i>
505—Longer Vehicle Combinations	\$75.00
506—Trailers and Towed Vehicles Without Flag or Chain	\$70.00
512—Liability for Damage to Highway	\$70.00
603(3)—Obedience to Official Traffic Control Devices	\$100.00
604—Failed to Obey Traffic Control Light Signal	\$100.00
605—Failed to Obey Flashing Light Signal (Red/Yellow)	\$70.00
606—Display of Unauthorized Signs or Devices	\$70.00
607(1)—Interference with Official Devices	\$50.00
607(2)(a)—Interference with Official Devices; Electronic Device	\$100.00
608—Failed to Use Turn Signals	\$70.00
609—Gave Improper Hand Signal	\$70.00
610—Unauthorized Insignia	\$55.00
612—When Signals are Inoperative or Malfunctioning	\$70.00
614—Designation of Highway Maintenance Repair or Construction Zones-Signs-Increased Penalties	Double Penalty
615—School Zones; Increased Penalties for Moving Traffic Violations	Double Penalty

<i>Section Violated</i>	<i>Penalty</i>
701—Failed to Yield R-O-W at Uncontrolled Intersection	\$70.00
702—Vehicle Turning Left	\$70.00
703—Entering Through Highway; Stop or Yield Intersection	\$70.00
704—Vehicle Entering Roadway	\$70.00
705(1)—Operation of Vehicle Approached by Emergency Vehicle; Operation of Vehicle Approaching Stationary Emergency Vehicle	\$70.00
706—Obedience to Railroad Signal	\$70.00
707—Certain Vehicles Must Stop at RR Crossing	\$100.00
708—Moving Heavy Equipment at RR Crossing	\$70.00
709—Stop When Traffic Obstructed	\$70.00
710—Emerging From Alley/Driveway/Building	\$70.00
712—Driving in Highway Work Area	\$70.00
801—Pedestrian Obedience to Traffic Control Devices and Regulations	\$20.00
802—Pedestrian R-O-W in Crosswalks	\$30.00
803—Crossing at Other Than Crosswalks	\$20.00
805—Pedestrians Walking or Traveling in a Wheelchair on Highways	\$20.00
806—Driving Through Safety Zone Prohibited	\$70.00

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<i>Section Violated</i>	<i>Penalty</i>
807—Drivers to Exercise Due Care	\$70.00
901—Required Position and Method of Turning	\$70.00
902—Limitations on Turning Around	\$70.00
903—Turning Movements and Required Signals	\$70.00
1001—Drive on Right Side-Exceptions	\$70.00
1002—Passing Oncoming Vehicles	\$100.00
1003—Overtaking a Vehicle on the Left	\$100.00
1004—When Overtaking on the Right is Permitted	\$100.00
1005—Limitations on Overtaking on the Left	\$100.00
1006—One-Way Roadways and Rotary Traffic Islands	\$70.00
1007—Driving on Roadways Laned for Traffic	\$100.00
1008—Following Too Closely; Crowding a Bicycle	\$100.00
1009—Coasting Prohibited	\$70.00
1010—Driving on Divided or Controlled-Access Highways	\$70.00
1101(1)—(1—4 MPH Reasonable and Prudent Speed or Over Max Speed Limit)	\$70.00
1101(1)—(5—9 MPH Over Reasonable and Prudent Speed or Over Max Speed Limit)	\$70.00

<i>Section Violated</i>	<i>Penalty</i>
1101(1)—(10—19 MPH Over Reasonable and Prudent Speed or Over Max Speed Limit)	\$135.00
1101(1)—(20 (and Over) MPH Over Reasonable and Prudent Speed or Over Max Speed Limit) (Traffic Offense)	\$200.00
1101(8)(g)—(1—4 MPH Over Max Speed Limit of 40 MPH Driving a Low-Powered Scooter)	\$50.00
1101(8)(g)—(5—9 MPH Over Max Speed Limit of 40 MPH Driving a Low-Powered Scooter)	\$75.00
1101(8)(g)—(Greater than 9 MPH Over Max Speed Limit of 40 MPH Driving a Low-Powered Scooter)	\$100.00
1101(3)—Unsafe Speed for Conditions	\$100.00
1104—Speed Limits on Elevated Structures	\$70.00
1201—Starting Parked Vehicle	\$70.00
1202—Parking/Abandonment of Vehicle	\$30.00
1204—Stopping, Standing, or Parking Prohibited in Specified Places	\$15.00
1205—Parking at Curb or Edge of Roadway	\$15.00
1206—Unattended Motor Vehicle	\$15.00
1207—Opening/Closing Vehicle Doors	\$15.00
1208(6), (7), (9)—Parking Privileges for Persons with Disabilities	\$100.00

<i>Section Violated</i>	<i>Penalty</i>
1211—Limitations on Backing	\$70.00
1403—Following Too Close Behind a Fire Apparatus	\$70.00
1404—Crossing Fire Hose	\$70.00
1405—Riding in a Trailer	\$70.00
1406(5)—Foreign Matter on Highway Prohibited	\$70.00
1407(3)(a)—Spilling Loads on Highway Prohibited	\$35.00
1407(3)(b)—Spilling Loads on Highway Prohibited-While Driving or Moving a Car or Pickup Truck, No Bodily Injury	\$100.00
1407.5—Splash Guards; When Required	\$55.00
1411—Use of Earphones While Driving	\$55.00
1414(2)(a)—Use of Dyed Fuel on Highways Prohibited	\$500.00
1414(2)(b)—Use of Dyed Fuel on Highways Prohibited-Second Violation	Increased Penalty
1414(2)(c)—Use of Dyed Fuel on Highways Prohibited-Third or Subsequent Violation	Increased Penalty
1502(4.5)—Riding on Motorcycles-Protective Helmet	\$100.00
1503—Illegal Operation of Motorcycle on Lane Roads	\$60.00
1504—Clinging to Other Vehicles	\$60.00
1811—Penalty	\$100.00

- (8) Any person convicted of violating section 507 or 508 shall be fined pursuant to this subsection, whether the defendant acknowledges the defendant's guilt pursuant to the procedure set forth in subsection (5)a of this section or is found guilty by a court of competent jurisdiction. Any violation of section 507 or 508 shall be punished by a fine and surcharge as follows:

FINE AND SURCHARGE SCHEDULE

<i>Excess Weight—Pounds</i>	<i>Penalty</i>	<i>Surcharge</i>
1—3,000	\$15.00	\$25.00
3,001—4,250	\$25.00	\$25.00
4,251—4,500	\$50.00	\$25.00
4,501—4,750	\$55.00	\$25.00
4,751—5,000	\$60.00	\$25.00
5,001—5,250	\$65.00	\$25.00
5,251—5,500	\$75.00	\$25.00
5,501—5,750	\$85.00	\$25.00
5,751—6,000	\$95.00	\$25.00
6,001—6,250	\$105.00	\$25.00
6,251—6,500	\$125.00	\$25.00
6,501—6,750	\$145.00	\$25.00

(Ord. No. 2011-003, § 2, 7-11-2011)

Sec. 11-1-30. Application.

This article shall apply to every street, alley, sidewalk area, driveway, park, and to every other public way or public place or public parking area, either within or outside the corporate limits of the town, the use of which the town has jurisdiction and authority to regulate. The provisions concerning reckless driving, careless driving, eluding a police officer, and accidents and accident reports shall apply not only to public places and ways but also throughout the town.

(Ord. No. 2011-003, § 3, 7-11-2011)

Sec. 11-1-40. Validity.

If any part of this article is for any reason held to be invalid such decision shall not affect the validity of the remaining portions of this article. The board of trustees hereby declares that it would have passed this article and each part thereof, irrespective of the fact that any one part or parts be declared invalid.

(Ord. No. 2011-003, § 4, 7-11-2011)

Sec. 11-1-50. Repeal.

Existing or parts of Ordinance No. 2009-006 relating to the adoption of the 2009 edition of the Model Traffic Code, Ordinance No. 2010-001, and Ordinance No. 2004-005, violations and penalties thereunder, covering the same matters as embraced in this article are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this article are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this article.

(Ord. No. 2011-003, § 5, 7-11-2011)

Sec. 11-1-60. Interpretation.

This article shall be so interpreted and construed as to effectuate its general purpose to conform with the state's uniform system for the regulation of vehicles and traffic. Code and section headings of the ordinance and adopted town model traffic code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any code or section thereof.

(Ord. No. 2011-003, § 6, 7-11-2011)

Sec. 11-1-70. Certification.

The town clerk shall certify to the passage of this article and make not less than three copies of the adopted code available for inspection by the public during regular business hours.

(Ord. No. 2011-003, § 7, 7-11-2011)

Chapter 12

HEALTH, SAFETY AND ANIMALS

Article 1. Public Nuisances

- Sec. 12-1-10. Definitions.
- Sec. 12-1-20. Accumulation or storage of rubbish, weeds, etc.
- Sec. 12-1-30. Handbills, posters and placards.
- Sec. 12-1-40. Stagnant water, contaminated or impure well or cistern, pits or holes, basement or cellars, discarded tires, holding water.
- Sec. 12-1-50. Sewer inlet.
- Sec. 12-1-60. Discharge or storage of noxious or hazardous liquids.
- Sec. 12-1-70. Creating smoke or odors.
- Sec. 12-1-80. Stale matter.
- Sec. 12-1-90. Trash containers and littering.
- Sec. 12-1-100. Weeds and growth.
- Sec. 12-1-110. Transporting garbage/trash in open vehicles.
- Sec. 12-1-120. Scattering debris.
- Sec. 12-1-130. Animals creating nuisance.
- Sec. 12-1-140. Dead animals; removal.
- Sec. 12-1-150. Offensive or unwholesome businesses or establishments.
- Sec. 12-1-160. Junkyards and dumping grounds.
- Sec. 12-1-170. Abandoned, junked and wrecked vehicles.
- Sec. 12-1-180. Accumulation of excessive firewood, flammable materials.
- Sec. 12-1-190. Loud and obnoxious noises.
- Sec. 12-1-200. Reserved.
- Sec. 12-1-210. Camping and occupancy on public property.
- Sec. 12-1-220. Feeding bears and other wildlife.
- Sec. 12-1-230. Snow and tree debris removal required.
- Sec. 12-1-240. Petroleum products storage tanks.
- Sec. 12-1-250. Abandoned, unfinished, deteriorated and unsafe buildings.

Article 2. Nuisance Responsibility and Abatement

- Sec. 12-2-10. Responsibility of owner, occupant or agent.
- Sec. 12-2-20. Emergencies; summary abatement.
- Sec. 12-2-30. Complaints.
- Sec. 12-2-40. Right of entry.
- Sec. 12-2-50. Costs and charges; lien against property.
- Sec. 12-2-60. Alternative procedure; judicial determination.

CRESTONE MUNICIPAL CODE

- Sec. 12-2-70. Cumulative remedies.
- Sec. 12-2-80. Concurrent remedies.
- Sec. 12-2-90. Penalty for violation.

Article 3. Trees

- Sec. 12-3-10. Definitions.
- Sec. 12-3-20. Prohibited trees.
- Sec. 12-3-30. Trees and limbs on public ways.
- Sec. 12-3-40. Control of trees and shrubs.
- Sec. 12-3-50. Inventory and inspection of trees.
- Sec. 12-3-60. Standards and care of trees and vegetation.
- Sec. 12-3-70. License required to perform tree service.
- Sec. 12-3-80. Administrative procedures.

Article 4. Animals

- Sec. 12-4-10. Running at-large prohibited.
- Sec. 12-4-20. Impoundment authority.
- Sec. 12-4-30. Animals injured on public property.
- Sec. 12-4-40. Authority of peace officer or animal control officer to use drugs to subdue animals.
- Sec. 12-4-50. Impoundment; citizen assistance.
- Sec. 12-4-60. Impoundment liability.
- Sec. 12-4-70. Unauthorized release prohibited.
- Sec. 12-4-80. Costs of impoundment.
- Sec. 12-4-90. Dogs.
- Sec. 12-4-100. Violation; penalty.

ARTICLE 1. PUBLIC NUISANCES**Sec. 12-1-10. 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:

Brush means voluntary growth of bushes and such as are growing out of place at the location where growing, and includes all cuttings from trees and bushes and high and rank shrubbery growth which may conceal filthy deposits.

Garbage means and includes any and all rejected or waste food, meat, vegetable, fruit, offal, swill and carrion and other like materials from any source.

Hazard to health or safety includes any activity so recognized by this Code and town ordinances. Such hazards shall also include activities likely to cause foul or offensive odors, promote the growth or propagation of disease-carrying insects, pollute the air or groundwaters of adjacent property, create loud or offensive sounds or cause drainage and runoff to occur in other than historical patterns.

Inoperable vehicle means any automobile, truck, tractor, motorcycle or self-propelled vehicle, which is in a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed. The existence of any of the following conditions shall raise the presumption that a vehicle is inoperable:

- (1) Absence of an effective registration plate upon such vehicle.

- (2) Placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports.

- (3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways.

Junk means any old, used or secondhand materials of any kind, including, without limitations, cloth, rags, clothing, furniture, refrigerators or freezers, used motor vehicles or the parts thereof or therefrom; machines, apparatuses and contrivances and parts thereof, which are no longer in use; any used building material, boards or other lumber; cement blocks, bricks or brickbats or other secondhand building material; any discarded machinery, tractors, trucks or automobiles; or any other article or thing commonly known and classified as junk.

Litter means the scattering or dropping of rubbish, trash or other matter, organic or mineral.

Offensive or unwholesome business or establishment means any business or establishment involving the provision of goods or services to others in exchange for something of value, which business or establishment may create, foster or maintain any hazard to health or safety.

Public nuisance means a substance, act, occupation, condition or use of property, which is of such nature and continues for such length of time as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- (2) In any way render the public insecure in life or in the use of property.

- (3) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway or other public way.
- (4) Offend the public decency.

Rubbish means inorganic refuse matter, such as tin cans, glass, paper boxes, bottles, discarded building and construction materials, sweepings and other like materials.

Trash means any grass clippings, leaves, hay, straw, manure, shavings, excelsior, ashes, toppings, twigs, worthless matter or material and all manner of waste substances, other than garbage and rubbish, usually accumulating upon, in and around private premises.

Weed means an unsightly, useless, troublesome or injurious growing herbaceous plant, and includes all rank vegetable growth which exhales unpleasant and noxious odors and high and rank vegetable growth that may conceal filthy deposits. (Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-20. Accumulation or storage of rubbish, weeds, etc.

It is unlawful and constitutes a nuisance for any person to pile, store or allow to accumulate any rubbish, trash, garbage, weeds, manure or animal feces on any lot or real estate within the town in such quantities which could harbor and conceal harmful vermin, rodents or insects, or which is unsafe, unhealthy or unsightly to persons or public. (Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-30. Handbills, posters and placards.

Any sign handbill, poster, placard or painted or printed matter which shall be stuck, posted or pasted upon any public or private house, store or

other building without the permission of the owner, agent or occupant of the house or the structure or upon any fence, power pole, telephone pole, tree or other structure, without the permission of the owner of such structure, shall be declared a nuisance. Any such permitted signs, handbills, posters, placards, or painted or printed matters shall be removed within three days after expiration of the advertised event by any person placing or responsible for placing same.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-40. Stagnant water, contaminated or impure well or cistern, pits or holes, basement or cellars, discarded tires, holding water.

- (a) Ditches, sloughs, and manmade water-holding devices containing stagnant water, which may provide a breeding ground for mosquitoes and other insects, are declared a nuisance.
- (b) Excavations exceeding five feet in depth, cisterns and wells or an excavation used for storage of water are declared to be a public nuisance unless the same are adequately covered with a locked lid or other covering device weighing at least 60 pounds or are securely fenced with a solid fence to a height of at least six feet.
- (c) Any well or cistern on any property within the town limits, whenever a chemical analysis or other proper test at the location of the same shows that the water of the well or cistern is probably contaminated, impure or unwholesome, is deemed a nuisance.
- (d) Any abandoned well or cistern must automatically be filled in. Every owner, tenant, occupant, lessee or other person in possession of any premises or any part thereof,

upon which there is located a well containing contaminated, impure or unwholesome water, must mitigate or remedy the use of the same, or cause the same to be filled with earth or such other material as may be designated by the town clerk, mayor, or town code/law enforcement officer.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-50. Sewer inlet.

Any article or materials accumulated in any sewer, sewer line, inlet, system or privy vault that shall have a sewer connection, which causes or might cause such sewer line, sewer system, inlet or privy vault to become noxious or offensive to others or injurious to public health, are hereby declared to be nuisances.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-60. Discharge or storage of noxious or hazardous liquids.

The discharge out of or from any house or place of foul or noxious liquid or substance of any kind whatsoever into or upon any adjacent ground or lot or into any street, alley or public place in the town is hereby declared a nuisance. The discharge or storage of any flammable or hazardous liquid or substance onto any lot, residence, building or other property in the town in such a manner as to constitute a hazard or danger to persons or property is also hereby declared a nuisance.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-70. Creating smoke or odors.

(a) It is unlawful and constitutes a nuisance for any person to create smoke or odors from the burning of trash, leaves, weeds, refuse, or

other material that creates an annoyance to others, including fumes from vehicles idling more than ten minutes.

(b) Any smoke and odor resulting from the burning of refuse, trash, or other materials is hereby declared to be a nuisance and is prohibited.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-80. Stale matter.

The accumulation of any stale, putrid or stinking fat or grease or other noxious matter on any property in the town is hereby declared to be a nuisance.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-90. Trash containers and littering.

(a) The town requires that all trash receptacles of any town business which sells, serves or processes food items will be designed as hard-sided containers to prevent animals from gaining entrance to the contents. Business owners, operators or occupiers are responsible to have their trash collected and properly disposed of on a regular basis. If litter from the business garbage should be released from its container either through animals gaining entry or negligence on the part of the owner or operator, which results in spillage and spreading of such trash, the town may collect such trash and the owner, operator or person in possession of such property will be subject to a fine. Such owner, operator or person in possession shall be responsible for informing their customers and invitees of these provisions.

(b) All garbage cans and similar refuse receptacle that do not have a latching mechanism which keeps the lid tightly closed against the

can or receptacle and which prevents access to the contents of the can or receptacle by wildlife shall be stored inside a building or shed.

- (c) Business owners, operators, or occupiers of property within the town with roadside pickup shall place their garbage cans and similar refuse receptacles at the curb only on the day of pickup. After pickup, the garbage cans and similar refuse receptacles must be re-secured in a storage area by 10:00 p.m.

(Ord. No. 2014-004, § 2, 6-9-2014; Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-100. Weeds and growth.

- (a) *Declared nuisance.* Permitting the growth or decay of chiko, sagebrush, greasewood, thistles, weeds or other waste vegetation within the town is a nuisance. Creating fire hazards, and mosquito breeding grounds within the town is a nuisance.

- (b) *Permitting to grow or remain declared nuisance.* Every person being the owner, occupant, tenant or in control of any lot or parcel of land within the town, or person having a contractual relationship with the owner which allows him to list the property for sale, who permits or allows the growth, decay or presence of chiko, sagebrush, greasewood, thistles, weeds or other waste vegetation in excess of eight inches in height on any premises or sidewalk, is guilty of creating, continuing and suffering a nuisance to exist. Property owners, lessees and persons in possession of any property in the town shall be responsible for maintaining their property (and any adjacent property of the town which may be appurtenant to the rear, front and side of such property, including to the center of al-

leyways, front and side islands and other property to the curb line of the street) in compliance with this section and including the trimming of trees, hedges, and shrubbery.

- (c) *Abatement notice, cost, lien.* The passage and publication of this article shall constitute due and proper notice to all owners, tenants and occupants of real property within the town to abate the nuisance, and to remove and keep removed all weeds and other noxious growth. If any person permits any nuisance to exist, the town clerk may cause the nuisance to be abated by removing the weeds, thistles, greasewood, sagebrush, chiko or other waste vegetation and assess costs and charges as provided in article 2 of this chapter.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-110. Transporting garbage/trash in open vehicles.

Transporting garbage, manure, swill, trash, leaves, grass or tree limbs upon any street in this town in a vehicle which is not fitted with a substantially tightly enclosed cover thereon or tied down so as to prevent any portion of such refuse to be scattered or thrown into such street, is hereby declared to be a nuisance.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-120. Scattering debris.

Unauthorized dumping, throwing or placing any rubbish, cans, boxes, debris, grass clippings or other waste materials on any public place or on private property in the town is a nuisance and is prohibited.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-130. Animals creating nuisance.

Any animal not under control by its owner which creates a serious annoyance or threat to the public is declared a nuisance.

- (1) No dog owner, custodian or caretaker shall fail to exercise proper care and control of his dogs so as to prevent such dog from becoming a public nuisance.
- (2) It shall be unlawful for any such owner or person to allow any dog to injure or destroy any real or personal property of any description belonging to another.
- (3) It shall be unlawful for any such owner or person to allow any dog to chase, harass or injure wildlife.
- (4) No person shall permit any dog of which he is the owner, caretaker or custodian to run at-large within the town. Any such dog shall be deemed to be running at-large when it shall be off the premises owned or rented by its owner, caretaker or custodian and is not leashed. Any such dog may be impounded by the town.
- (5) No dog shall be permitted in the public places, which include but are not limited to public property, common areas of private property, parking lots, churches, cemeteries, parks, golf courses, schools, streets, parks and rights-of-way in the town unless it is leashed and under the immediate control of its owner, caretaker or custodian.
- (6) Within one hour after any dog escapes from either the owner or the person having custody of the dog, the owner or

custodian of the dog shall report the escape of said dog to the town code enforcement officer.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-140. Dead animals; removal.

The body of any animal which has died and which is undisposed of after 24 hours after death is hereby declared to be a nuisance. It shall be the responsibility of every owner, lessee and/or person in possession of such property to promptly dispose of said animal. Any person placing said animal on a town right-of-way or other town property shall be considered to have violated this section.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-150. Offensive or unwholesome businesses or establishments.

It shall be unlawful for any person to allow or suffer upon his premises or to conduct upon any premises or property within the town or within one mile beyond the outer limits of the town, any slaughterhouse or other place for slaughtering animals, or any offensive or unwholesome business or establishment which is detrimental to the public health, morals, safety or welfare, and the same is declared a nuisance. The term "offensive or unwholesome business or establishment" means any business or establishment involving the provision of goods or services to others which creates, fosters or maintains any hazard to public health, morals, safety or welfare.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-160. Junkyards and dumping grounds.

- (a) All places used or maintained as junkyards or dumping grounds or for the wrecking or disassembling of automobiles, trucks, trac-

tors or machinery of any kind or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors, trailers, boats and house trailers, appliances or machinery of any kind, or of any parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places essentially interfere with the comfortable enjoyment of life or property by others, or are unsightly, are hereby declared to be nuisances.

- (b) The keeping, storage or collection of junk shall not be declared a nuisance when and if the same is kept, stored or collected in completely enclosed buildings or completely obscured from public view. This section shall not apply to any properly zoned premises where a licensed motor vehicle dealer or a farm implement dealer conducts his business.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-170. Abandoned, junked and wrecked vehicles.

(a) *Abandonment prohibited.*

- (1) No person shall abandon any vehicle within the town on private property, and no person shall leave any vehicle at any place within the town on private property for such times and under such circumstances as to cause the vehicle reasonably to appear to be abandoned.
- (2) Whenever any police officer or town code/law enforcement officer finds a vehicle unattended, standing within the town or left unattended on private property for a period of 24 hours or more and presumed to be abandoned under

the conditions prescribed by C.R.S. § 42-4-1801 et seq., such officer shall require the vehicle to be removed or cause the vehicle to be removed and placed in storage in the nearest garage or other place of safety designated or maintained by the town. Vehicles removed from private property within the town and placed in storage, as provided in this section, shall be disposed of in accordance with the provisions of such statute.

- (3) In the event of abandonment of a vehicle on private property, the owner of the property shall notify the town police department and the department shall, after a period of 72 hours, likewise cause the abandoned vehicle to be removed and placed in storage in the nearest garage or other place of safety designated or maintained by the town.

(b) *Wrecked vehicles on street.* No person shall leave any wrecked, discarded, junked or partially dismantled vehicle on private property.

(c) *Expired motor vehicle certificate declared violation.*

- (1) The keeping or storage of any motor vehicle not having thereon a valid and unexpired license plate (determined by examining such plates on the exterior of the vehicle) on private property by any person not specifically exempted under subsection (a) of this section shall be prima face evidence of violation of this article. Said vehicle is declared to be "junk" and is declared to be a nuisance.
- (2) It is the duty of the town clerk, mayor, or town code/law enforcement officer

to require the owner or agent of the owner of any premises whereon is situated any partially dismantled, junked, abandoned, discarded or partially wrecked vehicle, or parts thereof, to remove the same within ten days.

- (3) For the purposes of this section, the tenant, occupant or lessee shall be declared agent of the owner of the premises.
- (4) Upon the failure, neglect or refusal of any owner or agent of the owner so notified to properly dispose of the vehicle or parts thereof within the time limits set forth in subsection (c)(2) of this section, the police department is authorized and empowered to remove the same at the expense of the owner or agent of the owner, plus a fee which is on file in the office of the town clerk for the administrative expenses of the town.
- (5) In case the owner or agent of the owner of such property fails to pay such bill within 30 days after the same has been rendered, the police department shall report the same to the town clerk who shall cause assessment of the costs against the property in question in accordance with article 2 of this chapter.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-180. Accumulation of excessive firewood, flammable materials.

Accumulation of an excessive amount of firewood, kindling, or flammable materials at or upon a lot or residence in such a manner as to cause a fire hazard or unsightly annoyance to others, when

declared a hazard by the fire chief or certified fire mitigator, is declared to be a nuisance. Such firewood shall not be stored on public rights-of-way. (Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-190. Loud and obnoxious noises.

- (a) The operation of a device, speaker, or vehicle audio system in, upon, or from any vehicle, upon any street, alley or sidewalk of the town or from any residence, business or other property which has the effect of an unreasonable and offensive annoyance within residential zones, is hereby declared a public nuisance:
 - (1) At a distance of 25 feet or more out from property line, such noise shall not exceed 60 decibels from 8:00 a.m. to 8:00 p.m. and not to exceed 50 decibels from 8:00 p.m. to 8:00 a.m.; and
 - (2) Within commercial zones, noise shall not exceed 65 decibels from 7:00 a.m. to 10:00 p.m. and 60 decibels from 10:00 p.m. to 7:00 a.m.
- (b) The use of engine brakes or any other similarly designated auxiliary engine braking system upon cars, trucks and other motor vehicles, unnecessary to the safe operation of said vehicles within the town, is hereby prohibited and is declared a nuisance.
- (c) Barking dogs or other animals. It is unlawful for any owner or keeper of any dog to permit the dog, by loud and persistent or habitual barking, yelping, mewling or other sounds, to disturb any person or neighborhood and the same is declared to be a public nuisance.
- (d) The process of operating diesel vehicles at idle while the vehicle is not moving in the town for periods of time longer than 15 min-

utes creates noise and smoke pollution in the town, whether said vehicle is occupied or unoccupied, and the same is hereby declared to be a nuisance.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-200. Reserved.

Editor’s note—Ord. No. 2021-001, adopted February 18, 2021, repealed the former section 12-1-200 in its entirety, which pertained to lights and concealed light sources, and derived from Ord. No. 2017-001, adopted January 9, 2017, and Ord. No. 2019-001, adopted January 14, 2019.

For current provisions pertaining to similar subject matter, the user's attention is directed to chapter 15, article 14.

Sec. 12-1-210. Camping and occupancy on public property.

Camping in vehicles, camping trailers, recreational vehicles, tents, yurts, and any other occupancy upon the public right-of-way or on any other public property of the town between the hours of 10:00 p.m. and 8:00 a.m. on any day of the week is hereby declared a nuisance and is prohibited, except as may be specified by the town by resolution designating certain areas, tracts, lots or portions thereof for such purposes.

(Ord. No. 2017-001, 1-9-2017; Ord. No. 2019-001, 1-14-2019)

Sec. 12-1-220. Feeding bears and other wildlife.

(a) It shall be unlawful for any person residing within the town to intentionally feed bears or any person to habitually leave unprotected garbage or food in an open area where access can be gained by bears. No person shall fail to take remedial action to avoid contact or conflict with bears, which may include the

securing or removal of outdoor trash, cooking grills, pet food, bird feeders or any other similar food source or attractant.

(b) No person shall place, deposit, distribute or scatter grain, hay, or other foods so as to intentionally constitute a lure, attraction or enticement for big game not lawfully held in captivity.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-230. Snow and tree debris removal required.

It is the duty of the owner, tenant or occupant of any lot, block or parcels of land, or any part thereof, situated within the town to clean the snow or tree debris off the sidewalk abutting thereon within 24 hours after the fall of such snow or other tree debris. Such snow or tree debris accumulation is declared to be a nuisance and whoever is owning, renting or occupying any such premises and fails or neglects to clean the snow or tree debris from the sidewalk is guilty of a violation of this section.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-240. Petroleum products storage tanks.

(a) No gasoline or fuel storage tank greater than 60 gallons, whether above or below ground, will be allowed within 500 feet of any municipal or private water well in the town, provided further that no such tank shall be al-

- lowed less than 1,000 feet from such well when located in the path of the direction of water flow or transmissivity to said well. Such areas surrounding wells are hereby designated as wellhead protection areas.
- (b) Any above-ground storage of petroleum products greater than 20 gallons and within a wellhead protection area or 500 feet from any water body must have a catch basin, at least equal to the size of the storage container, capable of capturing any leaked fuel. Such above-ground storage containers must be inspected upon installation, prior to being permitted, with additional inspections to be performed at least every five years.
 - (c) Nothing contained in this article shall be deemed to apply to fuel tanks on trucks, fuel delivery trucks and automobiles which are regularly used for delivering fuel or to propane tanks.
 - (d) The following uses are specifically prohibited within the wellhead protection area:
 - (1) Underground storage tanks of any size.
 - (2) Septage and/or sludge spreading.
 - (3) Animal confinement facilities.
 - (4) Gas stations.
 - (5) Vehicle repair establishments, including auto body repair.
 - (6) Landfills or waste disposal facilities.
 - (7) Wastewater treatment facilities.
 - (8) Junkyards or auto salvage yards.
 - (9) Bulk fertilizer and/or pesticide facilities.
 - (10) Asphalt products.
 - (11) Manufacturing dry cleaning businesses.
 - (12) Salt storage.
 - (13) Electroplating facilities.
 - (14) Exterminating businesses.
 - (15) Paint and coating manufacturing.
 - (16) Hazardous and/or toxic materials storage.
 - (17) Hazardous and/or toxic waste facilities.
 - (18) Radioactive waste facilities.
 - (19) Cemeteries.
 - (e) Any uses, structures or storage tanks, validly existing upon the date of this article are hereby deemed to be valid non-conforming uses in accordance with article 9 of chapter 15, as enacted in Ordinance No. 2009-009; provided, however that upgrade of such storage tanks to facilitate or enhance groundwater protection shall be allowed upon approval by the planning commission and an appropriate permit issued by the town clerk prior to any work being initiated.
 - (f) Requirements for existing prohibited uses:
 - (1) The owners of uses shall provide copies of all federal, state, and local facility operation approvals or certificates and ongoing environmental or safety structures/monitoring as deemed necessary by the town, which may include but are not limited to storm water runoff management and monitoring.
 - (2) Such users shall replace equipment or expand in a manner that improves the existing environmental and safety technologies already in existence.
 - (3) Such users shall have the responsibility of devising and filing with the town a

contingency plan satisfactory to the town board for immediate notification of the public in the event of an emergency.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-1-250. Abandoned, unfinished, deteriorated and unsafe buildings.

It shall be unlawful and constitutes a nuisance for any person to maintain any building or structure in the town which is or will be used for commercial purposes which has been abandoned, unfinished, allowed to become deteriorated and unsafe, or which becomes a haven for vagrants, transients or which harbors or encourages unlawful and criminal activity.

(Ord. No. 2017-002, 3-7-2017)

ARTICLE 2. NUISANCE RESPONSIBILITY AND ABATEMENT

Sec. 12-2-10. Responsibility of owner, occupant or agent.

(a) Where a nuisance exists upon private property and is the outgrowth of the usual, natural or necessary use of the property, the owner thereof or his agents are declared the author thereof; but where any nuisance arises from the unusual use to which such property may be put, or from any business conducted thereon, the occupant shall also be declared the author thereof. Any person who by himself or through an agent causes or creates the same shall be declared the author of the nuisance.

(b) In the event a nuisance must be abated by the town, no provision of this section should be

construed to relieve any property owner from any of the provisions contained in this article.

(c) The reasonable time for abatement shall not exceed 14 days, unless it appears from the facts and circumstances that compliance could not reasonably be made within 14 days or that a good faith attempt at compliance is being made.

(d) Any officer or employee of the town who is authorized under this article to abate any nuisance specified in this article has authority to engage the necessary assistance and incur the necessary expenses thereof. In any case where a nuisance is to be abated by the town, it is the duty of the authorized person to employ such assistance and adopt such means as may be reasonably necessary to effect abatement of the nuisance. It is also the duty of the town or any of its representatives to proceed in all abatement cases with due care and without any unnecessary destruction of property.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-2-20. Emergencies; summary abatement.

(a) Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this article, the town clerk, mayor, or town code/law enforcement officer, upon a presentation of proper credentials or identification (in the case of an occupied building or premises) may enter into any building or upon any premises within the jurisdiction of the town. In an emergency situation, such person may use such reasonable force as may be necessary to gain entry into the building or upon the premises.

- (b) For the purposes of this section, an emergency situation includes, but is not limited to, any situation where there is imminent danger of loss of life, limb and/or property or immediate danger to the public health or safety and which cannot await abatement by other means available under this article.
- (c) It is unlawful for any owner and/or occupant of the building or premises to resist reasonable force used by any authorized official acting pursuant to this article.
- (d) Each and every nuisance mentioned, declared or defined by any ordinance of the town is prohibited and, depending upon the exigency of circumstances, may be subject to summary abatement. The town clerk, mayor, or town code/law enforcement officer is authorized, in his discretion, to cause the same to be summarily abated in such manner as he may direct. Assessment of costs and charges of summary abatement shall be as provided in section 12-2-50.
- (e) Upon authorization by the town clerk, mayor, or town code/law enforcement officer, if any nuisance found to exist causes such imminent danger to life, limb, property or health as to require immediate abatement, any such nuisance may be summarily abated by action of the town clerk, mayor, or town code/law enforcement officer as may be directed by the town clerk, mayor, or town code/law enforcement officer.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-2-30. Complaints.

Complaints of nuisances may be made to the town clerk, mayor, or town code/law enforcement officer. Whenever possible, any complaint shall state the nature of the nuisance; the location,

including street address; the name of the owner, agent or occupant of the building or lot, if known; and the name and address of the complainant.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-2-40. Right of entry.

- (a) Whenever necessary to make an inspection to enforce any of the provisions of this article, or whenever the town clerk, mayor, town code/law enforcement officer has reasonable cause to believe that there exists in any building, or upon any premises, any condition which constitutes a nuisance under this article, the town clerk, mayor, or town code/law enforcement officer may enter the building at all reasonable times to inspect the same or to perform any duty imposed on any of them, provided that if the building is occupied, the person shall first present proper credentials and request entry. If the building or premises is unoccupied, he shall first make a reasonable effort to locate the owner and/or occupant or other person having charge or control of the building, and, upon locating the owner, occupant or other person, shall present proper credentials and request entry.
- (b) If entry is refused, the town clerk, mayor, town code/law enforcement officer shall give the owner and/or occupant, or, if the owner and/or occupant cannot be located after a reasonable effort, he shall leave at the building or premises 24 hours' written notice of intention to inspect. The notice given to the owner and/or occupant or left on the premises, as designated in this section, shall state that the property owner has the right to refuse entry and that, in the event entry is refused, inspection may be made only upon

issuance of a search warrant by the municipal judge or judge of any other court having jurisdiction.

- (c) In the case of any nuisance involving a serious threat to public safety or order, after the expiration of the 24-hour period designated in this section from the giving or leaving of the notice, the town clerk, mayor, or town code/law enforcement officer, or any of them, may appear before the judge of the municipal court and, upon showing of probable cause, obtain a search warrant entitling him to enter the building or upon the premises. Upon presentation of the search warrant and proper credentials, or possession of same (in the case of an unoccupied building or premises) the person may enter into the building or upon the premises using such reasonable force as may be necessary to gain entry therein. Nothing contained in this section is intended to negate the authority of the officials described in this section to enter any portion of any property which is not posted or otherwise protected by the Fourth Amendment of the United States Constitution or for which entry has not been refused in order to enforce the provisions of this article.
- (d) It is unlawful for any owner and/or occupant of the building or premises to resist reasonable force used by the town clerk, mayor, or town code/law enforcement officer acting pursuant to this article.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-2-50. Costs and charges; lien against property.

- (a) The person responsible for any nuisance within the town is liable for and shall pay and bear all costs and expenses of the abatement

of such nuisance, which costs and expenses may be collected by the town in any action at law, or collected in connection with an action to abate a nuisance, or assessed against the property as provided in this section.

- (b) Except for nuisances requiring summary abatement, a notice shall be sent to or served upon the person declared responsible for the nuisance and shall state that if the nuisance is not abated within the time stated in the notice, the cost of such abatement may be assessed as a lien against the property (such notice describing the same) pursuant to the terms of this article, together with an additional fee as set by town resolution for inspection and incidental costs and an additional ten percent assessment for costs of collection, and collected in the same manner as real estate taxes against the property. The notice may be mailed, posted on the property and/or served by any officer directed or deputized to mail, post or serve the same. In causing notice to be served, the town clerk, mayor, or town code/law enforcement officer may authorize town officials, inspectors, or any other appropriate town employee to issue notice of abatement.

- (c) If after the expiration of the period of time provided for in the notice, or as extended, costs or expenses are incurred by or on behalf of the town in the abatement or in connection with the abatement of the nuisance, and the costs are not otherwise collected, the town clerk, mayor, or town code/law enforcement officer or their designee may thereafter certify to the town clerk the legal description of the property upon which the work was done, together with the name of the owner thereof as shown by the tax rolls of the county,

together with a statement of the work performed, the date of performance and the costs thereof.

- (d) Upon receipt of a statement from the town clerk, mayor, or town code/law enforcement officer, the town clerk shall mail a notice to the owner of the premises as shown by the tax roll, at the address shown upon the tax rolls, by first-class mail, postage prepaid, notifying the owner that work has been performed pursuant to this article, stating the date of performance and the nature of the work and demanding payment of the costs thereof, as certified by the town clerk, together with the inspection/incidental costs fee and costs of collection fee in connection therewith. The notice shall state that if the amount is not paid within 30 days of mailing the notice, it shall become an assessment on and a lien against the property of the owner (such notice describing the same) and will be certified as an assessment against the property together with the costs described in this section, and the assessment will be collected in the same manner as a real estate tax upon the property.
- (e) If the town clerk does not receive payment within the period of 30 days following the mailing of the notice, the clerk shall certify to the county treasurer the whole cost of the work and costs described in this section in connection therewith upon the lots and tracts of land upon which the nuisance was abated.
- (f) Each assessment shall be a lien against each lot or tract of land until paid and shall have priority over other liens, except general taxes and prior special assessments.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-2-60. Alternative procedure; judicial determination.

- (a) When any person has responsibility for a nuisance, and the nuisance exists or is found and the responsible person fails to abate the same after the giving of the notice as provided for in herein, or as extended, then the town attorney may, as an alternative procedure, institute proceedings in the municipal court or in a court of competent jurisdiction to obtain a judicial determination that the nuisance exists, to abate the nuisance, to enjoin the same, and for such other and further relief as may seem proper or necessary, including, but not limited to, collections of expenses of abatement.
- (b) Upon a judicial determination that a nuisance exists, the town clerk, mayor, or town code/law enforcement officer may be authorized to abate the nuisance or cause the same to be abated, employing such forces and persons as may be necessary to abate the same, including the employees of the town, or by contract or otherwise. The chief of police and all other town officials and employees are authorized and directed to render such assistance as may be required for the abatement of the nuisance and in connection with the enforcement thereof.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-2-70. Cumulative remedies.

No remedy provided in this article shall be exclusive, but the same shall be cumulative. The taking of any action under this article, including charge or conviction of violation of this article in the municipal court, shall not preclude or prevent

the taking of other action under the provisions of this article to abate or enjoin any nuisance found to exist.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-2-80. Concurrent remedies.

Whenever a nuisance exists, no remedy provided for in this article shall be exclusive of any other charge or action, and, when applicable, the abatement provisions of this article shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this article that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under the municipal ordinances or any other provision of law.

(Ord. No. 2017-001, 1-9-2017)

Sec. 12-2-90. Penalty for violation.

Any person in the town who is responsible for creating or maintaining any nuisance as provided for in this article shall, in addition to the civil penalties and costs provided herein be subject to a fine in an amount not exceeding \$2,650.00 and imprisonment not exceeding one year or by both such fine and imprisonment. Every person violating or contributing in any way to the violation of any provision of this article shall be declared guilty of a separate offense for each day during which such violation continues and may be punished for each such violation as provided in this section.

(Ord. No. 2008-002, § 2, 1-14-2008; Ord. No. 2014-004, 6-9-2014; Ord. No. 2017-001, 1-9-2017)

ARTICLE 3. TREES

Sec. 12-3-10. 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:

Agent means any person other than the owner in charge of, or having control of, the premises. An occupant or tenant of the premises, except hotels, apartment buildings, and other multi-unit dwellings and business buildings, shall, for all purposes, be considered an agent.

Inventory means and includes a count; mapping; listing of tree species, size, location and condition; or any other parameters deemed appropriated by the board of trustees.

Owner means the record owner of property as shown by the records of the county clerk and recorder and shall also include, but not be limited to, the person having possession of the property.

Test means any test, survey, inspection or inventory conducted by the board of trustees, its employees, agents or appointees to determine the condition of any plants or woody vegetation; or whether such plant or woody vegetation is infested with a communicable disease or insect infestation capable of causing widespread damage.

Topping means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. It is unlawful as a normal practice for any person to top any tree, park tree or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or

other obstructions where other pruning practices are impractical, may be exempted from this regulation at the determination of the tree board.

Tree board means those individuals comprised according to ordinance, to fill the terms of office of the tree board, as established in section 2-6-30.

Tree, large, means any tree which, at an adult or mature growth stage, would be anticipated to reach an average height size of more than 20 feet or any adult or mature tree which is more than 20 feet. However, no tree shall be authorized to be planted within the boundaries of the town which, at an adult or growth stage, would reach an average height size of more than 30 feet without town approval.

Tree, medium, means any tree which, at an adult or mature growth stage, would be anticipated to reach an average height size of more than ten feet but not more than 20 feet, or any adult or mature tree which is more than ten feet but not more than 20 feet.

Tree, small, means any tree which, at an adult or mature growth stage, would be anticipated to reach an average height size of ten feet or under, or any adult or mature tree which is ten feet or under.

Trees means small, medium or large trees, shrubs and all woody vegetation on land lying between private property lines on either side of all streets, avenues or alleys within the town and in public parks and all areas owned by the town or to which the public has free access as a park.

Utility means any organization, company, or corporation which provides utility services to the residents of the town. Such services include, but are not restricted to, water, sewer, natural gas and electricity. Of particular concern are electric utili-

ties which use overhead conductors which can interfere or be interfered with by trees and other plants.

Sec. 12-3-20. Prohibited trees.

- (a) It is unlawful and deemed a nuisance to sell or import into the town or plant or cause to be planted within the town limits any female box-elder tree (*Acer negundo*), female cottonwood tree (*Populus spices*), Siberian elm (*Ulmus pumila*), crabapple (*Malus species*), Russian olive or other undesirable plants as designated by ordinance upon any property within the town, and the planting or setting out of these certain plants is declared to be a menace to public health, safety and welfare and a public nuisance.
- (b) The owner of any property within the town, upon which any tree listed in subsection (a) of this section has been planted after the effective date of the ordinance from which this article is derived, shall cut and remove such tree from his property after being given two days' written notice to do so by the town.
- (c) In case of the failure of any owner of such property to cut and remove such tree as required in subsection (b) of this section, the town shall cut and remove such tree.

Sec. 12-3-30. Trees and limbs on public ways.

It is the duty of the owner of any property adjacent to the public right-of-way to remove any trees or limbs located in or above the public rights-of-way when such trees or limbs constitute a danger to public safety. Such trees and limbs shall constitute a nuisance. For the purposes of this section, the term "danger to public safety" includes all trees and limbs which hinder visibility or which may otherwise affect public health, safety

and welfare, and trees and limbs which present a structural defect which may cause the tree or limb to fall on a person or on property of value.

Sec. 12-3-40. Control of trees and shrubs.

- (a) Trees, shrubs and other vegetation which are dead, broken, diseased or infested by insects so as to endanger the well-being of other trees, shrubs or vegetation or constitute a potential threat or hazard to people or property within the town are hereby declared a nuisance.
- (b) The town shall give written notice to the owner or occupant of any property abutting town rights-of-way or other public property of any condition deemed unsafe caused by trees and other vegetation overhanging or projecting from such abutting property and onto or over such right-of-way or other public property with such unsafe condition. The town shall correct any such unsafe condition immediately upon the expiration of the notice period specified in the notice of abatement.
- (c) It is unlawful and deemed a nuisance for any person to cut, trim, spray, remove, treat or plant any tree, vine, shrub, hedge or other woody plant upon access-controlled arterials or other public parks and greenbelts within the town, unless authorized or directed by the town.
- (d) It is unlawful and deemed a nuisance for any person to injure, damage or destroy any tree, shrub, vine, hedge or other vegetation in or upon public rights-of-way or other public property within the town, except any person who notifies the town of such injury, damage

or destruction and makes arrangements to repair or replace such vegetation or pay for the cost of such repair or replacement.

Sec. 12-3-50. Inventory and inspection of trees.

- (a) The board of trustees is authorized to inspect or test any plant, parts thereof, dead wood or any other plant material, on all public or private property to determine the condition of such plants in relation to disease and insects which may be detrimental to the growth and health of such plants. The board of trustees is authorized to take whatever steps are necessary to preserve and restore the growth, health and life of plant materials by spraying, pruning, removing or any other remedial action. Plants and trees may be removed by the board of trustees or its appointee if it appears such plants or trees may endanger other plants and trees or the public safety.
- (b) In regard to the injurious conditions which may exist on private property, the owner or agent shall be given written notice by the board of trustees to spray, prune, remove or take other remedial action within a specified period of time with regard to the infected material to prevent injury to other private or public plant material. Trees and any plants, parts thereof, dead wood, other plant material or vegetation may be directed to be removed by the owner or agent if the same appear to be a danger to other persons or the public safety. In the event the owner or agent does not comply after being given written notice by the board of trustees, the costs and charges for such removal or appropriate maintenance and care may be charged to the owner or agent failing to so comply. Such cost or

charge may be placed on the property tax notice. In the event costs or charges are to be assessed to the owner or agent, seven days' advance notice shall be given.

Sec. 12-3-60. Standards and care of trees and vegetation.

- (a) *Clearance.* The owner or agent of any house, building or lot shall not permit the branches of any type of plant to project over any public street, sidewalk or other public right-of-way less than eight feet above the surface of the sidewalks and not less than 14 feet above the surface of any street or alley.
- (1) The spacing of street trees will be in accordance with the three size classes listed in section 12-3-10, and no trees will be planted closer than:
 - a. Small trees: 30 feet;
 - b. Medium trees: 40 feet;
 - c. Large trees: 50 feet; except for special planting approved by the tree board.
 - (2) The distance from curbs and sidewalks that trees may be planted will be in accordance with the size classes listed in section 12-3-10, and no trees may be planted closer to any curb or sidewalk than the following:
 - a. Small trees: Two feet;
 - b. Medium trees: Three feet;
 - c. Large trees: Four feet.
 - (3) No street trees shall be planted closer than 35 feet to any corner, as measured from the nearest point of intersecting curbs or curb line.
- (4) No tree shall be planted closer than 15 feet to any fireplug.
- (b) *Traffic safety.* The owner of any plants overhanging public ways shall prune the branches so that the branches shall not obstruct the light from any streetlight and will not obstruct the view of any intersection and clear views of traffic on cross-streets.
- (c) *Pruning of trees.* Limbs should be pruned to their bases; topping of trees shall not be done except under approval by the tree board. Owners or agents shall remove all dead, diseased or dangerous trees or parts thereof, or broken or decayed limbs which constitute a menace to the safety of the public. The town shall have the right to prune or remove any tree or other plant on private property when it interferes with the spread of light from a street light or interferes with the visibility of traffic control devices, signs or intersections and intersecting streets, and the owner or agent shall be charged for such removal or pruning.
- (d) *Removal of dead or diseased trees.* The town shall have the right to remove or cause the removal of any dead or diseased trees or other plants on private property, or trees or plants harboring insects or other diseases which constitute a potential threat to other plants within the town. The board of trustees shall notify in writing the owners of such plants and the owner or agent of any house, building or lot who is responsible for the removal of such plants. If such plants are not removed within reasonable periods of time, the board of trustees shall direct that such plants be removed by the town and the owner or agent will be charged for such removal at a reasonable rate. The cost of removal shall be

charged on the owner's property tax notice. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(e) *Planting of trees.*

- (1) On public ways, the board of trustees shall determine the kinds of trees and the spacing of trees that shall be planted. Owners or agents must apply for permits to plant trees on public rights-of-way, and the types of trees and spacing of such trees shall be approved by the tree board before the owner or agent plants such trees.
- (2) The planting of shrubs or other plants, and the use of other materials, shall comply with regulations regarding traffic safety and other provisions of this Code.
- (3) No trees other than those listed as small trees shall be planted under or within ten lateral feet of an overhead utility, or within five lateral feet of any underground utility.

(f) *Replacement of trees.* In the event that a tree or other plant on town property or on a town right-of-way is removed, damaged or otherwise destroyed by any person, that person shall be liable to the town for the cost of the tree's removal and replacement.

(g) *Spraying of trees.* Following inspection and determination by the inspecting authority, it shall be determined that trees shall be sprayed for fungi, insects, disease or any other condition warranting spraying. It shall be the responsibility of the town to spray, or have sprayed, the affected trees or other plants. If

it is necessary to spray trees on private property, the owner shall be charged for any necessary spraying.

(h) *Trees on public ways or public property.*

- (1) It is unlawful for any person to plant, prune, spray, remove, destroy, cut, deface or in any way injure any plants growing on a public way of the town without the approval of the board of trustees. The town shall replace or repair such tree and the cost shall be charged to the violator.
- (2) Trees, shrubs and other vegetation planted in public ways shall be in conformity with the official list provided by the tree board. Such list will be prepared with the consideration of growth habits, mature size, disease resistance or other factors which minimize maintenance costs and nuisances and conform with this Code. Special consideration shall be given to possible interference with utility lines above such plantings. Plantings not in conformity with the approved list shall be removed by the owner or agent at the request of the board of trustees.

Sec. 12-3-70. License required to perform tree service.

It is unlawful for any person to engage in the business or occupation of planting, pruning, spraying or removing trees without first applying for and procuring a license to do such work in the town. Before any license is issued, each applicant shall file evidence of proficiency in carrying out the work, evidence of safety training for all personnel, evidence of possession of liability insurance in the minimum amounts of \$50,000.00 for

bodily injury and \$100,000.00 for property damage, indemnifying the town and its agents, the tree board or any person injured or damaged resulting from the pursuit of such endeavors as described in this article. The license fee is set forth in the consolidated fee schedule, appendix 2-F.

Sec. 12-3-80. Administrative procedures.

- (a) *Notice.* Prior to maintenance by the town, the board of trustees shall attempt to notify the owner or agent and any contiguous property owners; however, the town shall not be held liable for failure to give notice. The board of trustees, its employees, independent contractors, agents and appointees shall have reasonable right of access to perform the duties and rights accorded by this article to enter upon private property.
- (b) *Interference.* It is unlawful for any person to prevent, delay or interfere with the tree board, the board of trustees or their agents while they are engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street or park trees, plants or trees and plants on private property, as authorized in this article.
- (c) *Costs and charges.* Whenever in sections 12-3-50 and 12-3-60, costs or charges are to be assessed or paid by owners or agents, the board of trustees may add such costs or charges to the property from which the tree, plant, dead wood or parts of tree and plant material was or is located, and the same shall be a lien on such property and collected as a lien and assessment and placed on the property tax notice. The board of trustees may, at its election, bring suit to collect all charges and costs from any owner or agent.

- (d) *Posting.* Posting may be made by placing on a tree or other plant to be affected or on the premises to be affected a written notice of the action to be taken and the time after which such action may be taken at least seven days prior to any action being taken or costs or charges being assessed. Posting may be made in lieu of any other or further written or advance notice to an owner or agent pursuant to sections 12-3-50 and 12-3-60.

ARTICLE 4. ANIMALS

Sec. 12-4-10. Running at-large prohibited.

No horse, mare, gelding, mule, jack, burro, cow, steer, calf, hog, pig, sheep, goat or goose shall be permitted to run or to be found at-large within the town; and the running or being at-large of any such animal is declared to be a nuisance.

Sec. 12-4-20. Impoundment authority.

It shall be the duty of the chief of police to take up and impound in some suitable place and properly care for any and all animals mentioned in section 12-4-10 found running at-large within the town and proceed therein as directed by statute.

Sec. 12-4-30. Animals injured on public property.

Animals injured on public property shall be impounded and given adequate veterinary medical treatment pending notification of the owner.

Sec. 12-4-40. Authority of peace officer or animal control officer to use drugs to subdue animals.

- (a) Any peace officer or the animal control officer shall have the authority to use duly authorized or prescribed chemicals and drugs to subdue an animal running at-large within

the town in order to subdue, control and impound such animal, or to further apprehend or dispose of such animal in the event such animal is vicious or reasonably appears to endanger the health or safety and welfare of the public. The cost of using such drug shall be paid as a cost of impounding such animal by the owner.

- (b) Upon the due dispensing and delivery of such drugs by the veterinarian to a peace officer or the animal control officer for the purpose described in subsection (a) of this section, which may include controlled substances, the veterinarian shall be indemnified and held harmless by the town. The veterinarian may presume that such drugs shall be administered in the manner and for the purpose so dispensed and prescribed. The veterinarian has the right, but not the duty, to refuse to so prescribe or dispense any drug in the event that the veterinarian does not believe the person has the ability to safely administer such drugs. The peace officer or animal control officer shall familiarize himself with the appropriate use of said drugs or chemicals prior to using the same.

Sec. 12-4-50. Impoundment; citizen assistance.

It is lawful for any citizen to take up any animals mentioned in section 12-4-10 found running at-large within the town and deliver the same to the chief of police, who shall impound and care for such animals and proceed with reference to said animals as by law provided.

Sec. 12-4-60. Impoundment liability.

The owner or person having the care, control or keeping of any animal mentioned in section 12-4-10, who permits the same to run at-large or

the same is found running at-large, contrary to the provisions of this article, may be compelled to pay a penalty for each animal so found and impounded, together with the expense of care and keeping of said animal and the cost of impounding the same.

Sec. 12-4-70. Unauthorized release prohibited.

If any person breaks open, aids or assists in breaking open or in any manner opens any building, pen or enclosure used as a pound, with the intention of releasing any animal therein confined under the provisions of this article, every such person shall be fined, on conviction, for each offense.

Sec. 12-4-80. Costs of impoundment.

The chief of police shall be allowed costs and expenses in this article mentioned as follows:

- (1) The owner of any animal so impounded may reclaim such animal, upon payment to the town of any unpaid fees, all costs, fees and charges incurred by the town for impoundment and maintenance of the animal, and any penalty assessment; provided, however, that the owner or person in charge of any dog running at-large shall be subject to the following fine and penalties, regardless of whether any animal has been impounded: the penalty for the first offense of allowing any animal to run at-large is \$35.00; the penalty for the second offense of allowing any animal to run at-large within two years following the first offense is \$50.00; and, for all subsequent offenses of allowing any dog to run at-large, a summons shall be issued to appear in municipal court.

- (2) All fees and charges collected by the chief of police under this article shall be paid to the town treasurer/finance director.

Sec. 12-4-90. Dogs.

- (a) *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:

Dog means any domesticated animal (*Canis familiaris*) related to the fox, wolf, coyote or jackal.

Dog owner means every person in possession of, in control of, harboring or allowing any dog to remain upon his premises for a minimum period of three days.

- (b) *Control regulations generally.*
- (1) It is declared to be the public policy of the town that dogs shall not be allowed to run at-large, that the same shall be licensed, that they shall be vaccinated for rabies, and that the public health and welfare require such regulation.
- (2) Any such dog shall be deemed to be running at-large when it is off the premises owned or rented by its owner and not leashed. Any such dog may be impounded by the town. No dog shall be permitted in any public place unless leashed. Public places include, but are not limited to, public property, common areas of private property, parking lots, churches, cemeteries, parks, golf courses and schools. Within one hour after an animal escapes from either the owner or the person having custody of

the animal, the owner or custodian of the animal shall report the escape of said animal to the police department or the animal control officer. No person shall appear with an animal upon the public ways, within public places or upon the property of another, absent that person's consent, without some means for the removal of excrement; nor shall any person fail to remove any excrement deposited by such animal.

- (c) *License, vaccination required.*

- (1) Any person having custody of any dog three months of age or older shall procure a dog license from the town clerk.
- (2) License fees shall be due on January 2 of each year, shall expire on December 31 of each year and shall not be prorated.
- (3) No dog shall be licensed without proof of rabies vaccination as provided in this article.
- (4) Proof of rabies vaccination and proof of spaying shall be by letter from a licensed doctor of veterinary medicine.

- (d) *License fees.* All license fees for male, spayed female or female dogs shall be as set forth in the consolidated fee schedule, appendix 2-F.

- (e) *License tags.* Upon payment of such license fee, the applicant shall receive a license tag to be attached to the dog's collar, together with the rabies tag, and shall see to it that the same is kept on such dog at all times.

- (f) *License and tag; unauthorized transfer prohibited.* No license shall be transferred, and it shall be unlawful for any person to attach

any license or rabies tag to any dog other than the dog for which such tag was originally issued.

- (g) *Enforcement authority.* This article shall be enforced as are other regulations of the town, namely by the police department; except that there is created the office of animal control officer, who may or may not be a member of the police department. If the animal control officer is not a member of the police department, he shall be given peace enforcement rights by the police department and shall have full right and authority to enforce all the terms of this article. His salary or fees shall be established by resolution of the board of trustees.

(Ord. No. 2014-004, 6-9-2014)

Sec. 12-4-100. Violation; penalty.

Violations of any provision of this article shall be subject to the general penalty provisions in section 1-4-10.

Chapter 13

OFFENSES AND MISCELLANEOUS PROVISIONS

Article 1. General Provisions

- Sec. 13-1-10. Definitions.
- Sec. 13-1-20. Intent.
- Sec. 13-1-30. Scope and application.
- Sec. 13-1-40. Affirmative defenses.
- Sec. 13-1-50. Limitation of actions.
- Sec. 13-1-60. Penalty for violation; generally.
- Sec. 13-1-70. Criminal attempt.
- Sec. 13-1-80. Conspiracy.
- Sec. 13-1-90. Complicity.
- Sec. 13-1-100. Accessory to an offense.
- Sec. 13-1-110. Aiding and abetting.
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Article 2. Government and Public Officers

- Sec. 13-2-10. Definitions.
- Sec. 13-2-20. Obstructing government operations.
- Sec. 13-2-30. Obstructing peace officer, marshal, firefighter, emergency medical service provider, rescue specialist or volunteer.
- Sec. 13-2-40. Interference with public officials.
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- Sec. 13-2-60. Duty of citizen to aid police officers.
- Sec. 13-2-70. Duty to report offense; liability for disclosure.
- Sec. 13-2-80. False reporting to authorities.
- Sec. 13-2-90. Escape from custody.
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Article 3. Streets and Public Places

- Sec. 13-3-10. Unlawful conduct on public property.
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- Sec. 13-3-60. Posting notices and advertisements on poles.
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- Sec. 13-4-30. Littering.
- Sec. 13-4-40. Theft.
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- Sec. 13-4-60. Theft by receiving.
- Sec. 13-4-70. Shoplifting.
- Sec. 13-4-80. Procuring food, accommodations or fuel with intent to defraud.
- Sec. 13-4-90. Price switching.
- Sec. 13-4-100. Tampering and unauthorized connection.
- Sec. 13-4-110. Criminal tampering.
- Sec. 13-4-120. Defacing property.
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Article 5. Public Peace, Order and Decency

- Sec. 13-5-10. Disorderly conduct.
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- Sec. 13-6-20. Parent or guardian aiding, abetting.
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Article 7. Alcoholic Beverages and Drugs

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- Sec. 13-7-10. Definitions.
- Sec. 13-7-20. Alcohol-related violations.
- Sec. 13-7-30. Illegal possession or consumption of alcoholic beverages by underage person.
- Sec. 13-7-40. Sales near schools.
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Division 2. Drugs

- Sec. 13-7-110. Definitions.
- Sec. 13-7-120. Possession of marijuana.
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- Sec. 13-8-10. Definitions.
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Article 9. Explosives and Inflammable Agents

- Sec. 13-9-10. Storage limits.
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- Sec. 13-10-10. Unreasonable noise.
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- Sec. 13-11-10. Definitions.
- Sec. 13-11-20. Unlawful to sell or use certain types.
- Sec. 13-11-30. Permits for display.
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- Sec. 13-11-70. Toy propellant devices used for model or educational rockets.
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Article 12. Offenses Relating To Animals

- Sec. 13-12-10. Animals creating noise.
- Sec. 13-12-20. Cruelty to animals.
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- Sec. 13-12-50. Excessive barking.
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Article 13. Clean Indoor Air Act

- Sec. 13-13-10. Legislative declaration.
- Sec. 13-13-20. Definitions.
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Article 14. Panhandling

Sec. 13-14-10. Aggressive begging.

Sec. 13-14-20. Begging in certain locations.

ARTICLE 1. GENERAL PROVISIONS**Sec. 13-1-10. Definitions.**

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

Act means a bodily movement and shall include words and possession of property.

Bodily injury means physical pain, illness or any impairment of physical or mental condition.

Conduct means an act or omission and its accompanying state of mind, or, where relevant, a series of acts or omissions.

Criminal negligence means when, through a gross deviation from the standard of care that a reasonable person would exercise, a person fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

Culpable mental state means intentionally, willfully, knowingly, recklessly or with criminal negligence, as these terms are defined in this section.

Deadly weapon means any firearm, knife, bludgeon or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner in which it is used or intended to be used, is capable of producing death or serious bodily injury.

Government has the same meaning as described in C.R.S. § 18-1-901(3)(i).

Intentionally or with intent. All offenses defined in this chapter, in which the mental

culpability requirement is expressed as intentionally or with intent, are declared to be specific intent offenses. A person acts intentionally or with intent when his conscious objective is to cause the specific result proscribed by the section defining the offense. It is immaterial to the issue of specific intent whether or not the result actually occurred.

Knowingly or willfully. All offenses defined in this chapter, in which the mental culpability requirement is expressed as knowingly or willfully, are declared to be general intent offenses. A person acts knowingly or willfully with respect to conduct or to a circumstance described by a section defining an offense when he is aware that his conduct is of such nature or that such circumstance exists. A person acts knowingly or willfully, with respect to a result of his conduct, when he is aware that his conduct is practically certain to cause the result.

Offense and ordinance violation are synonymous and mean a violation of or conduct defined by this chapter for which a fine or imprisonment may be imposed.

Omission means a failure to perform an act as to which a duty of performance is imposed by law.

Peace officer means all of those persons defined and designated as peace officers in C.R.S. Title 16, Article 2.5 (C.R.S. § 16-2.5-101 et seq.).

Person means a natural person, joint venture, joint stock company, partnership, association, unincorporated association, club, company, firm, corporation, business, trust or organization, or the manager, lessee, agent, servant, officer or employee of any of them.

Public place means any place commonly or usually open to the general public or to which members of the general public may resort, or is accessible to members of the general public. By way of illustration, such public places include, but are not limited to, public ways, streets, buildings, sidewalks, alleys, parking lots, shopping centers, shopping center malls, places of business usually open to the general public, and automobiles or other vehicles in or upon any such place, but shall not include the interior or enclosed yard area of private homes, residences, condominiums or apartments.

Public servant means any officer or employee of government, whether elected or appointed, and any person participating as an advisor, consultant, process server or otherwise in performing a governmental function; but the term "public servant" does not include witnesses.

Recklessly means consciously disregarding a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

Serious bodily injury means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures or burns of the second or third degree.

Tamper means to interfere with something improperly, to meddle with it or to make unwarranted alteration in its condition.

Thing of value includes real property, tangible and intangible personal property, contract rights, choses in action, services, confidential information, medical records information and any rights of use or enjoyment connected therewith.

Town law enforcement officer includes the town code enforcement officer, as well as any member of the county sheriff's office or other peace officer designated to enforce this Code.

Utility means an enterprise which provides gas, sewer, electric, steam, water, transportation or communication services, and includes any carrier, pipeline, transmitter or source, whether publicly or privately owned or operated.

Voluntary act means an act performed consciously as a result of effort or determination and includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to terminate it.

Willful and wanton means conduct purposefully committed which the person knew, or reasonably should have known, was dangerous to another's person or property, and which he performed without regard to the consequences or the rights and safety of another's person or property.

- (b) Definitions set forth in this chapter are for the purpose of simplicity and frequency of usage. They are not intended to be exhaustive. Reference is made to the Colorado Criminal Code, C.R.S. § 18-1-101 et seq., for clarification of any terminology which may be used in this chapter and is not expressly defined in this section. Terms not defined in the

Colorado Criminal Code and not defined in this chapter shall be construed as being used in their ordinary, usual and accepted sense and meaning.

(Ord. No. 2002-5, § 1-1, 8-20-2002)

Sec. 13-1-20. Intent.

- (a) It is the general intent of this chapter to deal with those activities normally designated as offenses under the Colorado Criminal Code, C.R.S. § 18-1-101 et seq., and other state statutes providing penalties, to which reference is made, over which a statutory town may properly exercise jurisdiction and, in addition, any other conduct constituting an offense which is not dealt with by the Colorado Criminal Code, but which the town may properly control by its police powers under C.R.S. § 31-15-401.
- (b) The provisions of this chapter are not intended to exclude prosecutions for other offenses found elsewhere in this Code. The provisions of this chapter are not intended to be construed, either expressly or by implication, to permit conduct which is illegal under the laws of the state. The various sections are not to be construed to apply to conduct which is defined as a felony under the laws of the state.
- (c) This chapter preempts any other provisions of any ordinance of the town which deals with the same subject matter as this chapter or is in conflict with this chapter.

(Ord. No. 2002-5, § 1-2, 8-20-2002)

Sec. 13-1-30. Scope and application.

- (a) Unless the context otherwise requires, the provisions of this chapter govern the construction of and punishment for any offense,

as defined in this chapter, as well as the construction and application of any defense to a prosecution for such an offense.

- (b) The provisions of this chapter do not apply to or govern the construction of, prosecution for and punishment for any offense committed prior to the effective date of any ordinance codified in this chapter, or the construction and application of any defense to a prosecution for such an offense. The offense shall be tried and disposed of according to the provisions of law existing at the time of the commission thereof in the same manner as if the ordinance codified in this chapter had not been enacted. All pending actions shall proceed to final disposition in the same manner as if this chapter had not been enacted.
- (c) This chapter applies to an offense committed within or partly within the town and to all park land and other land outside the town limits over which the town has jurisdiction under the authority of C.R.S. § 31-25-216, but is not intended to preempt any state statute nor preclude prosecution for any conduct constituting a violation of any state statute.

(Ord. No. 2002-5, § 1-3, 8-20-2002)

Sec. 13-1-40. Affirmative defenses.

The affirmative defenses available in C.R.S. §§ 18-1-701 through 18-1-710 shall be available as affirmative defenses to the provisions of this chapter.

(Ord. No. 2002-5, § 1-4, 8-20-2002)

Sec. 13-1-50. Limitation of actions.

All suits for the recovery of any fine and prosecutions for the commission of any offense

made punishable under this chapter shall be barred one year after the commission of the offense for which the fine is sought to be recovered.

(Ord. No. 2002-5, § 1-5, 8-20-2002)

Sec. 13-1-60. Penalty for violation; generally.

(a) A conviction for a violation of any section, or subsection of a section, of this chapter, unless otherwise provided to the contrary, shall be punished by a fine not exceeding \$2,650.00, or by incarceration for a period not exceeding one year, or by both such fine and incarceration.

(b) The maximum penalty in the amounts above stated shall hereafter be automatically increased as adjusted for inflation and as provided by HB-1060 to the maximum amount as set forth in C.R.S. § 13-10-113(1)(b)(I), (II).

(Ord. No. 2002-5, § 1-6, 8-20-2002; Ord. No. 2008-002, § 2, 1-14-2008; Ord. No. 2014-004, 6-9-2014)

Sec. 13-1-70. Criminal attempt.

(a) A person commits criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, he engages in conduct constituting a substantial step toward the commission of the offense. The term "substantial step" means any conduct, whether act, omission or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the offense attempted was actually perpetrated by the accused.

(b) A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish his complicity under C.R.S. § 18-1-603, were the offense committed by the other person, even if the other is not guilty of committing or attempting the offense.

(c) It is an affirmative defense to a charge under this section that the defendant abandoned his effort to commit the offense or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of this criminal intent.

(d) Criminal attempt to commit an offense is an offense.

Sec. 13-1-80. Conspiracy.

(a) A person commits conspiracy to commit an offense if, with the intent to promote or facilitate its commission, he agrees with another person that they, or one or more of them, will engage in conduct which constitutes an offense or an attempt to commit an offense, or he agrees to aid the other person in the planning or commission of an offense or of an attempt to commit such offense.

(b) No person may be convicted of conspiracy to commit an offense, unless an overt act in pursuance of that conspiracy is proved to have been done by him or by a person with whom he conspired.

(c) If a person knows that one with whom he conspires to commit an offense has conspired with another person to commit the same offense, he is guilty of conspiring to commit an offense with the other person, whether or not he knows the other person's identity.

- (d) If a person conspires to commit a number of offenses, he is guilty of only one conspiracy so long as such multiple offenses are part of a single criminal episode.
- (e) Conspiracy to commit a misdemeanor is a misdemeanor.
- (f) Conspiracy to commit an offense is an offense.

Sec. 13-1-90. Complicity.

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he aids, abets or advises the other person in planning or committing the offense.

Sec. 13-1-100. Accessory to an offense.

- (a) A person is an accessory to an offense if, with intent to hinder, delay or prevent the discovery, detection, apprehension, prosecution, conviction or punishment of another for the commission of an offense, he renders assistance to such person.
- (b) The term "render assistance" means to:
 - (1) Harbor or conceal the other;
 - (2) Warn such person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law;
 - (3) Provide such person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;
 - (4) By force, intimidation or deception, obstruct anyone in the performance of any

act which might aid in the discovery, detection, apprehension, prosecution or punishment of such person; or

- (5) Conceal, destroy or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person.
- (c) Being an accessory to an offense is an offense if the offender knows that the person being assisted has committed, has been convicted of or is charged by pending information, indictment or complaint with an offense, or is suspected of or wanted for an offense, and if that offense is designated by this Code as an offense.

Sec. 13-1-110. Aiding and abetting.

Every person who commits, attempts to commit, conspires to commit, aids or abets in the commission of any act declared herein to be in violation of the ordinances of the town, whether individually or in connection with one or more persons, as a principal, agent or accessory, shall be guilty of such offense, and every person who fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any ordinance of the town is likewise guilty of such offense.

Sec. 13-1-120. Compounding.

A person commits compounding if he accepts or agrees to accept any pecuniary benefit as consideration for:

- (1) Refraining from seeking prosecution of any offender; or
- (2) Refraining from reporting to law enforcement authorities the commission

or suspected commission of any offense or information relating to an offense.

ARTICLE 2. GOVERNMENT AND PUBLIC OFFICERS

Sec. 13-2-10. 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:

Emergency medical service provider means a member of a public or private emergency medical service agency, whether that person is a volunteer or receives compensation for services rendered as such emergency medical service provider.

Government includes any branch, subdivision, institution or agency of the government of this town.

Governmental function includes any activity which a public servant is legally authorized to undertake on behalf of a government.

Public servant means any officer or employee of the government, whether elected or appointed, and any person participating as an advisor or consultant, engaged in the service of process or otherwise performing a governmental function, but the term does not include witnesses.

Rescue specialist means a member of a public or private rescue agency, whether that person is a volunteer or receives compensation for services rendered as such rescue specialist.

Sec. 13-2-20. Obstructing government operations.

(a) It is unlawful to obstruct government operations.

(b) A person commits obstructing government operations if he intentionally obstructs, impairs or hinders the performance of a governmental function by a public official, employee or servant, by using or threatening to use violence, force or physical interference or obstacle.

(c) It is an affirmative defense that:

(1) The obstruction, impairment or hindrance was of unlawful action by a public servant;

(2) The obstruction, impairment or hindrance was of the making of an arrest; or

(3) The obstruction, impairment or hindrance was by lawful activities in connection with a labor dispute with the government.

Sec. 13-2-30. Obstructing peace officer, marshal, firefighter, emergency medical service provider, rescue specialist or volunteer.

(a) No person shall willfully fail or refuse to comply with any lawful order, signal or direction of a peace officer made or given in the discharge of the peace officer's duties.

(b) It is unlawful for any person to knowingly disobey any lawful or reasonable order of any peace officer, marshal, firefighter, emergency personnel or military personnel given incidental to their duties in coping with a fire, explosion, traffic accident, other disaster or investigation, or to knowingly obstruct, impair or hinder the administration of medical treatment or emergency assistance by an emergency medical service provider or rescue specialist, acting under color

- of his official authority; or knowingly obstruct, impair or hinder the administration of emergency care or emergency assistance by a volunteer, acting in good faith to render such care or assistance without compensation at the place of an emergency or accident.
- (c) It is unlawful to obstruct a peace officer or firefighter. A person commits obstructing a peace officer or firefighter when, by using or threatening to use violence, force or physical interference or obstacle, such person knowingly obstructs, impairs or hinders the enforcement of the law or the preservation of the peace by a peace officer, acting under color of his official authority, or knowingly obstructs, impairs or hinders the prevention, control or abatement of fire by a firefighter, acting under color of his official authority.
- (d) It is unlawful for any person to drive a vehicle to or close by the scene of a fire, explosion, traffic accident, riot or impending riot, other disaster or investigation, in such a manner as to obstruct or impede the arrival, departure or operation of any fire truck, police vehicle, ambulance or any other emergency vehicle, or to fail to move a vehicle from the scene when ordered to do so by any police officer, marshal, firefighter, emergency personnel or military personnel in the performance of their duties in coping with a fire, explosion, traffic accident, other disaster or investigation.
- (e) To ensure that animals used in law enforcement or fire prevention activities are protected from harm, a person commits obstructing a peace officer or firefighter when, by using or threatening to use violence, force, physical interference or an obstacle, he knowingly obstructs, impairs or hinders any such animal.
- (f) Resisting or preventing arrest.
- (1) It is unlawful to resist or prevent arrest.
- (2) A person commits resisting or preventing arrest if he knowingly prevents or attempts to prevent a peace officer, acting under color of his official authority, from effecting an arrest of the actor or another by:
- a. Using or threatening to use physical force or violence against the peace officer or another; or
- b. Using any other means which creates a substantial risk of causing bodily injury to the peace officer or another.
- (3) It is no defense to a prosecution under this section that the peace officer was attempting to make an arrest, which in fact was unlawful, if the peace officer was acting under color of his official authority, and in attempting to make the arrest, the peace officer was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A peace officer acts under color of his official authority when, in the regular course of assigned duties, the peace officer is called upon to make, and does make, a judgment in good faith, based upon surrounding facts and circumstances, that an arrest should be made by the peace officer.
- (4) The term "peace officer," as used in this section, means a peace officer in uniform or, if out of uniform, one who has

identified himself by exhibiting his credentials as such peace officer to the person whose arrest is attempted.

(Ord. No. 2002-5, §§ 1-7, 1-9—1-11, 8-20-2002)

Sec. 13-2-40. Interference with public officials.

(a) *Interference by threats to public officials.* It is unlawful for any person to communicate threats of violence, reprisals or any other injurious act to any police officer, marshal, firefighter, town employee or other public official who is engaged in the performance or attempted performance of his official duties, or to communicate threats by reason of or on account of the performance or attempted performance of his official duties.

(b) *Impeding public officials and town employees.* No person shall willfully impede any public official or town employee in the lawful performance of duties or activities at or in any public building through the use of restraint, abduction, coercion or intimidation or by force and violence or threat thereof.

(Ord. No. 2002-5, §§ 1-8, 1-15, 8-20-2002; Ord. No. 2012-003, 7-9-2012)

Sec. 13-2-50. Impersonating public servant.

(a) A person commits impersonating a public servant if he falsely pretends to be a public servant other than a peace officer and performs any act in that pretended capacity.

(b) It is no defense to a prosecution under this section that the office the actor pretended to hold did not in fact exist.

(c) It is unlawful for any person other than a peace officer of the town to wear the insignia of office of a peace officer of the town, or

any other insignia of office like or similar to or a colorable imitation of that adopted and worn by the peace officers of the town.

(d) It is unlawful for any person, other than a peace officer of the town, to, in any manner, represent himself to another as a peace officer of the town.

(e) It is unlawful for any person to counterfeit or imitate, or cause to be counterfeited, imitated or colorably imitated, the badge or insignia of office used by the police department/marshal of the town.

(Ord. No. 2002-5, § 1-13, 8-20-2002)

Sec. 13-2-60. Duty of citizen to aid police officers.

A person 18 years of age or older commits the offense of refusing to aid a peace officer when, upon command by a person known to him as a peace officer, he unreasonably refuses to aid the peace officer in effecting or securing an arrest or preventing the commission by another of any offense.

Sec. 13-2-70. Duty to report offense; liability for disclosure.

It is the duty of every person who has reasonable grounds to believe that an offense has been committed to report promptly the suspected offense to law enforcement authorities. Notwithstanding any other provision of the law to the contrary, a person may disclose information concerning a suspected offense to other persons for the purpose of giving notice of the possibility that other such criminal conduct may be attempted which may affect the persons notified. When acting in good faith, such person shall be immune from any civil liability for such reporting or disclosure. This duty shall exist notwithstanding any

other provision of the law to the contrary; except that this section shall not require disclosure of any communication privileged by law.

Sec. 13-2-80. False reporting to authorities.

- (a) It is unlawful for any person to falsely report to authorities. A person commits false reporting to authorities if he:
- (1) Knowingly causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, fire district, ambulance service or any other government agency, which deals with emergencies involving danger to life or property.
 - (2) Makes a report or knowingly causes the transmission of a report to law enforcement authorities of an offense or other incident within their official concern when he knows that it did not occur.
 - (3) Makes a report or knowingly causes the transmission of a report to law enforcement authorities pretending to furnish information relating to an offense or other incident within their official concern when he knows that he has no such information or knows that the information is false.
 - (4) Knowingly gives false information to any law enforcement officer with the purpose of implicating another; or
 - (5) Provides false identifying information to law enforcement authorities.
- (b) For purposes of this section, the term "identifying information" means a person's name, address, birth date, social security number, driver's license or state identification number.

- (c) This section does not apply to reports of the existence or placement of a bomb or other explosive in any public or private place or vehicle designed for transportation of persons or property.

(Ord. No. 2002-5, § 1-14, 8-20-2002)

Sec. 13-2-90. Escape from custody.

- (a) A person commits escape if, while being in custody or confinement following conviction of a violation of this Code, he knowingly escapes from said custody or confinement.
- (b) A person commits escape if, while being in custody or confinement and held for or charged with but not convicted of a violation of this Code, he knowingly escapes from said custody or confinement.
- (c) It is unlawful for any person to escape or attempt to escape from, or in any manner aid another who is in the custody of a peace officer to escape from, or to attempt to rescue or rescue a person from the custody of any person aiding the peace officer after being commanded by the peace officer to do so; provided, however, the provisions of this section do not apply whenever the escapee is being held on account of a felony or charged with or held for any felony.

(Ord. No. 2002-5, § 1-12, 8-20-2002)

Sec. 13-2-100. Aiding escape.

A person who knowingly aids, abets or assists another person to escape or attempt to escape from custody or confinement commits the offense of aiding escape if the person aided was in custody or confinement and charged with, held for, or convicted of a violation of this Code.

Sec. 13-2-110. Furnishing certain items to prisoners.

It is unlawful for any person to make available to or place within the reach of, or to cause to be made available to, presented to or placed within the reach of, any person confined under authority of the town any vinous, spirituous or malt liquors, or any weapon, tool, implement or other thing calculated to aid in the escape of such person so confined or any other person confined under authority of the town.

Sec. 13-2-120. Refusal to permit inspections.

- (a) A person commits an offense if, knowing that a public servant is legally authorized to inspect property:
 - (1) He refuses to produce or make available the property for inspection at a reasonable hour; or
 - (2) If the property is available for inspection, he refuses to permit the inspection at a reasonable hour.
- (b) For purposes of this section, the term "property" means any real or personal property, including books, records and documents which are owned, possessed or otherwise subject to the control of the person. The term "legally authorized inspection" means any lawful search, sampling, testing or other examination/inspection of buildings, structures, or property in connection with the regulation of a business or occupation that is authorized by statute, ordinance or lawful regulatory provision.

ARTICLE 3. STREETS AND PUBLIC PLACES

Sec. 13-3-10. Unlawful conduct on public property.

- (a) It is unlawful for any person to enter or remain in any public building or on any public property, or to conduct himself in or on the same, in violation of any order, rule or regulation concerning any matter prescribed in this section, limiting or prohibiting the use or activities or conduct in such public building or on such public property, issued by any officer or agency having the power of control, management or supervision of said building or property. In addition to any authority granted by any other law, each officer or agency may adopt such orders, rules or regulations as are reasonably necessary for the administration, protection and maintenance of the public buildings and property, and specifically, orders, rules and regulations upon the following matters:
 - (1) The preservation of property, vegetation, wildlife, signs, markers, statues, buildings, grounds, other structures, and any object of scientific, historical or scenic interest.
 - (2) The restriction or limitation of the use of public buildings or property as to time, manner or permitted activities.
 - (3) The prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others, or which may constitute a general nuisance.

- (4) Necessary sanitation, health and safety measures, consistent with C.R.S. § 25-13-113.
 - (5) Camping and picnicking, public meetings and assemblages, and other individual or group usages, including the place, time and manner in which such activities may be permitted.
 - (6) The use of all vehicles as to place, time and manner of use.
 - (7) Control and limitation of fires and designation of places where fires may be permitted.
- (b) No conviction may be obtained under this section unless notice of the limitations or prohibitions designated in this section is prominently posted at all public entrances to the building or property, or unless the notice is actually first given to the person by the officer or agency, including any agent thereof, or by any law enforcement officer having jurisdiction or authority to enforce this section.
- (c) Curfew imposed upon a public park. It shall be unlawful for any person to enter or remain upon the town public park or any of its streets, parking lots, roadways, buildings or grounds, which park is located at 300 West Silver Avenue, in the town, during and between sunset to sunrise upon any day of the week, provided that such hours may be extended by the board of trustees for special events at such times as may be determined by the board. A sign shall be posted at the entrance of the park forbidding entry or occupancy during the above times.

(Ord. No. 2002-5, § 1-25, 8-20-2002; Ord. No. 2007-003, 9-10-2007; Ord. No. 2008-002, § 2, 1-14-2008; Ord. No. 2010-005, 10-11-2010; Ord. No. 2014-004, 6-9-2014)

Sec. 13-3-20. Trespass or interference in public buildings.

- (a) It is unlawful for any person to enter or remain in any public building or on any public property or to conduct himself at or in any public building owned, operated or controlled by the town as to willfully deny to any public official, public employee or invitee on such premises the lawful rights of such official, employee or invitee to enter, to use the facilities of or to leave any such public building.
- (b) It is unlawful for any person, at or in any public building, to willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion or intimidation, force and violence or threat thereof.
- (c) It is unlawful for any person to willfully refuse or fail to leave any public building owned, operated or controlled by the town as to willfully deny to any public official, public employee or any invitee on the premises the lawful rights of the official, employee or invitee to enter or to use the facilities of or to leave any public building.
- (d) It is unlawful for any person to willfully refuse or fail to leave any public building upon being requested to do so by the town official charged with maintaining order in such public building, if such person has committed, is committing, threatens to commit or incites others to commit any act which did, or would if completed, disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions being carried on in the public building.

- (e) It is unlawful for any person to, at any meeting or session conducted by any judicial, legislative or administrative body or official at or in any public building, willfully impede, disrupt or hinder the normal proceedings of such meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting the meeting or session or by any act designed to intimidate, coerce or hinder any member of such body or official engaged in the performance of duties at such meeting or session.
- (f) It is unlawful for any person to, by any act of intrusion into the chamber or other areas designated for the use of any executive body or official at or in any public building, willfully impede, disrupt or hinder the normal proceedings of such body or official.
- (g) The term "public building," as used in this section, includes any premises being temporarily used by a public officer or employee in the discharge of his official duties.
- (h) Any person who violates any of the provisions of this section commits an unlawful act.

(Ord. No. 2002-5, §§ 1-26, 1-27, 8-20-2002)

Sec. 13-3-30. Interfering with use of streets, sidewalks, or public alleys.

- (a) It is unlawful for any person, alone or in a group or assemblage of persons, whose standing, remaining or congregating on any public highway, street, alley or sidewalk in the town shall obstruct, interfere with or prevent the free, unobstructed and reasonable use of that public highway, street, alley or sidewalk by any other person, to fail or refuse to yield to the reasonable use or passage of any other

person on that public highway, street, alley or sidewalk or to fail or refuse to move on, disperse or cease such obstruction or interference immediately upon being so ordered by any police officer of the town or other authorized peace officer.

- (b) The board of trustees of the town finds that the permanent blocking of public alleys within the town is a nuisance and constitutes a hazard to the public health, safety, and well-being in many ways and particularly that access for fire and emergency vehicles is limited.
- (c) It is unlawful for any person to willfully obstruct a public alley in any manner and to refuse to remove said obstruction.
- (d) If a public alley is obstructed and the owner of the property creating the obstruction cannot be located, or his whereabouts are unknown, the town law enforcement officer may apply to the municipal judge setting forth in a sworn statement the following:
 - (1) The location of the alley and the location of the obstruction.
 - (2) The name and address of the person who owns the property obstructing the alley if known.
 - (3) If such names and addresses are unknown, that the whereabouts of the person who owns said property cannot be ascertained.
 - (4) Upon receiving such a statement, if the municipal judge finds the same to be true, he shall issue and order which the law enforcement officer shall execute, directing the removal of said property and the unblocking of said alley. The

order may be given orally or in writing and, if given in writing, shall be deemed to have been delivered three days after being placed in the United States mail.

- (e) In the event that the person owning property obstructing an alley is a non-resident of the town who cannot readily be served with process, the law enforcement officer shall make a sworn statement to the municipal judge setting for the following:
- (1) The name and address of said person.
 - (2) The date on which said person was notified to remove the property obstructing the alley.
 - (3) The location of the obstruction and the alley being obstructed.
 - (4) That the person is a non-resident of the town and cannot be readily served with process.
 - (5) Upon receiving such a statement, the municipal judge shall issue a statement to said person, through the United States mail, that if said property is not removed within three days after delivery of the statement, the municipal judge shall issue an order directing the town law enforcement officer to remove said property and dispose of it as he sees fit. Said statement by the municipal judge shall be deemed delivered three days after being placed in the United States mail. After the three days has expired, if the property blocking the alley has not been removed, the municipal judge shall issue an order directing the town law enforcement officer to remove said property and dispose of it in such a manner as he deems fit.

(Ord. of 8-2-1978)

Sec. 13-3-40. Damage or removal of street signs.

It is unlawful for any unauthorized person to remove, deface, injure, damage or destroy any street sign or traffic control or warning sign or device erected or placed by the town, the state or the United States in or adjacent to any street.

(Ord. No. 2002-5, § 1-21, 8-20-2002)

Sec. 13-3-50. Library property; injuring or destroying prohibited; failure to return books.

- (a) It is unlawful for any person to write in, injure, deface, tear or destroy any book, plate, picture, engraving, map, newspaper, magazine, pamphlet, periodical, manuscript or phonograph record belonging to any public library in the town or library facility operating under the authority of the town.
- (b) It is unlawful for any person to fail to return any book or other item belonging to any public library of the town or library facility operating under the authority of the town in accordance with the requirements of the rules and regulations of the library.
- (c) It is unlawful for any person to remove, or to assist in the removal from any public library, any book, plate, picture, engraving, map, newspaper, magazine, pamphlet, periodical, manuscript, phonograph record or other item belonging to the public library or the town, without first having the same charged or checked out by the proper agent or employee in the public library in accordance with the requirements of the rules and regulations of the library.

Sec. 13-3-60. Posting notices and advertisements on poles.

No person shall, directly or indirectly, in person or by another, either as principal, agent,

clerk or servant, post or cause to be posted or placed upon any telephone pole, electric pole or sign located upon any street, alley or other public way within the town, a bill, poster, notice or any sort of advertisement for longer than seven days. (Ord. No. 2002-5, § 1-28, 8-20-2002)

Sec. 13-3-70. Overweight vehicles.

It is unlawful to operate any vehicle over 10,000 pounds gross vehicle weight (GVW) on any town street marked with signs stating, "Vehicles over 10,000 pounds GVW prohibited." Local delivery, trash pickup, road maintenance and snow removal vehicles are exempt from this provision.

Sec. 13-3-80. Overnight parking.

Overnight parking is prohibited in parking lots and along streets in the town where a sign is posted stating, "Overnight parking is prohibited," and along state highways. Reasonable attempts will be made to find the registered owner of the vehicle, after which the vehicle will be towed at the registered owner's expense.

ARTICLE 4. PUBLIC, PRIVATE AND PERSONAL PROPERTY

Sec. 13-4-10. Criminal mischief.

It is unlawful for any person to knowingly injure, damage or destroy the real or personal property of one or more other persons in the course of a single criminal episode where the aggregate damage to the real or personal property is less than \$1,000.00. (Ord. No. 2002-5, § 1-20, 8-20-2002)

Sec. 13-4-20. Trespassing.

It is unlawful for any person, without legal privilege, to enter or remain upon the premises of

another or to fail or refuse to remove himself from the premises when requested to leave by the owner, occupant or person having lawful control thereof. (Ord. No. 2002-5, § 1-16, 8-20-2002)

Sec. 13-4-30. Littering.

- (a) It is unlawful to throw or deposit in any street, alley, sidewalk or public grounds in the town any paper, old clothes cloth of any kind, boots, shoes, hats, leather, hair, grass, junk cars, straw, hay, trash, rubbish, waste material refuse, garbage, debris or other foreign substances, solid or liquid, of every form, size kind and description, except in public receptacles and authorized private receptacles.
- (b) It is unlawful for any person, while a driver or passenger in a vehicle, to throw or deposit such litter upon any street or other public place within the town or upon private property.
- (c) It is unlawful for any person to throw or deposit any household waste or garbage into a container owned by the town, a private business, or a private person without such owner's specific permission.

(Ord. No. 2021-003, 11-8-2021)

Sec. 13-4-40. Theft.

It is unlawful for any person to commit theft. A person commits theft when he knowingly obtains or exercises control over anything of another without authorization or by threat or deception when the value of the thing is less than \$1,000.00, and he:

- (1) Intends to deprive the other person permanently of the use or benefit of the thing of value;

- (2) Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;
- (3) Uses, conceals or abandons the thing of value intending that such use, conceal-

ment or abandonment will deprive the other person permanently of its use and benefit; or deception or knowing that such use is without the consent of the person providing the personal property;

- (4) He, having lawfully obtained possession for temporary use of the personal property of another which is available only for hire, knowingly fails to reveal the whereabouts of or to return the property to the owner thereof or his representative or to the person from whom he has received it within 72 hours after the time at which he agreed to return it; and
- (5) The value of the property involved is less than \$1,000.00.
- (Ord. No. 2002-5, § 1-18, 8-20-2002)

Sec. 13-4-50. Theft of rental property.

It is unlawful for a person to commit theft of rental property. A person commits theft of rental property if:

- (1) He obtains the temporary use of personal property of another, which is available only for hire, by means of threat or deception or knowing that such use is without the consent of the person providing the personal property; or
- (2) He, having lawfully obtained possession for temporary use of the personal property of another which is available only for hire, knowingly fails to reveal the whereabouts of or to return the property to the owner thereof or his representative or to the person from

whom he has received it within 72 hours after the time at which he agreed to return it; and

- (3) The value of the property involved is less than \$1,000.00.

Sec. 13-4-60. Theft by receiving.

It is unlawful to commit theft by receiving. A person commits theft by receiving when he receives, retains, loans money by pawn or pledge on or disposes of anything of value of another, knowing or believing that the thing of value has been stolen, and when he intends to deprive the lawful owner permanently of the use or benefit of the thing of value, where the value of such thing is less than \$1,000.00.

Sec. 13-4-70. Shoplifting.

It is unlawful for any person to intentionally conceal or otherwise carry away, or to knowingly aid another to conceal or otherwise carry away, unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his own person or otherwise and whether on or off the premises of the store or mercantile establishment, with the intent to avoid payment therefor; provided, however, that the aggregate value of the unpurchased goods, wares or merchandise shall be less than \$1,000.00.

(Ord. No. 2002-5, § 1-17, 8-20-2002)

Sec. 13-4-80. Procuring food, accommodations or fuel with intent to defraud.

It is unlawful for any person, with the intent to defraud, to procure food, fuel or accommodations from any public establishment or retail store without making payment therefor in accordance

with his agreement with such public establishment or store where the total amount is less than \$1,000.00.

(Ord. No. 2002-5, § 1-19, 8-20-2002)

Sec. 13-4-90. Price switching.

It is unlawful for any person to alter, remove or switch the indicated price of any unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment with the intent to defraud the store or mercantile establishment; provided, however, that this section shall apply to goods, wares or merchandise of a value of less than \$1,000.00.

Sec. 13-4-100. Tampering and unauthorized connection.

- (a) Any person who connects any pipe, tube, stopcock, wire, cord, socket, motor or other instrument or contrivance with any main, service pipe or other medium conducting or supplying gas, water or electricity to any building, without the knowledge and consent of the person supplying such gas, water, sewer or electricity, commits tampering and unauthorized connection, which is unlawful.
- (b) Any person who in any manner alters, obstructs or interferes with any meter pit, meter or metering device provided for measuring or registering the quantity of gas, water, sewer or electricity passing through said meter, without the knowledge and consent of the person owning said meter, commits tampering and unauthorized connection, which is unlawful.
- (c) A person who tampers with property of another with intent to cause injury, inconvenience or annoyance to that person or to another, or if he knowingly makes unauthor-

ized connection with property of a utility, commits tampering and unauthorized connection, which is unlawful.

- (d) Nothing in this section shall be construed to apply to any licensed electrical or plumbing contractor while performing usual and ordinary services in accordance with recognized customs and standards.

Sec. 13-4-110. Criminal tampering.

A person commits the offense of criminal tampering if, with the intent to cause interruption or impairment of a service rendered to the public by a utility, the town or an institution providing health or safety protection, he tampers with property of a utility, the town or institution or, if with intent to cause injury, inconvenience or annoyance to another, he tampers with property of another or knowingly makes unauthorized connections with the property of a utility, cable company or the town.

(Ord. No. 2002-5, § 1-22, 8-20-2002)

Sec. 13-4-120. Defacing property.

Any person who knowingly defaces or causes, aids in or permits the defacing of any public or private property by any method of defacement, including, but not limited to, printing, drawing, writing or otherwise marring the surface of the property by use of paint, spray paint, ink or any other substances or object and without the permission of the owner, commits the offense of defacing property.

(Ord. No. 2002-5, § 1-23, 8-20-2002)

Sec. 13-4-130. Defacing posted notice.

Any person who intentionally mars, destroys or removes any posted notice authorized by law commits the offense of defacing posted notice.

(Ord. No. 2002-5, § 1-24, 8-20-2002)

Sec. 13-4-140. Open fires.

- (a) The governing bodies of municipalities in the state may control and limit fires and the designation of places where fires are permitted, restricted or prohibited.
- (b) The conditions existing presently necessitate further restrictions upon any open burning within the town.
- (c) A ban is hereby imposed upon any and all open fires or flames on property within the town, whether the same be a controlled or uncontrolled burning of trash, debris, flammable liquids, or any other substance directly or indirectly and which is hereby prohibited. This prohibition may be rescinded during specified periods of time by the fire marshal with concurrence of the mayor as fire conditions may necessitate. Any such rescission shall be effected by appropriate public announcement.
- (d) The following activities are deemed to be open fires, for the purposes of this section, and are subject to ban:
 - (1) Building, maintaining, attending or using an open fire to burn trash, debris, fence rows, or vegetation, any campfire, warming fire, or charcoal grill. (Propane grill fires are allowed.)
 - (2) Lighting of fireworks of any kind, explosives, blasting caps, or any incendiary which may result in ignition of flammable material.
 - (3) Smoking, except in an enclosed vehicle or building.
 - (4) Welding or operating acetylene or other torch with open flame.
- (5) Disposing of any burning material or material hot enough to cause the ignition of weeds or grass such as cigarette or cigar butts or hot coals, except in fireproof receptacles designated for such disposal.
- (6) The use of chainsaws and other internal combustion engines unless equipped with a spark arrestor and accompanied onsite by a chemical pressurized fire extinguisher of not less than eight ounces weight capacity, and a size zero or larger round pointed shovel with an overall length of at least 36 inches.
- (e) Any federal, state, or local officer or member of an organized rescue or firefighting force in the performance of an official duty shall be exempt from the provisions of this section.
- (f) When there is a conflict or ambiguity between town, county and state restrictions, the more restrictive burn ban provisions will, in the absence of an express town declaration to the contrary, be deemed to apply and are incorporated by reference into the provisions of this section.
- (g) Nothing contained in this section is intended to prohibit outdoor barbeque grills and similar devices, which are self-contained, and covered with a grill or fire suppressor device. (Ord. No. 2003-002, 5-12-2003; Ord. No. 2006-011, 4-17-2006; Ord. No. 2012-002, 7-9-2012)

Sec. 13-4-150. Theft of collection and waste disposal services.

- (a) It is unlawful for any person to dispose of garbage, trash or rubbish in any place in the town, except as provided in this section or as

otherwise authorized by the town. No person shall place any solid waste, bulky items or any other material in, on or next to the solid waste container of another, unless authorized to do so by the person who pays the charge for the solid waste collection service.

- (b) The presumptive fine for a violation of this section shall be \$50.00 for the first offense and \$75.00 for subsequent offenses. The presumptive fine does not remove the ability of a peace officer to issue a summons for any offense under this section.

- (6) Not being a peace officer, displays a deadly weapon, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represents verbally or otherwise that he is armed with a deadly weapon in a public place in a manner calculated to alarm.

ARTICLE 5. PUBLIC PEACE, ORDER AND DECENCY

Sec. 13-5-10. Disorderly conduct.

- (a) A person commits disorderly conduct if he intentionally, knowingly or recklessly:
 - (1) Makes a coarse and obviously offensive utterance, gesture, or display in a public place and the utterance, gesture or display tends to incite an immediate breach of the peace.
 - (2) Abuses or threatens a person in a public place in an obviously offensive manner.
 - (3) Makes an unreasonable noise in a public place, or near a private residence that he has no right to occupy.
 - (4) Fights with another in a public place, except in an amateur or professional contest of athletic skill.
 - (5) Not being a peace officer, discharges a firearm in a public place except when engaged in lawful target practice or hunting; or

- (b) It is unlawful for any person, other than a peace officer, animal control officer or a member of the Armed Forces of the United States or the Colorado National Guard, acting in lawful discharge of his duties, to discharge or cause to be discharged any firearm within or into the limits of the town.

- (c) This section shall not apply to persons discharging firearms in shooting galleries or at shooting ranges, where the firearms may be discharged so as not to endanger persons or property and the projectiles from the firearms are prevented from traversing any grounds or space outside the limits of the gallery or range, or to the discharge of a firearm in lawful defense of person or property.

- (d) This section shall not apply to a person who knowingly or recklessly discharges a firearm into any dwelling, any other building or occupied structure, or any motor vehicle occupied by any person.

- (e) It is an affirmative defense to prosecution under subsection (a)(2) of this section that the actor had significant provocation for his abusive or threatening conduct.

(Ord. No. 2002-5, §§ 1-37, 1-43, 8-20-2002)

Sec. 13-5-20. Disrupting lawful assembly.

A person commits disrupting lawful assembly if, intending to prevent or disrupt any lawful

meeting, proceeding or gathering, he significantly obstructs or interferes with the meeting, proceeding or gathering by physical action, verbal utterances or any other means.

(Ord. No. 2002-5, § 1-38, 8-20-2002)

Sec. 13-5-30. Harassment.

(a) A person commits harassment if, with intent to harass, annoy or alarm another person, he:

- (1) Strikes, shoves, kicks or otherwise touches a person or subjects him to physical contact;
- (2) In a public place directs obscene language or makes an obscene gesture to or at another person;
- (3) Follows a person in or about a public place;
- (4) Initiates communication with a person, anonymously or otherwise, by telephone, telephone network, data network, text message, instant message, computer, computer network or computer system in a manner intended to harass or threaten bodily injury or property damage, or makes any request, comment, suggestion or proposal by telephone, computer, computer network or computer system which is obscene;
- (5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;
- (6) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use

and enjoyment of another's home or private residence or other private property; or

(7) Repeatedly insults, taunts, challenges or makes communications in offensively coarse language to another in a manner likely to provoke a violent or disorderly response.

(b) As used in this section, unless the context otherwise requires, the term "obscene" means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

(c) Any act prohibited by subsection (a)(4) of this section may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail or other electronic communication was either made or received.

(Ord. No. 2002-5, § 1-30, 8-20-2002)

Sec. 13-5-40. Loitering.

(a) The term "loiter" means to be dilatory, to stand idly around, to linger, delay or wander about, or to remain, abide or tarry in a public place.

(b) A person commits an offense if he:

- (1) Loiters for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual intercourse;
- (2) With intent to interfere with or disrupt the school program or with intent to interfere with or endanger schoolchildren, loiters in a school building or on

school grounds or within 100 feet of school grounds when persons under the age of 18 are present in the building or on the grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil, or any other specific legitimate reason for being there, and having been asked to leave by a school administrator or his representative or by a peace officer; or

- (3) Loiters with one or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in section 13-7-110.

- (c) It is an affirmative defense that the defendant's acts were lawful and he was exercising his rights of lawful assembly as part of a peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise.

Sec. 13-5-50. False alarms.

Any person who intentionally makes or gives a false alarm of fire shall be deemed guilty of an offense.

Sec. 13-5-60. Abandoned containers, motor vehicles and appliances.

It is unlawful for any person to abandon or discard, in any public or private place accessible to children, any chest, closet, piece of furniture, refrigerator, ice box, motor vehicle or other article, having a compartment of a capacity of 1½ cubic feet or more and having a door or lid which, when closed, cannot be opened easily from the inside; or who, being the owner, lessee or manager of such place, to knowingly permit such abandoned or discharged article to remain in such condition.

Sec. 13-5-70. Throwing stones or missiles.

It is unlawful for any person to willfully, maliciously or recklessly throw, shoot or project any stone, arrow, pellet, dart, ball bearing or other dangerous missile at or against any person, animal, public or private property, building, personal property, fixture, tree or shrub, or at or against any vehicle or equipment designed for the transportation of persons or property. The provisions of this section shall not apply to persons throwing, projecting or shooting any dangerous missile at any animal in order to protect his person or property or the person or property of another from physical injury.

(Ord. No. 2002-5, § 1-40, 8-20-2002)

Sec. 13-5-80. Fraud by check.

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

Check means a written, unconditional order to pay a certain sum in money, drawn on a bank, payable on demand, and signed by the drawer. The term "check," for the purposes of this section only, also includes a negotiable order of withdrawal and a share draft

Drawee means the bank upon which a check is drawn or a bank, savings and loan association, industrial bank or credit union on which a negotiable order of withdrawal or a share draft is drawn.

Drawer means a person, either real or fictitious, whose name appears on a check as the primary obligor, whether the actual signature is that of himself or of a person authorized to draw the check on himself.

Insufficient funds means a drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account, negotiable order of withdrawal account or share draft account with the drawee, or has funds in such an account with the drawee in an amount less than the amount of the check plus the amount of all other checks outstanding at the time of issuance; and a check dishonored for "no account" shall also be deemed to be dishonored for insufficient funds.

Issue. A person issues a check when he makes, draws, delivers or passes it or causes it to be made, drawn, delivered or passed.

Negotiable order of withdrawal and share draft mean negotiable or transferable instruments drawn on a negotiable order of withdrawal account or a share draft account, as the case may be, for the purpose of making payments to third persons or otherwise.

Negotiable order of withdrawal account means an account in a bank, savings and loan association or industrial bank, and the term "share draft account" means an account in a credit union, on which payment of interest or dividends may be made on a deposit with respect to which the bank, savings and loan association, industrial bank or credit union, as the case may be, may require the depositor to give notice of an intended withdrawal not less than 30 days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable order of withdrawal or share draft.

- (b) Any person, knowing he has insufficient funds with the drawee who, with intent to defraud, issues a check for a sum less than \$1,000.00

for the payment of services, wages, salary, commissions, labor, rent, money, property or other thing of value, commits fraud by check, which is unlawful.

- (c) Any person, having acquired rights with respect to a check which is not paid because the drawer has insufficient funds, shall have standing to file a complaint under this section, whether or not he is the payee, holder or bearer of the check.
- (d) Any person who opens a checking account, negotiable order of withdrawal account or share draft account using false identification or an assumed name for the purpose of issuing fraudulent checks commits fraud by check.
- (e) If deferred sentencing is ordered, the court, as a condition of supervision, may require the defendant to make restitution on all checks issued by the defendant which are unpaid as of the date of commencement of the supervision, in addition to other terms and conditions appropriate for the treatment or rehabilitation of the defendant.
- (f) A bank, savings and loan association, industrial bank or credit union shall not be civilly or criminally liable for releasing information relating to the drawer's account to a sheriff, deputy sheriff, undersheriff, police officer, district attorney, assistant district attorney, deputy district attorney or authorized investigator for a district attorney investigating or prosecuting a charge under this section.
- (g) This section does not relieve the prosecution from the necessity of establishing the required culpable mental state. However, for purposes of this section, the issuer's knowl-

edge of insufficient funds is presumed, except in the case of a postdated check or order, if:

- (1) He has no account upon which the check or order is drawn with the bank or other drawee at the time he issues the check or order; or
- (2) He has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within 30 days after issue.

Sec. 13-5-90. Public indecency.

(a) It is unlawful to commit public indecency. Any person who performs any of the following acts in a public place or where the conduct may reasonably be expected to be viewed by members of the public commits public indecency:

- (1) An act of sexual intercourse or deviate sexual intercourse;
- (2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person;
- (3) A lewd fondling or caress of the body of another person; or
- (4) An act of masturbation.

(b) For purposes of this section, the term "masturbation" means the real or simulated touching, rubbing or otherwise stimulating of a person's own genitals or pubic area for the purpose of sexual gratification or arousal of the person, regardless of whether the genitals or pubic area is exposed or covered.

(Ord. No. 2002-5, § 1-34, 8-20-2002)

Sec. 13-5-100. Menacing without deadly weapon.

It is unlawful for any person to intentionally place or attempt to place another person in fear of imminent serious bodily injury by any threat or physical action; provided, however, that, if such action is with the use of deadly weapon, this section shall not apply.

(Ord. No. 2002-5, § 1-31, 8-20-2002)

Sec. 13-5-110. Reckless endangerment.

It is unlawful for any person to recklessly engage in conduct which creates substantial risk of serious bodily injury to another person.

(Ord. No. 2002-5, § 1-32, 8-20-2002)

Sec. 13-5-120. Prostitution.

Any person, either male or female, who performs, offers or agrees to perform any act of sexual intercourse, or any act of deviate sexual intercourse, with any person not the spouse of such person, in exchange for money or other things of value, commits the offense of prostitution, which is declared to be unlawful.

Sec. 13-5-130. Interference with educational institutions.

(a) No person, on or near the premises or facilities of any educational institution, shall willfully deny to students, school officials, employees and invitees:

- (1) Lawful freedom of movement on the premises.
- (2) Lawful use of the property or facilities of the institution.
- (3) The right of lawful ingress and egress to the institution's physical facilities.

(b) No person, on the premises of any educational institution or at or in any building or

other facility being used by any educational institution, shall willfully impede the staff or faculty of the institution in the lawful performance of their duties, or impede a student of the institution in the lawful pursuit of his education activities, through the use of restraint, abduction, coercion or intimidation, or when force and violence are present or threatened.

- (c) No person shall willfully refuse or fail to leave the property of, or any building or other facility used by, any school or educational institution upon being requested to do so by the chief administrative officer or his designee charged with maintaining order on the school premises and in its facilities, if the person is committing, threatens to commit or incites others to commit any act which would disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions of the institution.
- (d) Nothing in this section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between an educational institution and its employees, any contractor or subcontractor or any employee thereof.

Sec. 13-5-140. Disobedience of public safety orders; exceptions.

- (a) A person commits an offense if, during a riot or when one is impending, he knowingly disobeys a reasonable public safety order to move, disperse or refrain from specified activities in the immediate vicinity of the riot. A public safety order is an order designed to prevent or control disorder, or promote the

safety of persons or property, issued by an authorized member of the police, fire, military or other forces concerned with the riot.

- (b) No order shall apply to a news reporter or other person observing or recording the events on behalf of the public press or other news media unless he is physically obstructing efforts by such forces to cope with the riot or impending riot.

Sec. 13-5-150. Obstructing highway or other passageway.

- (a) A person commits an offense if, without legal privilege, he intentionally, knowingly or recklessly:
 - (1) Obstructs a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway or hallway to which the public or a substantial group of the public has access, or any other place used for the passage of persons, vehicles or conveyances, whether the obstruction arises from his acts alone or from his acts and the acts of others.
 - (2) Disobeys a reasonable request or order to move issued by a person he knows to be a peace officer, a fireman or a person with authority to control the use of the premises, to prevent obstruction of a highway or passageway or to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot or other hazard.
- (b) For purposes of this section, the term "obstruct" means to render impassable or to render passage unreasonably inconvenient or hazardous.

(Ord. No. 2002-5, § 1-39, 8-20-2002)

Sec. 13-5-160. Devices such as rollerblades, skateboards and coasters prohibited.

No person upon roller skates, rollerblades, skateboards, roller skis, skis, coasters, sleds, toboggans, toy vehicles, tricycles, bicycles or any similar devices shall go upon any sidewalk, pedestrian path, park or other public thoroughfare set aside for pedestrian traffic within the town. This section shall not apply to any roadway or area which has been set aside by resolution of the board of trustees as an especially defined area to accommodate any of the above devices.

Sec. 13-5-170. Desecration of venerated objects.

- (a) For the purposes of this section, the term "desecrate" means to deface, damage, pollute or otherwise physically mistreat in a way that the person knows will outrage the sensibilities of persons likely to observe or discover his action or its result.
- (b) Except as otherwise provided in C.R.S. § 24-80-1305, with respect to the disturbance of an unmarked human burial, it is unlawful if a person knowingly desecrates any place of worship or burial of human remains.
- (c) A person commits desecration of venerated objects if he knowingly desecrates any public monument, structure or desecrates in a public place any other object of veneration by the public.

(Ord. No. 2002-5, § 1-36, 8-20-2002)

Sec. 13-5-180. Assaults.

- (a) It is unlawful for any person to knowingly or recklessly cause bodily injury to another person; provided, however, that this shall not

apply to injury caused by means of a deadly weapon, nor shall it apply in the event of serious bodily injury.

- (b) It is unlawful for anyone without legal authority to threaten to confine, restrain or cause bodily harm to the threatened person of another, or to damage the property or reputation of the threatened person of another with intent thereby to induce the threatened person or another, against his will, to do an act or refrain from doing a lawful act. (Ord. No. 2002-5, §§ 1-29, 1-33, 8-20-2002)

ARTICLE 6. OFFENSES BY OR AGAINST MINORS

Sec. 13-6-10. Curfew and loitering of minors.

- (a) It is unlawful for any parent, guardian or other person having legal care or custody of any minor who has not reached his 18th birthday to allow or permit such minor to loiter or wander upon any streets or alleys, highways, roads or other public grounds, public places, public buildings, vacant lots or other unsupervised places; to operate any motor vehicle in such a manner as to disturb the peace and quiet of any neighborhood within the town; or to loiter or wander in any establishment open to the public generally after the hour of 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, or after the hour of 11:00 p.m. on any Friday or Saturday, or before the hour of 5:00 a.m. on any day, except:

- (1) When accompanied by a parent, guardian or other person having legal care or custody of the minor.
- (2) For lawful employment.

- (3) When the minor is in the custody of and accompanied by a person who has reached his 18th birthday and who has in his possession the written consent of the parent, guardian or other person having legal care and custody of the minor.
- (b) It is unlawful for any minor who has not reached his 18th birthday to loiter or wander upon any street or alleys, highways, roads or other public grounds, public places, public buildings, vacant lots or other unsupervised places; to operate any motor vehicle in such a manner as to disturb the peace and quiet of any neighborhood within the town; or to loiter or wander in any establishment open to the public generally after the hour of 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, or after the hour of 11:00 p.m. on any Friday or Saturday, or before the hour of 5:00 a.m. on any day.
- (c) The exceptions under this section are an affirmative defense to any prosecution under this section. However, the exceptions shall not be an affirmative defense if the minor was operating a motor vehicle in such a manner as to disturb the peace and quiet of any neighborhood within the town.

Sec. 13-6-20. Parent or guardian aiding, abetting.

It is unlawful for any person to knowingly permit any minor child to violate, or to aid, abet, approve, encourage, allow, permit, tolerate or consent to the violation by any minor child of, any provision of this article or any ordinances of the town.

Sec. 13-6-30. Encouraging delinquency.

It is unlawful for any person, by any act or neglect, to encourage, aid or cause a child to come

within the purview of the juvenile authorities, and it shall likewise be unlawful for any person, after notice that a driver's license of any child has been suspended or revoked, to permit such child to operate a motor vehicle during the period that such driver's license is suspended.

Sec. 13-6-40. False statement; false credentials.

It is unlawful for any person under 21 years of age to make false statements, to furnish, present or exhibit any fictitious or false registration card, identification card, note or other document for any unlawful purpose, or to furnish, present or exhibit such document issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places for the purpose of procuring the sale, gift or delivery of prohibited articles, including beer, liquor, wine or fermented malt beverages as defined in this chapter.

Sec. 13-6-50. Services of others.

It is unlawful for any person under the age of 21 years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which any person under the age of 21 years is forbidden by law to purchase.

Sec. 13-6-60. Furnishing tobacco products to minors.

(a) *Intent.* It is the intent of this section to protect the public health, safety and welfare by prohibiting the dissemination and furnishing of tobacco products to minors.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have

the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Cigarettes means premanufactured cigarettes and/or hand-rolled cigarettes.

Minor means a person under the age of 21 years.

Smoking means the holding or carrying of a lighted pipe, lighted cigar or lighted cigarette of any kind, and includes the lighting of a pipe, cigar or cigarette of any kind.

Tobacco products means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine cut and other chewing tobaccos, shorts, refuse scraps, clippings, cutting and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking.

(c) *Unlawful furnishing of tobacco products to minors.* Any person who knowingly furnishes to a minor, by gift, sale or any other means, any cigarettes or tobacco products commits an offense. It shall be an affirmative defense to a prosecution under this subsection that the person furnishing the cigarettes or tobacco products was presented with and reasonably relied upon a valid state driver's license or other government-issued form of identification which identified the minor receiving the tobacco product as being 21 years of age or older.

(d) *Purchase by minor.* Any minor who purchases or attempts to purchase any cigarettes or tobacco products, and/or is found to be in

possession of any cigarettes or tobacco products commits an offense and, upon conviction thereof, shall be punished by a fine of \$100.00; except that, following a conviction or adjudication for a first offense under this subsection, the court in lieu of the fine may sentence the person to participate in a tobacco education program. The court may allow such person to perform community service and be granted credit against the fine and court costs at the rate of \$5.00 for each hour of work performed, for up to 50 percent of the fine and court costs.

(e) *Retail sale of tobacco products.* It is unlawful for any business proprietor, manager, or other person in charge or control of a retail business of any kind of stock or displays tobacco product in any way which allows a customer to access such tobacco product without first securing the physical assistance of a business employee for each transaction. The provisions of this subsection shall not apply to stores possessing a valid retail liquor store license, as defined by the state liquor code, issued by the town and to vending machines meeting the requirements of subsection (f) of this section.

(f) *Vending machines.* No retailer shall sell or permit the sale of cigarettes or tobacco product by use of a vending machine or other coin operated machine, except that tobacco products may be sold at retail through vending machines only in:

(1) Factories, businesses, offices or other places not open to the general public;

(2) Places to which minors are not permitted access at any time during the day or night; or

- (3) Places where the vending machine is under the direct supervision of the owner of the establishment or an adult employee of the owner, including, but not limited to, establishments holding a valid liquor license issued pursuant to C.R.S. § 44-3-101 et seq.
- (4) As used in this section, the term "under direct supervision" means the vending machine shall be in plain vision of the employee or owner during regular business hours.
- (g) *Warning sign.* Any person who sells or offers to sell any cigarettes or tobacco products shall display a warning sign as specified in this subsection. Said warning sign shall be displayed in a prominent place in the building and on such machine at all times, shall have a minimum height of three inches and a width of six inches, and shall read as follows: **WARNING IT IS ILLEGAL FOR ANY PERSON UNDER 21 YEARS OF AGE TO PURCHASE CIGARETTES AND TOBACCO PRODUCTS AND, UPON CONVICTION, A \$100.00 FINE MAY BE IMPOSED.**
- (h) *Exception.* Any violation of subsection (g) of this section shall not constitute a violation of any other provision of this section.
- permits to be sold or served to any person under 21 years of age in any such place to drink any intoxicating liquor, or to engage or participate in any game of billiards or any game, bet or wager with any cards or any other gambling device, or any other game whatever, shall be guilty of an offense. A private dinner party which is not open to any other members of the public and which is by advanced invitation only is exempt from this section, so long as a person under the age of 21 is accompanied by an adult.
- (b) The term "bar, tavern, saloon or lounge," for purposes of this section, means any area where intoxicating drink is sold for consumption on the premises, and where the primary use of the premises or area within the premises is not for the consumption of food.
- (c) Any bar, saloon or lounge shall post a notice on such premises or such designated area of said premises stating:
- (1) Minors under 21 years of age are not allowed in this area.
 - (2) The letters on said notice shall be at least one inch high.

Sec. 13-6-70. Minors prohibited in taverns.

- (a) Any keeper, proprietor, employee, agent or person in charge of any bar, tavern, saloon or lounge where intoxicating drink of any kind is sold to be consumed on the premises, who suffers or permits any person under 21 years of age to be, remain or frequent, any such place so kept, controlled or directed by him; or who in any such place sells or serves, or

Sec. 13-6-80. Obtaining alcoholic beverage by misrepresentation of age.

It is unlawful to obtain or to attempt to obtain any alcoholic beverage by misrepresentation of age or by any other method in any place where alcoholic beverages are sold when such person is under 21 years of age.

ARTICLE 7. ALCOHOLIC BEVERAGES AND DRUGS

DIVISION 1. ALCOHOLIC BEVERAGES

Sec. 13-7-10. 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:

Establishment means a business, firm, enterprise, service or fraternal organization, club, institution, entity, group or residence, and any real property, including buildings and improvements connected therewith, and shall also include any members, employees and occupants associated therewith.

Fermented malt beverage means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any similar product or any combination thereof in water containing not less than one-half of one percent and not more than 3.2 percent alcohol by weight.

Malt liquor includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination thereof, in water containing more than 3.2 percent of alcohol by weight.

Private property means any dwelling and its curtilage which is being used by a natural person for habitation and which is not open to the public, and privately-owned real property which is not open to the public. The term "private property" shall not include:

- (1) Any establishment which has or is required to have a license pursuant to C.R.S. Title 44, Article 3 (C.R.S. § 44-3-101 et seq.);

- (2) Any establishment which sells alcoholic beverages or upon which alcoholic beverages are sold; or
- (3) Any establishment which leases, rents or provides accommodations to members of the public generally.

Spirituos liquor means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes among other things brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing at least one-half of one percent alcohol and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except malt liquors and vinous liquors shall be construed to be spirituous liquor.

Vinous liquor means wine and fortified wines which contain not less than one-half of one percent and not more than 21 percent of alcohol by volume and shall be construed to mean an alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar.

Sec. 13-7-20. Alcohol-related violations.

- (a) It is unlawful for any person under the age of 21 years to represent himself to be over the age of 21 years for the purpose of purchasing within the town any fermented malt beverage or malt, vinous or spirituous liquors.
- (b) It is unlawful for any person under the age of 21 years to attempt to purchase, purchase or obtain, either directly, or through an intermediary, any fermented malt beverage or malt, vinous or spirituous liquors by misrepresentation or any other means.

- (c) It is unlawful for any person under the age of 21 years to possess or consume, whether actual or constructive, fermented malt beverage or malt, vinous or spirituous liquors.
- (d) It is unlawful to sell fermented malt beverage or malt, vinous or spirituous liquors to any person under the age of 21 years; to permit any fermented malt beverage, malt or vinous liquors to be sold or dispensed by a person under 18 years of age; to permit spirituous liquors to be sold or dispensed by a person under 21 years of age; or to permit any such person to participate in the sale or dispensing thereof.
- (e) It is unlawful for any person, whether for remuneration or not, to procure for any person under 21 years of age any fermented malt beverage or malt, vinous or spirituous liquors.
- (f) It is unlawful in any place of business where alcoholic beverages are sold and consumed upon the premises, for any person to beg or to solicit any patron or customer of or visitor in such premises to purchase any alcoholic beverage for the one begging or soliciting.

Sec. 13-7-30. Illegal possession or consumption of alcoholic beverages by underage person.

- (a) Any person under 21 years of age who possesses or consumes alcoholic beverages anywhere in the town commits illegal possession or consumption of alcoholic beverages by an underage person. Illegal possession or consumption of alcoholic beverages by an underage person is a strict liability offense.
- (b) It is an affirmative defense to the offense described in subsection (a) of this section

that the alcoholic beverages were possessed or consumed by a person under 21 years of age under the following circumstances:

- (1) While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property and the alcoholic beverages were possessed or consumed with the consent of his parent or legal guardian who was present during such possession or consumption; or
- (2) When the existence of alcoholic beverages in a person's body was due solely to the ingestion of a confectionery which contained alcoholic beverages within the limits prescribed by C.R.S. § 25-5-410(1)(i)(II), or the ingestion of any substance which was manufactured, designed or intended primarily for a purpose other than oral human ingestion, or the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes or solely from the ingestion of a beverage which contained less than one-half of one percent of alcoholic beverages by weight.

- (c) The possession or consumption of alcoholic beverages shall not constitute a violation of this section if such possession or consumption takes place for religious purposes protected by the First Amendment to the United States Constitution.
- (d) Prima facie evidence of a violation of subsection (a) of this section shall consist of:
 - (1) Evidence that the defendant was under the age of 21 years and possessed or consumed alcoholic beverages anywhere in this state; or

- (2) Evidence that the defendant was under the age of 21 years and manifested any of the characteristics commonly associated with alcoholic beverage intoxication or impairment while present anywhere in this state.
- (e) During any trial for a violation of subsection (a) of this section, any bottle, can or other container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label on such bottle, can or other container shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages. A label which identifies the contents of any bottle, can or other container as beer, ale, malt beverage, fermented malt beverage, malt liquor, wine, champagne, whiskey or whisky, gin, vodka, tequila, schnapps, brandy, cognac, liqueur, cordial, alcohol or liquor shall constitute prima facie evidence that the contents of the bottle, can or other container were composed in whole or in part of alcoholic beverages.
- (f) A parent or legal guardian of a person under 21 years of age, or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of, alcoholic beverages to or by a person under the age of 21 years under the conditions described in subsection (b)(1) of this section. This subsection shall not be construed to permit any establishment which is, or is required to be, licensed pursuant to C.R.S. Title 44, Article 3 (C.R.S.

§ 44-3-101 set seq.), or any members, employees or occupants of any such establishment to give, provide, make available or sell alcoholic beverages to a person under 21 years of age.

Sec. 13-7-40. Sales near schools.

It is unlawful for any person to sell, offer or expose for sale or gift any fermented malt beverage or any vinous, spirituous or malt liquors within a distance of 500 feet from any public or parochial school or the principal campus of any college, university or seminary, said distance to be computed by direct measurement from the nearest property lines. However, this prohibition shall not affect the rights of any person holding a lawful permit or license to conduct such business within the restricted area hereby established; nor shall this prohibition prevent the renewal or reissuance, upon the expiration thereof, of any license in effect, or affect any such business as set forth in C.R.S. § 44-3-302.

Sec. 13-7-50. Open container.

- (a) It is unlawful for any person to possess or consume by open container any alcoholic beverage, whether such possession is actual or constructive, in or on any of the following:
 - (1) In any public place as defined in section 13-1-10;
 - (2) In any automobile, upon public property or in a public place;
 - (3) On the grounds or in the facilities of any public or private school, college or university except where authorized by the governing authority of such institution;

- (4) Upon property owned, operated, leased or maintained by the state or any political subdivision or agency thereof; or
 - (5) Upon property owned, operated, leased or maintained by the town.
- (b) The foregoing prohibitions shall not apply to any place duly licensed by the town for the sale of alcoholic beverages, or to an event for which a special events permit has been previously obtained from the town.
- (c) Any person violating the provisions of this section shall be subject to a fine not exceeding \$1,000.00 or by incarceration for a period not exceeding one year or by both such fine and incarceration.
- (Ord. No. 2009-007, 10-12-2009)

Sec. 13-7-60. Sale or delivery of alcoholic beverage to minor or intoxicated person.

It is unlawful for any person to sell, serve, give away, dispose of, exchange, deliver or permit the sale, serving, giving or procuring of any alcoholic beverage to, or for, any person under the age of 21 years, to a visibly intoxicated person or to a known habitual drunkard.

Sec. 13-7-70. Retail sales to minors or intoxicated persons.

It is unlawful for any person licensed to sell at retail, pursuant to C.R.S. § 44-3-901, to sell any alcoholic beverage to any person under the age of 21 years, to an habitual drunkard or to a visibly intoxicated person, or to permit any alcoholic beverage to be sold or dispensed by a person under 18 years of age, to permit any such person to participate in the sale or dispensing thereof, or to employ any person under 21 years of age to sell or dispense malt, vinous or spirituous liquor un-

less he is supervised by another person who is on premises and has attained 21 years of age, or for any employee of a tavern or a retail liquor store to sell malt, vinous or spirituous liquors unless such person is at least 21 years of age.

DIVISION 2. DRUGS

Sec. 13-7-110. Definitions.

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

Controlled substance means a drug or other substance or an immediate precursor which is declared to be a controlled substance under this article, and also includes marijuana, marijuana concentrate and cocaine.

Drug paraphernalia means any machine, instrument, tool, equipment or device which is primarily designed and intended for one or more of the following:

- (1) To introduce into the human body any controlled substance under circumstances in violation of state law;
- (2) To enhance the effect on the human body of any controlled substance under circumstances in violation of state law;
- (3) To conceal any quantity of any controlled substance under circumstances in violation of state law; or
- (4) To test the strength, effectiveness or purity of any controlled substance under circumstances in violation of state law.

Marihuana or *marijuana* means all parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, the resin extracted from any

part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including marijuana concentrate. The term "marijuana" or "marihuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

Marijuana accessories mean any equipment, products or materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing or containing marijuana, or for ingesting, inhaling or otherwise introducing marijuana into the human body.

Marijuana concentrate means hashish, tetrahydrocannabinols or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized, of tetrahydrocannabinols.

Marijuana cultivation facility means an entity licensed to cultivate, prepare and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities and to other marijuana cultivation facilities, but not to consumers.

Marijuana establishment means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility or a retail marijuana store and includes a private membership marijuana club or hash bar.

Marijuana product manufacturing facility means an entity licensed to purchase marijuana; manufacture, prepare and package marijuana prod-

ucts; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers.

Marijuana products mean concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use and consumption, such as, but not limited to, edible products, ointments and tinctures.

Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.

Medical marijuana means marijuana that is grown and sold for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution.

Medical marijuana center means an entity licensed by a state agency to sell marijuana and marijuana products pursuant to Section 14 of Article XVIII of the Colorado Constitution and the Colorado Medical Marijuana Code.

Medical marijuana-infused products manufacturer means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business known as a medical marijuana infused products manufacturing license, and which the town is authorized to prohibit as a matter of law.

Optional premises cultivation operation means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business known as an optional premises grow facility in order to grow and cultivate marijuana for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution, and which the town is authorized to prohibit as a matter of law.

Patient has the meaning provided in Section 14(l)(c) of Article XVIII of the Colorado Constitution.

Person means a natural person, partnership, association, company, corporation, limited liability company or organization, or a manager, agent, owner, director, servant, officer or employee thereof.

Primary caregiver has the meaning provided in Section 14(l)(f) of Article XVIII of the Colorado Constitution.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

(Ord. No. 2013-001, 2-11-2013; Ord. No. 2014-002, 2-10-2014; Ord. No. 2015-002, 2-9-2015)

Sec. 13-7-120. Possession of marijuana.

- (a) Any unauthorized person who knowingly possesses less than one ounce or any other person who knowingly possesses more than one ounce but less than 12 ounces of marijuana commits an offense and, upon conviction thereof, shall be punished by a fine of not more than \$100.00. The term "unauthorized person" means any person not included as persons allowed to possess and use marijuana by Section 16 of Article XVIII of the Colorado Constitution.
- (b) Whenever a person is arrested or detained for a violation of subsection (a) of this section, the arresting or detaining officer shall prepare a written notice or summons for such person to appear in court. The written notice or summons shall contain the name and address of such arrested or detained

person, the date, time and place where such person shall appear and a place for the signature of such person indicating the person's written promise to appear on the date and at the time and place indicated on the notice or summons. One copy of said notice or summons shall be given to the person arrested or detained, one copy shall be sent to the municipal court and such other copies as may be required by the law enforcement officer shall be sent to the places designated by the law enforcement officer. The date specified in the notice or summons to appear shall be at least five days after such arrest or detention unless the person arrested or detained demands an earlier hearing. The arrested or detained person, in order to secure release from arrest or detention, shall promise in writing to appear in court by signing the notice or summons prepared by the arresting or detaining officer.

- (c) Any person who openly and publicly displays, consumes or uses marijuana commits an offense and, upon conviction thereof, shall be punished by a fine of not more than \$100.00.
- (d) Public smoking of marijuana and marijuana products is prohibited in any public park so owned and/or operated by the town and no person shall burn, ignite or smoke any such marijuana substance or transport any such ignited or smoking substance into the confines of or adjacent to such park area in any manner which allows the smoke of such to be present in such public park.

(Ord. No. 2014-003, 5-12-2014; Ord. No. 2014-004, 6-9-2014)

Sec. 13-7-130. Possession or use of medical marijuana.

- (a) *Medical marijuana center, optional premises cultivation operations and medical marijuana infused products manufacturers' licenses prohibited.* It is unlawful for any person to operate, cause to be operated or permit to be operated a medical marijuana center, optional premises cultivation operation or facility for which a medical marijuana-infused products manufacturers' license could otherwise be obtained within the town, and all such uses are hereby prohibited in any location within the town or within any area hereinafter annexed to the town.
- (b) *Patients and primary caregivers.* Nothing in this section shall be construed to prohibit, regulate or otherwise impair the use of medical marijuana by patients as defined by the Colorado Constitution, or the provision of medical marijuana by a primary caregiver to a patient in accordance with the Colorado Constitution, and consistent with C.R.S. § 25-1.5-106, and rules promulgated thereunder, as the same statute and rules may be amended from time to time.

Sec. 13-7-140. Marijuana facilities prohibited.

- (a) *Purpose.* The purpose of this section is to promote the general public welfare and safety throughout the town by prohibiting the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores.
- (b) *Violation.* The operation, ownership, establishment or conduct of marijuana cultivation facilities, marijuana product manufac-

turing facilities, and marijuana testing facilities is unlawful and prohibited within the town.

- (c) *Penalty.* Any person, corporation, company, partnership, business association or organization violating the provisions of this section shall, upon conviction, be subject to the penalties set out in section 1-4-10.

(Ord. No. 2014-002, 2-10-2014; Ord. No. 2015-002, 2-9-2015)

Sec. 13-7-150. Possession of drug paraphernalia.

- (a) A person commits possession of drug paraphernalia if he possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of state law.
- (b) Any person who commits possession of drug paraphernalia commits an offense and, upon conviction thereof, shall be punished by a fine of not more than \$100.00.

Sec. 13-7-160. Drug paraphernalia; determination, consideration.

In determining whether an object is drug paraphernalia, a court, in its discretion, may consider, in addition to all other relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) The proximity of the object to controlled substances;
- (3) The existence of any residue of controlled substances on the object;
- (4) Direct or circumstantial evidence of the knowledge of any owner, or of anyone in control of the object, or evidence

that such person reasonably should know, that it will be delivered to persons who he knows or reasonably should know could use the object to facilitate a violation of C.R.S. §§ 18-18-425 through 18-18-430;

- (5) Instructions, oral or written, provided with the object concerning its use;
- (6) Descriptive materials accompanying the object which explain or depict its use;
- (7) National or local advertising concerning its use;
- (8) The manner in which the object is displayed.

Sec. 13-7-170. Abusing toxic vapors.

- (a) As used in this section, the term "toxic vapors" means the following substances or products containing such substances: alcohols, including methyl, isopropyl, propyl or butyl; aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate; acetone; benzene; carbon tetrachloride; cyclohexane; Freons, including Freon 11 and Freon 12; hexane; methyl ethyl ketone; methyl isobutyl ketone; naphtha; perchlorethylene; toluene; trichloroethane or xylene.
- (b) No person shall knowingly smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system. No person shall knowingly possess, buy or use any such substance for the purposes described in this subsection. This subsection shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.

- (c) It is unlawful for any person knowingly to sell, offer for sale, deliver or give away to any other person any substance or product releasing toxic vapors, where the seller, offeror or deliverer knows or has reason to believe that such substance will be used for the purpose of inducing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system.
- (d) Any person who knowingly violates the provisions of subsection (b) or (c) of this section commits the offense of abusing toxic vapors. Upon conviction thereof, he shall be punished by a fine of not more than \$500.00 for a first offense; and upon conviction of a second or third offense, by a fine of not more than \$500.00 and by not more than six months in jail.
- (e) In a prosecution for a violation of this section, evidence that a container lists one or more of the substances described in subsection (a) of this section as one of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof.

ARTICLE 8. WEAPONS

Sec. 13-8-10. 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:

Ballistic knife means any knife that has a blade, which is forcefully projected from the handle by means of a spring-loaded device or explosive charge.

Blackjack means and includes any billy, sand club, sandbag, sap or other hand-operated, striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, of a strap or springy shaft which increases the force of impact, or any device or article consisting of two or more separate portions, linked together by a chain, strap or other fastener, which configuration is designed to increase the striking force or impact of the device or article.

Conceal means the deliberate hiding of a weapon upon or near the person with the intent to avoid the lawful detection thereof. It shall be evidence of concealment that the weapon is hidden in such manner as to make it immediately available for use in the fashion in which the weapon is designed to be used.

Crossbow means and includes any device resembling a rifle or handgun in configuration, having a bow or similar device mounted perpendicularly to a stock, grip or frame and usually equipped with a winch or similar device which draws back the bowstring and cocks the weapon, and which fires an arrow, bolt, quarrel, stone or similar shaft from a groove or depression in the stock, grip or frame by the manipulation of a trigger or similar mechanism.

Firearm means and includes any pistol, revolver, self-loading pistol, rifle, shotgun or any other device designed to shoot, project, throw or hurl projectile or projectiles by means of the explosion of gunpowder or other explosive substance.

Gas gun means a device designed for projecting gas-filled projectiles which release their contents after having been projected from the device, and includes projectiles designed for use in such device.

Gravity knife means and includes any knife that has a blade released from the handle or sheath thereof by the force of gravity or the application of centrifugal force that, when released, such blade is locked in place by means of a button, spring, plate, lever or other device.

Handgun means a pistol, revolver or other firearm of any description, loaded or unloaded, from which any shot, bullet or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable or magazine breech, does not exceed 12 inches.

Knife means, and includes, any dagger, dirk, knife, bayonet, straight razor, machete, stiletto, sword or sword cane with a blade over 3½ inches in length, or any other dangerous instrument capable of inflicting cutting, stabbing or tearing wounds; but as used in this section, does not include a hunting or fishing knife, or hatchet carried for sporting use; and does not include any instrument being used in pursuance of a lawful trade, occupation or profession or otherwise lawful use under federal or state statutes, used as an item of display or a collector's item in any home or place of business. The issue that a knife is a hunting or fishing knife must be raised as an affirmative defense.

Nunchaku means an instrument consisting of two sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, which is in the design of a weapon used in connection with the practice of a system of self-defense.

Stun gun means a device capable of temporarily immobilizing a person by the infliction of an electrical charge.

Switchblade knife means and includes any knife the blade of which opens automatically by hand pressure applied to a button, spring or other device in its handle.

Throwing star means a disk having sharp radiating points or any disk-shaped bladed object which is hand-held and thrown, and which is in the design of a weapon used in connection with the practice of a system of self-defense.

(Ord. No. 2002-5, § 1-42, 8-20-2002)

Sec. 13-8-20. Carrying concealed weapon.

- (a) It is unlawful for any person to knowingly carry a knife or firearm or other dangerous weapon, otherwise legal under federal and state statutes, concealed on or about his person.
- (b) It shall not be an offense if the defendant was:
 - (1) A person in his own dwelling or place of business or on property owned by him or under his control at the time of the act of carrying;
 - (2) A person in a private automobile or other private means of conveyance who carries a weapon for lawful protection of such person's or another's person or property while traveling;
 - (3) If the weapon involved was a handgun, a person who, at the time of carrying a concealed weapon, held a valid permit to carry a concealed handgun or a temporary emergency permit issued pursuant to C.R.S. Title 18, Article 12, Part 2 (C.R.S. § 18-12-201 et seq.); except that it shall be an offense under this section if the person was carrying a concealed handgun in violation of the provisions of C.R.S. § 18-12-214;
 - (4) A peace officer, member of the Armed Forces of the United States or Colorado National Guard in the lawful discharge of his duties; or

- (5) A United States marshal, United States probation officer or United States pre-trial services officer while on duty and serving in the state under the authority of rules and regulations promulgated by the judicial conference of the United States.

(Ord. No. 2002-5, § 1-45, 8-20-2002)

Sec. 13-8-30. Confiscation and disposition of deadly or illegal weapons.

It is the duty of every police officer, marshal or agent, upon making any arrest and seizing a weapon carried or used in violation of any provisions of this article, or the Colorado Revised Statutes, to keep and place the same in such place of safekeeping, as may be directed by the town law enforcement officer, until the final determination of the prosecution for the offense or any offense in the prosecution of which the weapon may be evidence. Upon entry of final judgment of guilt, the town law enforcement officer shall make such disposition of the weapon as may be ordered by the municipal court or other court having jurisdiction, and, in the absence of an order, weapons shall be sold at auction for the benefit of the town fund, or, in the case of illegal weapons, shall be destroyed.

(Ord. No. 2002-5, § 1-48, 8-20-2002)

Sec. 13-8-40. Prohibited use of weapons.

- (a) A person commits an offense if he:
 - (1) Knowingly and unlawfully aims a firearm at another person.
 - (2) Recklessly or with criminal negligence discharges a firearm or shoots a bow and arrow.
 - (3) Knowingly sets a loaded gun, trap or device designed to cause an explosion

upon being tripped or approached and leaves it unattended by a competent person immediately present.

- (4) Has in his possession a firearm while he is under the influence of intoxicating liquor or of a controlled substance.
- (5) Knowingly aims, swings or throws a throwing star or nunchaku at another person, or knowingly possesses a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When throwing stars or nunchakus are being transported for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, non-accessible container.
- (6) Discharges or causes to be discharged any firearm within or into the limits of the town; provided, however, that this section shall not apply to the discharge of a firearm in lawful defense of person or property.
- (b) Nothing contained in this section shall prevent the use of any such instruments in shooting galleries or in any private grounds or residences under circumstances when such instrument can be fired, discharged or operated in such a manner as not to endanger persons or property and also in such manner as to prevent the projectile from traversing any grounds or space outside the limits of such gallery, grounds or residence. In addition, nothing contained herein shall be con-

strued to prevent the carrying of any type of gun whatsoever, when unloaded and properly cased, to or from any range or gallery.

- (c) Nothing contained in this section shall prevent the use of any such instruments by any peace officer or animal control officer as shall be necessary in the proper discharge of his duties.
- (d) It is an affirmative defense to any provision of this article that the act was committed by a peace officer in the lawful discharge of his duties.

Sec. 13-8-50. Deadly weapons; unlawful to display, brandish or flourish.

- (a) It is unlawful for any person to display, brandish or flourish a deadly weapon in a public place in a manner calculated to alarm, or for any person to intentionally and unlawfully aim or point a firearm at another person; provided, however, that the provisions of this section shall not apply to any situation that constitutes a felony under state law.
- (b) As used in this article, the term "deadly weapon" includes, but is not necessarily limited to, firearms, knives, hatchets, dangerous clubs, bludgeons and any other weapons, devices, instruments, materials or substances, whether animate or inanimate.
- (c) Nothing contained in this section shall apply to peace officers or members of the Colorado National Guard or Armed Forces of the United States acting in lawful discharge of their duties.

(Ord. No. 2002-5, § 1-46, 8-20-2002)

Sec. 13-8-60. Deadly weapons; unlawful to carry where alcoholic beverages sold.

- (a) It is unlawful for any person to carry, conceal or display any dangerous or deadly weapon

while the person is on the premises of any establishment where alcoholic beverages are sold for consumption on the premises

- (b) The provisions of this section shall not apply to peace officers or any other person duly licensed or authorized under applicable state or federal law to carry the weapon concealed, or to persons carrying such weapons in their place of business or having control of the premises at the time of the act of carrying.

(Ord. No. 2002-5, § 1-47, 8-20-2002)

Sec. 13-8-70. Selling weapons to intoxicated person or minor.

- (a) It is unlawful for any person to purchase, sell, loan or furnish any gun, pistol or other firearm in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant or depressant, to any person in a condition of agitation and excitability, or to any minor under the age of 18 years.
- (b) Such unlawful purchase, sale, loan or furnishing shall be grounds for revocation of any license issued by the town to such person.

Sec. 13-8-80. Illegal weapons.

- (a) It is unlawful for any person to knowingly carry in his possession, conceal or cause to be concealed in any vehicle or to use any blackjack, gravity knife, multi-fixed bladed stellate throwing knife, switchblade knife or brass or metallic knuckles.
- (b) Nothing in this section shall apply to peace officers or to members of the Armed Forces

of the United States or the Colorado National Guard acting in the lawful discharge of their duties.

(Ord. No. 2002-5, § 1-44, 8-20-2002)

ARTICLE 9. EXPLOSIVES AND INFLAMMABLE AGENTS

Sec. 13-9-10. Storage limits.

It is unlawful for any person, either as principal or agent, to keep or permit to be kept, within the corporate limits of the town, any dynamite, gunpowder, nitroglycerine or other inflammables or explosives by whatsoever name known; except that fixed ammunition in quantities not to exceed 200 pounds, may be kept only upon the ground floors.

Sec. 13-9-20. Storage of flammable liquids.

It is unlawful to store or cause to be stored or parked, except for delivery, any tank vehicle carrying flammable liquids or gases upon any streets, ways or avenues of the town, or in any other part of the town, except those areas zoned for such uses.

Sec. 13-9-30. Gasoline storage tank requirements.

All gasoline storage tanks within the town shall be installed in accordance with the following requirements:

- (1) They must be located at least three feet underground and also three feet below the level of the lowest pipe used for filling the tank or in delivering gasoline or in fireproof rooms.
- (2) If gasoline storage tanks are located within five feet of any building, such tanks must be below the level of the

cellar or basement unless a brick, stone or concrete wall is built running at least one foot below the cellar, basement bottom and two feet beyond each end of the tank between the tank and the building.

- (3) If gasoline storage tanks are located in any building, they shall be enclosed in fireproof rooms, having at least eight-inch brick, stone or reinforced concrete floor, walls and ceiling and having only exterior openings. All gasoline tanks must be constructed of iron or steel plate securely riveted or pressed into form; shall be galvanized or painted with rustproof paint; and shall be provided with a fill pipe and a vent pipe. If located in a fireproof room, such room shall have an independent vent flue extending above the openings of all adjacent buildings. When a tank is within five feet of any building, the vent pipe must rise above the highest openings of adjacent buildings and shall have a disc of 60-mesh wire gauze inserted and a return bend or gooseneck top. When such tanks are located in fireproof rooms, the above-described vent pipes shall be connected with the vent flue. The vent pipes must be so arranged that the fill pipe cannot be opened without also opening the vent, and must terminate in an iron box, the cover of which shall be flush with the ground and locked.
- (4) No gasoline shall be kept in any garage except in reservoirs of automobiles and the measuring pumps used for filling; provided, however, that there may be

kept not to exceed two quarts for cleaning purposes in and used from a metal safety can. No filling, emptying or opening of any gasoline reservoir of any automobile shall be done when the same is within the garage, except by daylight or incandescent electric light; and no artificial light, blaze or fire shall be allowed in the room where and when such reservoir is open.

Sec. 13-9-40. Gasoline engine installation; permit required.

It is unlawful for any person to install any gasoline engine in any building or buildings within the town, except by securing a permit to do so from the building inspector, upon written application therefor, which said application shall be in writing and shall show the dimensions and locations of all accompanying gasoline tanks and the distance of such engines and tanks from all adjoining buildings and lot lines, and the position and location of the cutoff valve and all other important parts.

ARTICLE 10. NOISE

Sec. 13-10-10. Unreasonable noise.

No person shall make, continue or cause to be made or continued any unreasonable noise; and no person shall knowingly permit such noise upon any premises owned or possessed by such person or under such person's control. For purposes of this section, the town law enforcement officer is empowered to make a prima facie determination as to whether a noise is unreasonable.

Sec. 13-10-20. Animals.

It is unlawful for any person to use, keep, have in his possession or harbor any domesticated

animals which, by frequent or habitual howling, barking, meowing, squawking or otherwise, shall cause annoyance or disturbance to persons in the neighborhood; provided, however, that the provisions of this section shall not apply to facilities licensed for the treatment of small animals or to premises occupied or used by the town animal shelter.

Sec. 13-10-30. Sirens, whistles, gongs and red lights.

It is unlawful for any person to carry or use upon a vehicle, other than law enforcement officer or fire department vehicles or emergency vehicles for public use, any gong, siren, whistle or red light similar to that used on ambulances or vehicles of the law enforcement and fire departments.

Sec. 13-10-40. Vehicle audio systems.

No person shall, without prior authorization of the chief of police or mayor, operate a speaker device or vehicle audio system in, upon or from any vehicle, upon any street, alley or sidewalk of the town, which has the effect of an unreasonable and offensive annoyance to another person.
(Ord. No. 2002-5, § 1-41, 8-20-2002)

Sec. 13-10-50. Excessive noise.

- (a) Every motor vehicle driven upon a street and propelled by a combustion engine shall be equipped with a muffler and exhaust system in constant operation and properly maintained to prevent noise:
- (1) In excess of that emitted by the exhaust system of such a vehicle as originally installed by the manufacturer of such vehicle; or
 - (2) That is excessive or unusual.
- (b) No motor vehicle driven on any street or highway or within the town limits shall be equipped with any muffler cut-off or bypass. All classes of vehicles are limited to 80 dB(A) on any street, road or highway within the town limits.
- (c) The use of engine brakes or any other similar designated auxiliary braking system upon trucks and other motor vehicles without mufflers as required by state law is hereby prohibited, except under emergency conditions, within the confines of the town limits.
- (d) Any person who utilizes such braking system and thereby creates an annoying and disturbing noise within the town shall be guilty of a violation of this section and shall be subject to a fine of not more than \$100.00 upon the first offense and a fine of not more than \$300.00 for each subsequent offense.
- (e) No person shall operate any motor vehicle, including any industrial equipment, that is in violation of any of the provisions of this section.
- (f) No person shall allow any engine to operate under circumstances which cause a disturbance to others.
- (g) Every activity which is conducted within the town shall be conducted in a manner so that any noise produced is not objectionable due to intermittence, beat frequency or shrillness. Periodic impulsive or shrill noises shall be considered a public nuisance when such noises are at a sound level of five dB(A) less than those listed below. Sound level limits shall be determined by the zone into which the sound is transmitted. Sound levels of noise radiating from a property line at a distance of 25 feet or more therefrom in

excess of the dB(A) established for the following time periods and zones, as set out in chapter 12, shall constitute prima facie evidence that such noise is a public nuisance.

SOUND LEVEL LIMITS

Zone	7:00 a.m. to 7:00 p.m.	7:00 p.m. to 7:00 a.m.
Residential ¹	55 d B(A)	50 dB(A)
Commercial ²	60 d B(A)	55 dB(A)

¹Residential includes: Rural residential, residential low density, residential medium-density, residential high-density, mobile home district zones.

²Commercial includes: Commercial district, community services and recreation district.

- (h) Construction projects shall be subject to the maximum permissible noise levels specified for commercial zone for the period within which the construction is to be completed pursuant to any applicable construction permit.
- (i) For the purposes of this article, measurements with sound level meters shall be made when the wind velocity at the time and place of such measurement is not more than five miles per hour.
- (j) In all sound level measurements, consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of such sound level measurement.

(Ord. No. 2022-003, 3-14-2022)

ARTICLE 11. FIREWORKS

Sec. 13-11-10. 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:

Fireworks means any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration or detonation, including, without limitation, the following articles and devices commonly known and used as fireworks: toy cannons or toy canes in which explosives are used, blank cartridges (unless used for athletic events), firecrackers, torpedoes, skyrockets, rockets, Roman candles, Day-Glo bombs and torches, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance. The term "fireworks" does not include:

- (1) Toy caps which do not contain more than 0.025 of a grain of explosive compound, per cap.
- (2) Sparklers, trick matches, cigarette loads, trick noisemakers, toy smoke devices and novelty auto alarms.
- (3) Highway flares, railway fuses, ship distress signals, smoke candles and other emergency signal devices.

Sec. 13-11-20. Unlawful to sell or use certain types.

Except as provided in sections 13-10-30 and 13-10-40, it shall be unlawful in the town for any person to offer for sale, expose for sale, sell or have in his possession with the intent to offer for sale, sell, use or explode any fireworks. Such definition

of fireworks shall not include those Class C devices properly excludable under section 13-10-10; however, it shall include such Class C devices as properly fall under section 13-10-10.

Sec. 13-11-30. Permits for display.

The board of trustees has the power to grant permits within the town for supervised public displays of Class B and Class C (AT&F Federal Agency Classification) fireworks by the town, fair associations, amusement parks and other organizations and groups, and to adopt reasonable rules and regulations for the granting of such permits. Application for a permit shall be made in writing to the town clerk/administrator at least 15 days in advance of the date of display. Every display shall be handled by a competent operator and shall be of such character and so located, discharged and fired as not to be hazardous to property or endanger any person. Before a permit is granted, the operator and the location and handling of the display shall be approved, after investigation, by the fire chief. No such permit shall be transferable or assignable.

Sec. 13-11-40. Bond.

The town clerk/administrator shall require a performance bond from the permittee in a sum not less than \$1,000.00, conditioned on compliance with the provisions of this article, and adequate liability insurance as determined by the board of trustees, unless the permittee is the town, in which case no bond is required.

Sec. 13-11-50. Sale for display.

No person shall sell or offer to sell at retail any fireworks which are to be used for display purposes within the town until he first obtains a license to do so from the secretary of state and

from the town at which sales are to be made. Any such license shall be valid for a period of 12 months from the date of issuance, and a fee for a license to sell display fireworks at retail is set forth in the consolidated fee schedule, appendix 2-F, and collected pursuant to resolution duly adopted by the board of trustees.

Sec. 13-11-60. Seizure.

The town law enforcement officer shall seize, take and remove, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this article.

Sec. 13-11-70. Toy propellant devices used for model or educational rockets.

Nothing in this article shall prevent or regulate the manufacture, sale, use or possession of educational rockets and toy propellant device type engines use in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant when such engine or model cartridge is designed to be ignited by electrical means.

Sec. 13-11-80. Possession of fireworks.

- (a) It is unlawful for any person to exhibit or have in his possession, with intent to give away, sell or offer for sale within the town, any fireworks, torpedoes or firecrackers.
- (b) No person shall within the town set or fire any firecracker, torpedo, bomb, cap pistol, toy cannon, gun, pistol or other thing containing powder or other combustible or explosive materials, provided that this article shall not apply to any peace officer using firearms in the discharge of his duty.

Sec. 13-11-90. Exploding fireworks.

It is unlawful for any person to set off, ignite or cause to be exploded within the town any fire-crackers, fireworks or other explosives of any kind or description, or any device or contrivance containing gunpowder or other explosive material.

Sec. 13-11-100. Penalty for violations.

Any person who violates any of the provisions of this article, upon conviction thereof, shall be punished by revocation of any license or permit issued hereunder if a license or permit has been issued to such person, and in accordance with the provisions of section 1-4-10. Each day of sale prohibited under this article shall be deemed a separate offense. Penalties under this section may be imposed consecutively.

ARTICLE 12. OFFENSES RELATING TO ANIMALS

Sec. 13-12-10. Animals creating noise.

It is unlawful for any person to use, keep, have in his possession or harbor any domesticated animals which, by frequent or habitual howling, barking, meowing, squawking or otherwise, shall cause annoyance or disturbance to persons in the neighborhood; provided, however, that the provisions of this section shall not apply to facilities licensed for the treatment of small animals or to premises occupied or used by the town animal shelter.

Sec. 13-12-20. Cruelty to animals.

(a) *Definitions.* The following words, terms and phrases, when used in this article, shall have

the meanings ascribed to them herein, except where the context clearly indicates a different meaning:

Abandon means the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

Animal means any living dumb creature.

Mistreatment means every act or omission which causes, or unreasonably permits the continuation of, unnecessary or unjustifiable pain or suffering.

Neglect means failure to provide food, water, protection from the elements or other care generally considered to be normal, usual and accepted for an animal's health and well-being consistent with the species, breed and type of animal.

Serious physical harm means any of the following:

- (1) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or
 - (2) Any physical harm that causes acute pain of duration that results in substantial suffering.
- (b) *Cruelty.* A person commits cruelty to animals if he knowingly or with criminal negligence overdrives, overloads, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, carries or confines in or upon any vehicles in a cruel or reckless manner, otherwise mistreats or neglects any animal or causes or procures it to be done, or, having the charge

or custody of any animal, fails to provide it with proper food, drink or protection from the weather.

- (c) *Abandonment.* Any person who intentionally abandons a dog or cat commits the offense of cruelty animals.
- (d) *Criminal torture.* A person commits cruelty to animals if he recklessly or with criminal negligence tortures, needlessly mutilates or needlessly kills an animal.
- (e) *Torture.* A person commits aggravated cruelty to animals if he knowingly tortures, needlessly mutilates or needlessly kills an animal.
- (f) *Impoundment.* A police officer having authority to act under this section may take possession of and impound an animal that the police officer has probable cause to believe is a victim of a violation of subsection (b) or (d) of this section or is a victim of a violation of C.R.S. § 18-9-204, and, as a result of the violation, is endangered if it remains with the owner or custodian.
- (g) *Killing or injuring dogs or cats.* No person shall willfully poison, or cause to be poisoned, killed or disfigured, any dog or cat within the town.
- (h) *Scope.* Nothing in this section shall be construed to amend or in any manner change the authority of the state division of wildlife or to prohibit any conduct authorized or permitted therein.

(Ord. No. 2002-5, § 1-35, 8-20-2002)

Sec. 13-12-30. Animal fighting.

- (a) No person shall cause, sponsor, arrange, hold or encourage a fight between animals for the purpose of monetary gain or entertainment.

- (b) For the purposes of this section, a person encourages a fight between animals for the purpose of monetary gain or entertainment if he:

- (1) Is knowingly present at or wagers on such a fight.
- (2) Owns, trains, transports, possesses or equips an animal with the intent that such animal will be engaged in such a fight.
- (3) Knowingly allows any such fight to occur on property owned or controlled by him.
- (4) Knowingly allows any animal used for such a fight to be kept, boarded or housed at, trained on or transported in any property owned or controlled by him.
- (5) Knowingly uses any means of communication for the purpose of promoting such a fight.
- (6) Knowingly possesses any animal used for such a fight or any device intended to enhance the animal's fighting ability.

- (c) Nothing in this section shall be construed to prohibit normal, approved hunting practices, the training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

Sec. 13-12-40. Dogs running at-large prohibited; impoundment.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Running at-large means to be off the premises of the owner and not under imme-

mediate control of the owner or of an authorized person over 12 years of age, either by leash or otherwise restrained; however, an animal within the automobile or other vehicle of its owner shall be deemed to be upon the owner's premises. It is unlawful for any owner, possessor or keeper of any dog in the town to permit or allow any dog to run at-large in the town.

- (b) *Apprehension of dog.* It shall be the duty of every police officer or animal control officer to apprehend, take into custody and impound, either with or without complaint, any stray dog, unlicensed dog, dog not under reasonable control of the owner or any dog found running at-large contrary to the provisions of this section. Such dog shall be confined and kept in a designated animal shelter or other suitable place. The animal shelter director or other designated official, upon receiving any dog, shall make a complete registry of the breed, color and sex of the dog and whether it is licensed. If it is licensed, he shall enter the name and address of the owner and the number of the license tag.
- (c) *Town clerk/administrator duties.* The town clerk/administrator shall provide a place, either within or without the town limits, where dogs impounded under the provisions of this section may be confined and kept, as provided in this section, and shall appoint some person to have general charge of such animals.
- (d) *Notice to owner.* Not later than two days after the impounding of any dog, the owner shall be notified or, if the owner of the dog is unknown, written notice shall be posted for

three days at two or more conspicuous places in the town, describing the dog and the place and time of taking.

- (e) *Redemption and fines.* The owner of any dog so impounded may reclaim such dog, upon proof of vaccination of the dog against rabies and payment of any unpaid fees, all costs, fees and charges incurred by the town for impoundment and maintenance of the dog, and any penalty assessment to the town; provided, however, that the owner or person in charge of any dog running at-large shall be subject to the following fine and penalties, regardless of whether any dog has been impounded:
 - (1) The penalty for the first offense of allowing any dog to run at-large is \$25.00.
 - (2) The penalty for the second offense of allowing any dog to at-large within two years following the first offense is \$50.00.
 - (3) The penalty for all subsequent offenses of allowing any dog to run at-large within two years following the second offense is \$100.00.
- (f) *Disposition of unclaimed or infected dogs.* It is the duty of the animal shelter director to keep all licensed dogs impounded pursuant to this section for a period of six days. If, at the expiration of four days from the date of notice to the owner or the posting of such notice, as designated in subsection (d) of this section, the dog has not been redeemed, it may be adopted. Any unlicensed dog will be impounded and kept for a period of three days, after which time it will be available for adoption. Any dog which appears to be suf-

fering from or affected with mange or other infectious or dangerous disease shall not be released but may be destroyed.

Sec. 13-12-50. Excessive barking.

It is unlawful for any person owning, possessing or keeping any dog within the town limits to allow the dogs to bark, howl, yelp or make any other persistent noise to disturb the peace of any other person.

Sec. 13-12-60. Vicious or dangerous dogs.

(a) It shall be unlawful for any person to own or keep any vicious or dangerous dog. A vicious or dangerous dog is one that bites, claws or attempts to bite or claw any person, bites another animal or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack, whether or not the attack is consummated or is capable of being consummated.

(b) It is a defense to the charge of owning or keeping a vicious or dangerous dog that the person or animal that was bitten, clawed or approached by the vicious animal was:

- (1) Other than in self-defense or defense of its young, attacking the dog or engaging in conduct reasonably calculated to provoke the dog to attack or bite;
- (2) Unlawfully engaging in entry into or upon a fenced or enclosed portion of the premises upon which the animal was lawfully kept or unlawfully upon a portion of the premises where the dog was lawfully restrained by leash or lead;
- (3) Unlawfully engaging in entry into or in or upon a vehicle in which the dog was confined;

- (4) Attempting to assault another person;
- (5) Attempting to stop a fight between the dog or any other animal;
- (6) Attempting to aid the dog when it was injured;
- (7) Attempting to capture the dog in the absence of the owner or keeper;
- (8) That, at the time of the attack by the dangerous dog which causes injury to or the death of a domestic animal, the domestic animal was at-large, was an stray, and entered upon the property of the owner and the attack began, but did not necessarily end, upon such property;
- (9) That, at the time of the attack by the dangerous dog, which causes injury to or the death of a domestic animal, said animal was biting or otherwise attacking the dangerous dog or its owner;
- (10) That, at the time of the attack by the dangerous dog which causes injury to, or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against the dog's owner, and the attack did not occur on the owner's property;
- (11) That, at the time of the attack by the dangerous dog which causes injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against a person on the owner's property or the property itself and the attack began, but did not necessarily end, upon such property; or

(12) That the person, who was the victim of the attack by the dangerous dog, tormented, provoked, abused, or inflicted injury upon the dog in such an extreme manner which resulted in the attack.

(c) For the purposes of this section, a person is lawfully upon the premises of an owner or keeper when such person is on the premises in the performance of any duty imposed by law or by the express or implied invitation of the owner of such premises or the owner's agent.

(d) In addition to the penalties set forth in section 1-4-10, upon an owner's entry of a guilty plea, the return of a verdict of guilty by the municipal judge or a jury or a deferred judgment for a violation that results in bodily injury to a person or domestic animal, or for a second or subsequent violation or resulting in a conviction, deferred judgment involving the same dog of the same owner, the municipal court shall order that the dangerous dog be immediately removed from, and not allowed to return to, the town or confiscated and placed in a public animal shelter within or without the town, and shall order that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this section, the owner's dangerous dog be destroyed by lethal injection administered by a licensed veterinarian. The owner shall pay all costs associated with the same.

(1) *Seizure of dogs.* A code enforcement officer who has probable cause to believe that a dog is dangerous, as defined in subsection (a) of this section, may demand that the dog immediately be removed from and not returned to the town by the owner or person in possession

of the dog or that possession of the dog be forthwith relinquished to said code enforcement officer, who may impound said dog and notify the owner of said impoundment or require said dog to be securely contained. The owner of such dog may request the municipal court to conduct a hearing within 15 days from the notification of the dog's impoundment, to determine if the dog is dangerous. Upon such hearing, all interested persons shall have the opportunity to present evidence on the issue of the dog's danger. If no such hearing is requested within 15 days from the notification of the dog's impoundment, the dog shall become the property of the town and shall be subject to lethal injection. All costs shall be billed to the owner and shall become a lien on the property of the owner.

(2) *Notification.* The owner shall notify the town clerk and law enforcement officials immediately, but in no event more than 24 hours, if he possesses a dog which he has reason to believe may commit any acts described in subsection (a) of this section or is loose or unaccompanied.

(3) *Penalty.* Each person convicted of a violation of any provision adopted in this article shall be punished by a fine not exceeding \$2,650.00, and/or up to one-year imprisonment; provided further, if the dog is determined to be a dangerous dog and is found to be running at-large, the owner or person in possession of said dog shall be subject to a fine of not

less than \$250.00 for a first offense and shall double with subsequent offenses thereafter.

- (4) *Violation.* Each day of continued violation of this article shall be considered a separate offense.

(Ord. No. 2006-005, 2-13-2006; Ord. No. 2008-002, § 2, 1-14-2008; Ord. No. 2013-002, 1-14-2013; Ord. No. 2020-001, 1-13-2020)

Sec. 13-12-70. Excessive dogs and cats.

It shall be unlawful for any person to own, keep or harbor more than four dogs and/or cats on his premises or in his residence within the town.

Sec. 13-12-80. Feeding bears and other wildlife.

- (a) It is unlawful for any person residing within the town to intentionally feed bears or to habitually leave unprotected garbage or food in an open area where access can be gained by bears. No person shall fail to take remedial action to avoid contact or conflict with bears, which may include the securing or removal of outdoor trash, cooking grills, pet food, bird feeders or any other similar food source or attractant.
- (b) No person shall place, deposit, distribute or scatter grain, hay or other foods so as to intentionally constitute a lure, attraction or enticement for big game not lawfully held in captivity.

ARTICLE 13. CLEAN INDOOR AIR ACT

Sec. 13-13-10. Legislative declaration.

The board of trustees hereby finds and determines that it is in the best interest of the people of this town to protect nonsmokers from involun-

tary exposure to environmental tobacco smoke in most indoor areas open to the public, public meetings, food service establishments and places of employment. The board of trustees further finds and determines that a balance should be struck between the health concerns of non-consumers of tobacco products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private places. Therefore, the board of trustees hereby declares that the purpose of this article is to preserve and improve the health, comfort and environment of the people of this town by limiting exposure to tobacco smoke.

Sec. 13-13-20. 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:

Auditorium means the part of a public building where an audience gathers to attend a performance, and includes any corridors, hallways or lobbies adjacent thereto.

Bar means any indoor area that is operated and licensed under C.R.S. § 44-3-101 et seq., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

Employee means any person who:

- (1) Performs any type of work for the benefit of another in consideration of direct or indirect wages or profit; or
- (2) Provides uncompensated work or services to a business or nonprofit entity.

The term "employee" includes every person described in subsection (1) of this definition, regardless of whether such person is referred to as an employee, contractor, independent contractor or volunteer or by any other designation or title.

Employer means any person, partnership, association, corporation or nonprofit entity that employs one or more persons. The term "employer" includes, without limitation, the legislative, executive and medical branches of the town; any county, city and county, town or instrumentality thereof or any other political subdivision of the town; any special district, authority, commission or agency; or any other separate corporate instrumentality or unit of the town or local government.

Entryway means the outside of any doorway leading into a building or facility that is not exempted from this article or under C.R.S. § 25-14-205. The term "entryway" also includes the area of public or private property within a specified radius outside of the doorway. The specified radius shall be 15 feet.

Environmental tobacco smoke, ETS or second-hand smoke means the complex mixture formed from the escaping smoke of a burning tobacco product, also known as side stream smoke, and smoke exhaled by the smoker.

Food service establishment means any indoor area or portion thereof in which the principal business is the sale of food for on-premises consumption. The term "food service establishment" includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops and short-order cafes.

Indoor area means any enclosed area or portion thereof. The opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.

Place of employment means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services for or on behalf of the employer.

Public building means any building owned or operated by:

- (1) The town, including the legislative, executive and judicial branches of town government;
- (2) The county, town and county, town or instrumentality thereof, or any other political subdivision of the town, a special district, an authority, a commission or an agency; or
- (3) Any other separate corporate instrumentality or unit of the town.

Public meeting means any meeting open to the public pursuant to C.R.S. Title 24, Article 6, Part 4 (C.R.S. § 24-6-401 et seq.), or any other law of the town.

Smoke-free work area means an indoor area in a place of employment where smoking is prohibited under this section.

Smoking means the burning of a lighted cigarette, cigar, pipe or any other matter or substance that contains tobacco.

Tobacco means cigarettes, cigars, cheroots, stogies and periques; granulated, plug-cut, crimp-cut, ready-rubbed and other smoking tobacco; snuff and snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe or otherwise, or both for chewing and smoking. The

term "tobacco" also includes cloves and any other plant matter or product that is packaged for smoking.

Tobacco business means a sole proprietorship, corporation, partnership or other enterprise engaged primarily in the sale, manufacture or promotion of tobacco, tobacco products or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture or promotion of other products is merely incidental.

Work area means an area in a place of employment where one or more employees are routinely assigned and perform services for or on behalf of their employer.

Sec. 13-13-30. General smoking restrictions.

- (a) Except as provided in subsection (b) of this section, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:
- (1) Public meeting places.
 - (2) Elevators.
 - (3) Grocery stores.
 - (4) Gymnasiums.
 - (5) Town hall.
 - (6) Child day care facilities.
 - (7) Health care facilities, including hospitals, health care clinics, doctors' offices and other health care-related facilities.
 - (8) Any place of employment that is not exempted.
 - (9) Food service establishments.
 - (10) Bars.
 - (11) Indoor sports arenas.
 - (12) Restrooms, hallways and other common areas in public and private buildings, condominiums and other multiple-unit residential facilities.
 - (13) Restrooms, lobbies, hallways and other common areas in hotels and motels, and in at least 75 percent of the sleeping quarters within a hotel or motel that are rented to guests.
 - (14) Bowling alleys.
 - (15) Billiard or pool halls.
 - (16) Facilities in which games of chance are conducted.
 - (17) The common areas of retirement facilities, publicly owned housing facilities and nursing homes, not including any resident's private residential quarters.
 - (18) Public buildings.
 - (19) Auditoriums.
 - (20) Theaters.
 - (21) Museums.
 - (22) Libraries.
 - (23) Public and nonpublic schools, other educational and vocational institutions and the entryways of all such buildings and facilities.
- (b) In the case of employers who own facilities otherwise exempted from this section, each such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.

Sec. 13-13-40. Exceptions to smoking restrictions.

This article shall not apply to:

- (1) Private homes, private residences and private automobiles; except that this article shall apply if any such home, residence or vehicle is being used for child care or day care or if a private vehicle is being used for the public transportation of children or as part of health care or day care transportation.
- (2) Limousines under private hire.
- (3) A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed 25 percent.
- (4) Any retail tobacco business.
- (5) The outdoor area of any business.
- (6) A place of employment that is not open to the public and that is under the control of an employer that employs three or fewer employees.

Sec. 13-13-50. Optional prohibitions.

- (a) The owner or manager of any place not specifically listed in section 13-13-30, including a place otherwise exempted under section 13-13-40, may post signs prohibiting smoking or providing smoking and nonsmoking areas. Such posting shall have the effect of including such place, or the designated non-smoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this section.
- (b) If the owner or manager of a place not specifically listed in section 13-13-30, including a place otherwise exempted under section 13-13-40, is an employer and receives a re-

quest from an employee to create a smoke-free work area as contemplated by section 13-13-30(b), the owner or manager shall post a sign or signs in the smoke-free work area as provided in subsection (a) of this section.

Sec. 13-13-60. Additional regulation of smoking.

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by any other applicable law.

ARTICLE 14. PANHANDLING

Sec. 13-14-10. Aggressive begging.

No person shall engage in aggressive begging in any public place. The term "aggressive begging" means begging or soliciting accompanied by or followed immediately by one or more of the following:

- (1) Intentionally continuing to solicit from a person after the person has given a negative response to such solicitation.
- (2) Intentionally making any physical contact with or touching another person in the course of the solicitation without that person's consent.
- (3) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact in the course of soliciting.
- (4) Intentionally using violent or threatening gestures toward a person solicited which would cause a reasonable person to be fearful for his safety.

- (5) Persisting in closely following behind or alongside, or walking immediately ahead of, a person who has been solicited with the intent of asking that person for money or other things of value, after the person solicited has informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or anything of value to the solicitor.
 - (6) Intentionally using profane, threatening or abusive language, either during the solicitation or following a refusal to make a donation, which tends to invite an immediate breach of the peace.
 - (7) Approaching or following a person for solicitation as part of a group of two or more persons, in a manner and with conduct, words or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or damage or loss of property or otherwise to be intimidated into giving money or other thing of value.
- (c) No person shall beg in any parking lot or parking structure to which the public or a substantial number of the public has access.
 - (d) No person shall beg within six feet of an entrance to a building to which the public has access.
 - (e) No person shall beg when the person being solicited is located within the patio or sidewalk area of a retail business establishment that serves food and/or beverages.
 - (f) No person shall beg in a public place during the night. The term "night" means 30 minutes after sunset until 30 minutes before sunrise.
 - (g) No person shall beg when either the beggar or the person being solicited is located within 20 feet of a public toilet.
 - (h) No person shall beg when the person being solicited is waiting in line for tickets, for entry into a building or for another purpose.

Sec. 13-14-20. Begging in certain locations.

- (a) No person shall beg on private property if the owner, tenant or person in lawful control of the property has asked the person to leave, has asked the person to refrain from soliciting on the property or has posted a sign clearly indicating that solicitations are not welcome on the property.
 - (b) No person shall beg when either the beggar or the person being solicited is located within 20 feet of any automated teller machine; provided, however, that, when an automated teller machine is located within an auto-
- mated teller machine facility, such distance shall be measured from the entrance or exit of the facility.
- (i) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
 - Automated teller machine* means a device linked to a financial institution's account record which is able to carry out transactions, including, but not limited to, account transfers, deposits, cash withdrawals, balance inquires and mortgage and loan payments.
 - Automated teller machine facility* means the area comprised of one or more automatic teller

machines, and any adjacent space which is made available to banking customers after regular banking hours.

Begging and *soliciting* are interchangeable terms and mean any solicitation made in person requesting an immediate donation of money or other thing of value. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, is a donation for the purpose of this article. The term "begging" does not include passively standing or sitting with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific person other than in response to an inquiry by that person.

Financial institution means any bank, industrial bank, credit union or savings and loan as defined in C.R.S. Title 11.

Public place means a place to which the public or a substantial number of the public has access, and includes, but is not limited to, any street, sidewalk, highway, parking lot, plaza, transportation facility, school, place of amusement, park or playground.

Chapter 14

ENVIRONMENT

Article 1. In General

Article 2. Floodplain Management

Division 1. Statutory Authorization, Findings of Fact,
Purpose, Etc.

- Sec. 14-2-10. Statutory authorization.
- Sec. 14-2-20. Findings of fact.
- Sec. 14-2-30. Statement of purpose.
- Sec. 14-2-40. Methods of reducing flood losses.
- Sec. 14-2-50. Definitions.

Division 2. General Provisions

- Sec. 14-2-110. Lands to which this article applies.
- Sec. 14-2-120. Basis for establishing the special flood hazard area.
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Division 3. Administration

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- Sec. 14-2-310. General standards.
- Sec. 14-2-320. Alteration of a watercourse.
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ARTICLE 1. IN GENERAL**ARTICLE 2. FLOODPLAIN
MANAGEMENT*****DIVISION 1. STATUTORY
AUTHORIZATION, FINDINGS OF FACT,
PURPOSE, ETC.****Sec. 14-2-10. Statutory authorization.**

The legislature of the state has, in C.R.S. tit. 29, art. 20, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the board of trustees of the Town of Crestone, Colorado, does hereby adopt the following floodplain management regulations.

(Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-20. Findings of fact.

- (a) The flood hazard areas of the town are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
- (b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods

***Editor's note**—Ord. No. 2021-002, adopted October 11, 2021, did not specify manner of inclusion; hence, inclusion as article 2, sections 14-2-10—14-2-330 is at the discretion of the editor.

and hazardous to other lands because they are inadequately elevated, flood-proofed or otherwise protected from flood damage.

(Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-30. Statement of purpose.

It is the purpose of this article to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Insure that potential buyers are notified that property is located in a flood hazard area.

(Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-40. Methods of reducing flood losses.

In order to accomplish its purposes, this article uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-50. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application.

100-year flood means a flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (one-percent-annual-chance flood). The terms "one-hundred-year flood" and "one percent chance

flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every 100 years.

100-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a 100-year flood.

500-year flood means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every 500 years.

500-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a 500-year flood.

Addition means any activity that expands the enclosed footprint or increases the square footage of an existing structure.

Alluvial fan flooding means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

Area of shallow flooding means a designated Zone AO or AH on a community's flood insurance rate map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) means the elevation shown on a FEMA flood insurance rate map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Basement means any area of a building having its floor sub-grade (below ground level) on all sides.

Channel means the physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

Channelization means the artificial creation, enlargement or realignment of a stream channel.

Code of Federal Regulations (CFR) means the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government. It is divided into 50 titles that represent broad areas subject to federal regulation.

Community means any political subdivision in the state that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

Development means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Register means the official daily publication for rules, proposed rules, and notices of federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA means Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of water from channels and reservoir spillways;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source; or
- (3) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS) means the official report provided by the Federal Emergency Management Agency. The report contains the flood insurance rate map as well as flood profiles for studied flooding sources that can be used to determine base flood elevations for some areas.

Floodplain or flood-prone area means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

Floodplain administrator means the community official designated by title to administer and enforce the floodplain management regulations.

Floodplain development permit means a permit required before construction or development

begins within any special flood hazard area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management article.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Flood control structure means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodproofing means any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway (regulatory floodway) means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six

inches). Letters of map revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

Freeboard means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a dis-

trict preliminarily determined by the secretary to qualify as a registered historic district;

- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the secretary of the interior, or
 - b. Directly by the secretary of the interior in states without approved programs.

Levee means a man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Letter of map revision based on fill (LOMR-F) means FEMA's modification of the special flood hazard area (SFHA) shown on the flood insurance rate map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

National Flood Insurance Program (NFIP) means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief

and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

New construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special flood hazard area means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Start of construction means the date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals

or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
- (2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance means a grant of relief to a person from the requirement of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations).

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. No. 2021-002, 10-11-2021)

DIVISION 2. GENERAL PROVISIONS

Sec. 14-2-110. Lands to which this article applies.

This article shall apply to all proposed construction or other development in the community, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. If special flood hazard areas and areas removed from the floodplain by the issuance of a FEMA letter of map revision based on fill (LOMR-F) within the jurisdiction of the town are furnished by the administrator, they shall apply. (Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-120. Basis for establishing the special flood hazard area.

Since special flood hazard areas have not been identified, water surface elevations have not been provided, nor has sufficient data identifying the floodway been provided by the Federal Emergency Management Agency (FEMA), the community shall obtain, review, and reasonably utilize flood hazard data available from other federal, state or other sources. (Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-130. Establishment of floodplain development permit.

A floodplain development permit shall be required to ensure conformance with the provisions of this article. (Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-140. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations. Nothing herein shall prevent the town from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program. (Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-150. Abrogation and greater restrictions.

The ordinance from which this article derives is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where the ordinance from which this article derives and another ordinance, easement, covenant, nor deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-160. Interpretation; warning and disclaimer of liability.

- (a) *Interpretation.* In the interpretation and application of this article, all provisions shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and
 - (3) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (b) *Warning and disclaimer of liability.* The degree of flood protection required by this article is considered reasonable for regulatory

purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This article does not imply that land outside the special flood hazard area or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.
(Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-170. Severability.

This article and the various parts thereof are hereby declared to be severable. Should any section of this article be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.
(Ord. No. 2021-002, 10-11-2021)

DIVISION 3. ADMINISTRATION

Sec. 14-2-210. Designation of the floodplain administrator.

The town clerk (or other designated, trained staff member) is hereby appointed as floodplain administrator to administer, implement and enforce the provisions of this article and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.
(Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-220. Duties and responsibilities of the floodplain administrator.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- (1) Review, approve, or deny all applications for floodplain development Permits required by adoption of this article.
- (2) Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (4) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this article, including proper elevation of the structure.
- (5) Where interpretation is needed as to the exact location of the boundaries of the special flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the state coordinating agency, which is the Colorado Wa-

ter Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

- (7) Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-230. Permit procedures.

(a) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:

- (1) The danger to life and property due to flooding or erosion damage;
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (3) The danger that materials may be swept onto other lands to the injury of others;
- (4) The compatibility of the proposed use with existing and anticipated development;
- (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- (7) The expected heights, velocity, duration, rate of rise and sediment trans-

port of the flood waters and the effects of wave action, if applicable, expected at the site;

- (8) The necessity to the facility of a waterfront location, where applicable;
- (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (10) The relationship of the proposed use to the comprehensive plan for that area.

(b) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to special flood hazard area if established. Additionally, the following information is required:

- (1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures where base flood elevation data are utilized;
- (2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed where base flood elevation data are utilized;
- (3) A certificate from a registered Colorado Professional Engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B(2) [these regulations];

- (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- (5) Maintain a record of all such information in accordance with section 14-2-220.

(Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-240. Variance procedures.

- (a) The appeal board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this article.
- (b) The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.
- (c) Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
- (d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places.
- (f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 14-2-230 of this article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors noted above and the intent of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article as stated in section 14-2-30.
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (j) Prerequisites for granting variances:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (2) Variances shall only be issued upon:
 - a. Showing a good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

- c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- (3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

- (k) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- (1) The criteria outlined in subsections (a)—(i) are met, and
- (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-250. Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article by failure to com-

ply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor by the laws of the town. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 2021-002, 10-11-2021)

DIVISION 4. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 14-2-310. General standards.

The following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water

from entering or accumulating within the components during conditions of flooding;

- (5) All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- (6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and
- (8) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-320. Alteration of a watercourse.

For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply:

- (1) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposi-

tion, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

- (2) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
- (3) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable federal, state and local floodplain rules, regulations and ordinances.
- (4) Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or certified professional hydrologist.
- (5) All activities within the regulatory floodplain shall meet all applicable federal, state and the town floodplain requirements and regulations.
- (6) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

(Ord. No. 2021-002, 10-11-2021)

Sec. 14-2-330. Standards for subdivision proposals.

- (a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flood-

ing. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.

- (b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements of section 14-2-130, section 14-2-230 and the provisions of division 4 of this article.
- (c) If community determines an analysis is warranted, base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to section 14-2-120 or 14-2-220 of this article.
- (d) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(Ord. No. 2021-002, 10-11-2021)

Chapter 15

ZONING

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ARTICLE 1. IN GENERAL

DIVISION 1. DEFINITIONS

Sec. 15-1-10. Definitions.

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

Accessory dwelling unit (ADU) means a secondary independent dwelling unit, subordinate in size to the principal dwelling unit and located on the same buildable residential parcel as the primary dwelling unit in residentially zoned districts and shall meet all requirements for the principal use in the zone in which the ADU is located, as provided in this chapter.

Accessory use or structure means one which is clearly incidental and secondary to the permitted use, customarily a part thereof, and which does not change the character thereof, including, but not limited to, a garage, guesthouse greenhouse or tool shed.

Alley means a minor right-of-way dedicated to public use which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street and which may be used for public utility purposes.

Animal hospital means a veterinary hospital where animals are brought for medical attention and surgical treatment and may be held during the time of such treatment.

Apartment means a room or group of rooms used as a single unit residence.

Apartment building means a building or portion thereof used or intended to be used as a home

for three or more families or households, living independently of each other and individually equipped for preparation of food.

Balcony means an outdoor extension of the main structure open to the elements.

Bathroom means a room connected to water and sewer with bathing facilities, sink and toilet.

Bed and breakfast (B&B) means a dwelling which rents out rooms on a temporary basis and furnished with breakfast for not more than three guest families.

Board of adjustment means the board of adjustment of the town.

Breezeway means a covered passage, one story in height, connecting a main structure and an accessory structure.

Building means any structure built for the support, shelter or enclosure of persons, chattels or movable property of any kind and which is affixed to the land.

Building height means the vertical distance measured from the average elevation of the finished grade along the front of the building to the highest point of the building.

Building inspector means the town clerk or his duly authorized representative.

Building, temporary, is a building which is non-inhabited, without plumbing, water and sewer and is removable. If persons are living in the building then it becomes an accessory dwelling unit or guesthouse and then must conform to setbacks and all applicable zoning regulations.

Business or professional office means the office of an engineer, dentist, doctor, attorney, real estate broker, insurance broker, architect or other

similar professional person and any office used primarily for accounting, correspondence, research, editing or administration.

Cafe, restaurant or cafeteria means a commercial eating establishment where snacks or meals are vended for consumption indoors or outdoors on the premises.

Camping unit means any self-propelled or towed vehicle, motorized or otherwise (but excluding those defined as mobile homes which affix to permanent or semi-permanent foundations), and which are designed and used for travel, recreation and short-term working or living facilities.

Canopy means a permanent shelter covering a sidewalk, driveway or other similar area, which shelter may be wholly supported by a building or may be wholly or partially supported by columns, poles or braces extended from the ground.

Clinic means offices for one or more physician, surgeon, dentist or other practitioner of the healing arts.

Club means any membership organization, including a lodge catering exclusively to members and their guests and whose facilities are limited to meeting, eating and recreational uses and, further, whose activities are not conducted principally for monetary gain.

Commercial amusement means any enterprise whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gates of the activity. Commercial amusements include carnivals, expositions, miniature golf courses, driving ranges, arcades, fairs, exhibitions, athletic contests, rodeos, tent shows, Ferris wheels, children's rides, roller coasters, skating rinks, ice rinks, traveling shows, bowling alleys, pool parlors and similar enterprises.

Commercial use, highway-oriented, means a commercial use which is intended primarily to serve the commercial retail needs of the motorist, including, but not limited to, gasoline service stations, motels and restaurants.

Common property means a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites.

Compatible commercial use means a commercial use which is compatible with neighboring uses in terms of noise, traffic and other relevant factors.

Conditional use means a use which, although not permitted outright in a particular district, may be permitted by the town board after consideration by the planning commission in accordance with the standards and procedures of this chapter.

Condominium means a cooperative apartment building or development jointly owned by its tenants who also own their own dwellings.

Court means an open, unoccupied space bounded on more than two sides by the walls of the building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard or other permanently open space.

Day care center or nursery means a place where five or more children are kept for care between the hours of 6:00 a.m. to 12:00 midnight for compensation.

Density means the number of dwelling units per gross acre of land devoted to housing and related open space.

Dependent mobile home means any camping unit as herein defined and any mobile home which does not have an approved toilet and bathtub or shower.

District or zone means an area or areas for which the regulations and requirements governing use, lot and bulk of building and premises are uniform.

Drive-in eating establishment means any structure and premises specifically designed for the preparation and dispensing of food and meals for consumption either indoors or in a vehicle parked on the premises or taken away for consumption at other places.

Dwelling, manufactured home means a single unit residence which:

- (1) Is partially or entirely manufactured in a factory;
- (2) Is designed for and placed upon a permanent foundation;
- (3) Has brick, wood, stucco or cosmetically equivalent exterior siding on all exterior walls, and has a pitched roof; and
- (4) Is not manufactured before ten years prior to its on-site placement in the town and is a preconstructed complete building unit or combination of preconstructed complete building units without motor power designed and commonly used for single-family, single units residential occupancy by persons in either temporary or permanent locations, which unit or units are manufactured in a factory or at a location other than the residential site of the completed home and which unit or units are not licensed

as a recreational vehicle pursuant to the National Manufactured Housing Construction and Safety Standards Act, including all regulations enacted pursuant thereto, including any local modifications that are expressly allowed by federal law.

Dwelling, mobile home.

- (1) The term "mobile home dwelling" means a detached, single unit residence having the following characteristics:
 - a. Designated as a detached, single unit residence for long-term occupancy and containing sleeping accommodation, a flush toilet, a tub or shower bath and only one kitchen, and has plumbing, sewer and electrical connections provided for attachment to outside systems;
 - b. Designed to be transported after fabrication on its own wheels, on flatbeds, other trailers or detachable wheels;
 - c. Arrives at the site where it is to be occupied as a complete dwelling and is ready for occupancy except for minor and incidental unpacking and assembly operation, location on foundation supports or jacks, underpinned, connections to utilities and the like;
 - d. Is without motive power;
 - e. Is not manufactured before ten years prior to its on-site placement in the town and pursuant to the National Manufactured Housing Construction and Safety Stan-

dards Act, including all regulations enacted pursuant thereto; including any local modifications that are expressly allowed by federal law; and

f. Complies with town ordinance modifications as authorized by state or federal law.

(2) The term "mobile home dwelling" does not include recreational vehicles, trailer coaches, motor homes, multipurpose trailers, camper coaches, camper trailers, fifth-wheel trailers, recreational park trailers, recreational vehicles, travel trailers, or truck campers, as the same are defined in the Colorado Revised Statutes.

Dwelling, multi-unit, means a building used by more than two households living independently of each other in separate dwelling units but not including hotels, motels or resorts.

Dwelling, one-unit, means a detached principal building designed for or occupied as a dwelling exclusively by one household as an independent living unit and may include yurts which are secured to the ground and hooked up to approved water and sanitation.

Dwelling, two-unit, means a detached principal building designed for or occupied by two households living independently of each other in separate but attached dwelling units, but not including mobile homes.

Dwelling unit means one room or rooms connected together constituting a separate independent housekeeping establishment for owner occupancy or rental or lease on a monthly or longer basis, physically separated from any other rooms

or dwelling units which may be in the same structure, and served by not more than one gas meter and one electric meter.

Employees means all persons, including proprietors, working on the premises during the largest shift at peak season.

Fence or wall means a freestanding structure of metal, masonry, composition, or wood, or any combination thereof, resting on or partially buried in the ground and rising above ground level used for confinement, screening or partition purposes.

Frontage means that portion of a lot, parcel, tract or block abutting upon a street measured by an extension of the side lot lines intersecting the street.

Garage, private, means an enclosed building for parking only of motor vehicles belonging to the occupant of the same building.

Garage, public, means a building other than a private or parking garage used for the care or repair of vehicles or where such vehicles are kept for remuneration, hire or sale.

Gasoline station means a building or premises involving the retail sale of gasoline, diesel, or electricity for motor vehicles, which may also include food or health care items.

Grade (ground level) means the average of the finished ground level at the center of all walls of the building or at the center of the structure.

Grazing animal means any horse, cow, goat, sheep or any similar split-hoofed or single-hoofed animal.

Guesthouse means an accessory structure, without a kitchen, which is physically detached from a principal dwelling, not to be used as a

rental unit, serviced through the same utility meters or connections as the principal dwelling, and intended for occupancy only by guests of the household residing in the principal dwelling.

Guestroom means a room in a hotel, apartment, motel or tourist home offered to the public for compensation and which room is used only for transient occupancy.

Hedge means a fence or boundary formed by a dense row of shrubs or low trees.

Home business occupation means an occupation consistent with existing federal, state and local laws and regulations carried on in the dwelling or accessory building by persons occupying the dwelling, provided the residence character of the building is maintained.

Homeowners' association means an incorporated, nonprofit organization operating under recorded land agreements through which each lot and/or homeowner in a planned unit development or other described land area is automatically a member, and through which each lot is automatically subject to charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and the charge, if unpaid, becomes a lien against the property.

Hotel means a building used or intended to be used as living quarters for transient guests, but not excluding permanent guests, and may include a cafe, drugstore, clothes pressing shop, gift shop, barbershop or other service facilities for the guests for compensation.

Junk or salvage means scrap iron, scrap tin, scrap brass, scrap copper, scrap lead, or scrap zinc and all other scrap metals and their alloys, bones, rags, used cloth, used rubber, used rope, used aluminum foil, used bottles, old cotton, used machinery, used tools, used appliances, used fixtures, used

utensils, used boxes or crates, used pipe or pipe fittings, used automobiles or airplane parts and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, and all other products subject to being dismantled or recycled.

Kennel means a lot or building in which four or more adult dogs or cats are kept with the primary purpose of commercial board, propagation or sale.

Kitchen means a room with utilities or facilities for food preparation.

Lot means a subdivision of a block or other parcel of land intended as a unit for the transfer of ownership or for development of at least sufficient size to meet minimum requirements for use, coverage and area, and to provide required yard and other open spaces. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of the following, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter:

- (1) A single lot of record.
- (2) A portion of a lot of record.
- (3) A combination of complete lots of record; complete lots of record and portions of lots of record; or portions of lots of record.
- (4) A parcel of land described by metes and bounds.

Lot area means the total horizontal area within the lot lines of a lot.

Lot, corner, means a lot abutting upon two or more streets at their intersection.

Lot coverage means the percent of the total lot area available for bulk or buildings.

Lot depth means the average horizontal distance between front and rear lot lines.

Lot, double-frontage, means a lot which runs through a block from street to street, and which has two nonintersecting sides abutting on two or more streets.

Lot, interior, means a lot other than a corner lot.

Lot line, front, means the property line dividing a lot from the right-of-way of the street. For a corner lot, the shortest street right-of-way line shall be considered the front line.

Lot line, rear, means the property line opposite the front lot line, except on a double-frontage lot.

Lot line, side, means any lot line other than a front or rear lot line.

Lot of record means a lot, which is part of a subdivision, the plat of which has been recorded in the office of the county clerk, or a parcel of land, the deed for which was recorded in the office of the county clerk prior to passage of the ordinance from which this article is derived.

Lot width means the distance on a horizontal plane between the side lot lines of a lot, measured at right angles, to the line establishing the lot depth of the established building setback line, provided that no residential lot width shall measure less than 50 feet.

Master plan means the master plan for the town which has been officially adopted to provide long-range development policies for the town and which includes, among other things, the plan for land use, circulation and public facilities.

Mixed use means a building used partially for residential living space and partially for commercial purposes.

Motel means a hotel which usually is arranged in such a manner that individual guestrooms are directly accessible from an automobile parking area.

Non-conforming use or structure means a use or structure which existed at the time of the regulations in this chapter and did not conform to the requirements herein.

Off-street loading space means a space located outside of a public street or alley for the discharge of passengers or a space directly accessible to the building it serves for bulk pickup and deliveries of delivery vehicles.

Off-street parking area means any parking area located wholly within the limits of one or more lots.

Open space means an area devoted to the enhancement of light, air and aesthetic qualities of a neighborhood. Open space will also be devoted to landscaped vegetation, and no buildings or structures will be permitted, unless for purposes of maintaining and/or enhancing the open space or relatively unnoticeable from the adjoining streets or walkways.

Parking space means a rectangular area containing not less than 200 square feet with maneuvering and access space required for an automobile to park within the rectangle.

Patio means a surface area open to the elements.

Permitted use means a use specifically allowed in one or more of the various zone districts without the necessity of obtaining a use permit.

Person means any individual, firm, partnership, corporation, joint venture, company or association.

Personal service shop means an establishment for the purpose of supplying limited personal services, such as, but not limited to, barber, shoe, boot, or beauty shops.

Planned unit development means a project of a single owner or a group of owners acting jointly, involving a related group of residences or businesses, and associated uses, planned as a single entity and, therefore, subject to development and regulation as one land use unit rather than as an aggregation of individual buildings located on separate lots. The planned unit development includes usable, functional open space for the mutual benefit of the entire tract and is designed to provide variety and diversity through the variance of normal zoning and subdivision standards so the maximum long-range benefits can be gained and the unique features of the development or site are preserved and enhanced while still being in harmony with the surrounding neighborhood. Approval of a planned unit development does not eliminate the requirements of subdividing. A preliminary plat and a final plat must be submitted and processed through the subdivision procedures as provided in the town subdivision regulations.

Planning commission means the officially appointed planning and zoning commission of the town.

Porch means a building or part of the main building which is covered but is open to the elements.

Premises means part or all of any lot, parcel or tract, or part or all of any building or structure or group of buildings or structures located thereon.

Principal structure means the principal structure which fulfills the purpose for which the building plot was intended.

Private utility means any utility other than a governmentally owned and operated utility, including telephone, electric, gas and other privately owned and operated utilities.

Property line means the outer boundary of any lot, parcel or tract or combination thereof under single ownership, as the same is described in the conveyance to the owner, and does not include the streets or alleys upon which the lot, parcel or tract may abut.

Public hearing means a meeting called by a public body for which the public notice has been given and which is held in a place in which the general public may attend to hear issues and express their concerns.

Retail means sale to the ultimate consumer for direct consumption and/or use and not for resale.

Right-of-way, public, means all streets, roadways, sidewalks, alleys and all other areas reserved for present or future use by the public, as a matter of right, for the purpose of vehicular or pedestrian travel, whether developed or undeveloped.

Screening means decorative fencing, evergreen hedges or earth berms maintained for the purpose of concealing from view the area behind the screening. When fencing is used for screening, it shall be not less than six feet in height.

Service building means a building housing toilet and bathing facilities for men and women, with laundry facilities and such other facilities as may be required by this Code and other regulations.

Setback line means a line or lines designating the area within which buildings may not be erected.

Short-term rental unit means a dwelling unit which can be rented for not more than 21 consecutive days.

Sign means any object or device, or part thereof, situated outdoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination or projected images. Signs do not include the following:

- (1) Flags of nations, or an organization of nations, states and cities, fraternal, religious and civic organizations.
- (2) Merchandise, pictures or models or products or models of products or services incorporated in a window display.
- (3) Time and temperature devices not related to a product.
- (4) National, state, religious, fraternal, professional and civic symbols or crests.
- (5) Works of art which in no way identify a product.
- (6) Scoreboards located on athletic fields.

Site-specific development plan means a plan that has been submitted to a local government by a landowner or such landowner's representative describing with reasonable certainty the type and intensity of use for specific or parcels or property. Such plan may be in the form of, but need not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a specially planned area, a planned building group, a general submission plan, a preliminary or

general development plan, a conditional or special use plan, a development agreement, or any other land use approval designation as may be utilized by the town. What constitutes a site-specific development plan under this definition that would trigger a vested property right shall be finally determined by this Code or upon an agreement entered into by the town and the landowner, and the document that triggers such vesting shall be so identified at the time of its approval. The developer shall submit an ILC (improvement location certificate) to the planning commission with any site-specific development plans. The term "site-specific development plan" shall not include a variance, a preliminary plan as defined in C.R.S. § 30-28-101(6), or any of the following:

- (1) A sketch plan as defined in C.R.S. § 30-28-101(8);
- (2) A final architectural plan;
- (3) Public utility filings; or
- (4) Final construction drawings and related documents specifying materials and methods for construction of improvements.

Street means the entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and placement of utilities.

Street, arterial, means any street serving major traffic movements which is designed as a traffic carrier in the town, or between various sections of the town, which forms part of a network of through streets, and which provides service and access to abutting properties only as a secondary function.

Street, collector, means any street designed primarily to gather traffic from local or residential streets and carry it to the arterial system.

Street, cul-de-sac, means a street having one end open to vehicular traffic and having one end closed and terminated by a turnaround.

Street, dead-end, means a street, other than a cul-de-sac, having only one outlet.

Street, half, means a street bordering one or more property lines of a subdivision tract to which the subdivider has allocated only a portion of the ultimate and intended street width.

Street, local, means any street designated primarily to provide access to abutting property.

Structural alteration means any change to the supporting members of a structure, including foundations, bearings walls or partitions, columns, beams, girders or any structural change in the roof.

Structure means anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

Temporary building means a non-inhabited structure lacking plumbing and sewer, which is removable and not affixed to the land.

Use means the purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

Use, principal, means the main use of land or structures as distinguished from a subordinate or accessory use.

Variance means a minimum easing of the terms of this chapter, where such easing will not be contrary to the public interest or to the interest and purposes of this chapter, and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unne-

cessary and undue hardship, and the condition or situation is not of so general or recurrent a nature as to make reasonable and practical the formulation of an amendment containing a general regulation for such condition or situation.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

Vision clearance area means a triangular area on a lot at the intersection of two streets, or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in the regulations contained in this chapter concerning vision clearance. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines and intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection.

Yard means a redefined open space on a lot which is unobstructed from the ground upward, except as otherwise provided in this chapter.

Yard, front, means the portion of the yard between the side lot lines measured horizontally at right angles to the front lot line to the nearest point of the principal structure.

Yard, rear, means the portion of the yard extending between side lot lines and measured horizontally at right angles to the rear lot line, from the rear lot line to the nearest point of the principal structure.

Yard, side, means the portion of the yard between a building and the side lot line, measured horizontally at right angles to the side lot line, from the side lot line to the nearest point of the main building.

(Ord. No. 2006-013, att.(I-1), 8-14-2006; Ord. No. 2018-001, 1-13-2018)

DIVISION 2. PURPOSE AND INTERPRETATION

Sec. 15-1-110. Title.

This chapter shall be cited as the zoning regulations of the town. (Ord. No. 2006-013, att.(I-51), 8-14-2006)

Sec. 15-1-120. Authority.

These zoning regulations are authorized by C.R.S. § 31-23-301 et seq., as amended, and is declared to be in accordance with all provisions of such statutes. (Ord. No. 2006-013, att.(I-52), 8-14-2006)

Sec. 15-1-130. Purpose.

- (a) Pursuant to the authority conferred by C.R.S. § 31-23-301 et seq., these zoning regulations are adopted for the purpose of promoting the health, safety, morals and welfare of the present and future inhabitants of the town by regulating and restricting the height, number of stories, and size of buildings and other structures; the percentage of a lot that may be occupied; the size of yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence and other purposes.
- (b) These zoning regulations are adopted for the purpose of promoting coordinated and sound development; encouraging innovation in residential development or renewal, so that housing demands may be met by a greater variety of types and design of housing units; providing for higher quality in site and land planning; conserving open space; and providing more efficient and attractive use of open space.

- (c) In implementing these purposes, the town shall work to achieve a coordinated adjusted and harmonious development of the town and its environs, which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic; the promotion of safety from fire, floodwaters and other dangers; adequate provision for light and air; the promotion of healthful and convenient distribution of population; the promotion of good civic design and arrangement; wise and efficient expenditure of public funds; and the adequate provision of public utilities and other public requirements. (Ord. No. 2006-013, att.(I-53), 8-14-2006)

Sec. 15-1-140. Interpretation.

- (a) The provisions of this chapter may be regarded as the minimum requirements for the promotion of public health, safety, comfort, convenience, prosperity and general welfare.
- (b) These zoning regulations are not intended to interfere with or abrogate or annul any easements, covenants or agreements between parties; provided, however, that wherever this chapter proposes a greater restriction upon use of land or buildings, upon the location or height or buildings or structures that are imposed or required by other laws, ordinances, resolutions, regulations or easements, covenants or agreements between parties, the provisions of these zoning regulations shall govern.
- (c) Payment of costs. In addition to any and all other fees and charges imposed by this chap-

ter, the applicant for approval of a site-specific development plan shall pay all costs occasioned to the town as a result of the site-specific development plan review, including publication of notices, public hearing and review costs.

- (d) Other provisions unaffected. Approval of a site-specific development plan shall not constitute an exemption from or waiver of any other provisions of the subdivision regulations or zoning regulations of the town pertaining to the development and use of property.
- (e) Limitations. Nothing in this section is intended to create any vested property right, but only to implement the provisions of C.R.S. § 24-68-101 et seq., as amended.
(Ord. No. 2006-013, att.(I-54), 8-14-2006)

Sec. 15-1-150. Penalty.

The owner of any buildings or premises, or part thereof, where anything in violation of this chapter exists or is placed or maintained and any architect, builder, or contractor who assists in the commission of any such violation; and all persons who violate or maintain any violation of any or the provisions of this chapter, or who fail to comply therewith or with any requirements thereof, or who build in violation of any statement or plan submitted and approved thereunder, are in violation of this chapter and, upon conviction thereof, shall be punishable as provided in section 1-4-10. Each day in which the violation continues shall be considered a separate offense.

(Ord. No. 2006-013, att.(I-55), 8-14-2006)

ARTICLE 2. ADMINISTRATION AND ENFORCEMENT

Sec. 15-2-10. Planning commission.

- (a) *Planning commission to serve as zoning commission.* Planning commission of the town is hereby appointed the zoning commission and is charged with the responsibilities of such zoning commission as specified in the statutes.
- (b) *Responsibility.* It is the responsibility of the planning commission to review all applications for zone changes in this chapter and conditional uses, and to recommend approval or disapproval to the town board of trustees. The planning commission has no authority to approve variances from the zoning regulations and, if presented with such a request, it shall be sent forward to the board of adjustment for processing and hearing.
- (c) *Purpose.* The planning commission is created for the following purposes:
 - (1) To assist, advise and coordinate with the board of trustees with regard to the careful and comprehensive studying, planning, zoning and growth of the town, as more specifically set forth in this article, and as provided in additional ordinances, rules and regulations of the town.
 - (2) To implement the provisions of chapters 24 and 18, and to perform all functions and powers referred to in said chapters where reference is made.
 - (3) To study and recommend to the board of trustees amendments to the zoning map of the town.

- (4) To study and recommend appropriate zoning classifications for all annexations to the town.
 - (5) To exchange information with the various governmental agencies charged with planning and zoning responsibilities and with the board of adjustment.
 - (6) To have all other duties and powers incidental to the above and any and all powers and duties set out by state statute, except that nothing herein shall permit the planning commission to make amendments or changes in the zoning of the town, such powers expressly being reserved by the board of trustees.
- (d) *Development.* It shall be the specific purpose of the planning commission to use its powers for guiding and accomplishing a coordinated, adjusted and harmonious development of the town. The development shall be in accordance with the present and future needs of the town and shall further promote health, safety, morals, order, convenience, prosperity and general welfare in an efficient and economic process, making adequate provisions for traffic safety, fire safety, floodwater safety and any other dangers to the citizens of the community or visitors thereto.
- (e) *Authority.* The planning commission shall be empowered and authorized to review, act upon and advise the board of trustees with respect to all zoning, rezoning, planning, subdividing, annexation and other related activities as provided in the revised zoning and subdivision regulations of the town. The planning commission is empowered to make and submit to the board of trustees a master plan for physical development of the town, including such areas outside of its boundaries, sub-

ject to the jurisdictional limitations as provided by state law where the planning commission determines that the planning and developing of the community, with relation to the municipal boundaries, must extend beyond said municipal boundaries. The development of the master plan for the community shall show the planning commission's recommendations with respect to the following matters:

- (1) A comprehensive zoning ordinance together with a zoning plan and subdivision of the land regulation which, when adopted by the board of trustees, shall become an ordinance governing said matters within the community.
- (2) Appropriate plans showing the general location, character and extent of streets, bridges, boulevards, parkways and other types of transportation corridors within and without the community.
- (3) A plan for the location and extent of public utilities, including, but not limited to, water and sewer development, communications and electrical utilities, together with the location and extent of other public improvements to be created within the town, such as parks, buildings, fire departments, police stations, schools and other public buildings.
- (4) Any and all plans for the eventual redesignation of specific areas within the community, condemnation plans, change of use plans or other alterations regarding the existing community structure.

(Ord. No. 2006-013, att.(II-1), 8-14-2006)

Sec. 15-2-20. Responsibility of building inspector.

The building inspector is charged with the interpretation and enforcement of this chapter. Appeals from a decision of the building inspector shall be presented to the town clerk, who shall forward the appeal with all pertinent information to the board of adjustment for hearing.

(Ord. No. 2006-013, att.(II-2), 8-14-2006)

Sec. 15-2-30. Responsibility of board of adjustment.

The board of adjustment shall hear and decide all questions on appeal from decisions of the town clerk and all other questions as provided in article 7 of this chapter.

(Ord. No. 2006-013, att.(II-3), 8-14-2006)

Sec. 15-2-40. Responsibility of town board of trustees.

The town board of trustees has responsibility for changes in the zoning map and amendments to this chapter. The town board of trustees shall not hear complaints of or decide questions of interpretation or enforcement that are reserved for the board of adjustment. The town board of trustees also has the responsibility for appointing the planning commission and the board of adjustment.

(Ord. No. 2006-013, att.(II-4), 8-14-2006)

Sec. 15-2-50. Town clerk as administrator.

(a) The town clerk, or his designee, is designated to administer this chapter and the code enforcement officer shall enforce the same.

(b) The town clerk, or his designee, shall have the power to make inspections of buildings and premises to carry out the duties of the

enforcement of this chapter, subject to the special provisions where stipulated in this chapter.

(c) Issuance of building permits requires prior site inspection. The building inspector shall approve building permit applications and the town clerk shall issue building permits. Permit fees shall be established by resolution of the town board of trustees.

(d) The town clerk, or his designee, under no circumstances is permitted to grant an exception to the actual meaning of any clause, order or regulation contained in this chapter to any person making application to construct, move, alter or use either building, structure or land.

(e) The town clerk, or his designee, under no circumstances is permitted to make changes in this chapter or to vary the terms of this article in carrying out his duties as town clerk.

(Ord. No. 2006-013, att.(II-5), 8-14-2006; Ord. No. 2009-009, § 1, 12-14-2009)

Sec. 15-2-60. Building permit—Required.

It shall be unlawful to begin the excavation for the construction or moving of a building until the town clerk has issued for such work a building permit, in accordance with the requirements of this chapter. Permit fees shall be waived on sidewalks installed on town property. A building permit is required to:

(1) Begin excavation for construction or placing of a new building;

(2) Add an addition or a second story on existing buildings;

(3) Apply fill in excess of 20 cubic yards.

(Ord. No. 2006-013, att.(II-6), 8-14-2006)

Sec. 15-2-70. Building permit—Application.

- (a) Every application for a building permit for construction, moving or change in the type of use or type of occupancy shall be accompanied by a written statement and plans or plots showing the following in sufficient detail to enable the town clerk or his designee to ascertain whether the proposed work or use is in compliance with the provisions of this chapter.
- (b) All such material is required in duplicate form and shall include:
 - (1) The actual shape, location and dimensions of the lot or building plot on the ground.
 - (2) The shape, size and location of all buildings, or other structures, to be erected, altered or moved, and of any other buildings, or other structures, already on the plot.
 - (3) The existing and intended use of the plot and all structures upon it.
 - (4) Such information concerning the plot or adjoining lots or other matters as may be essential for determining whether the provisions of this chapter and other ordinances are being observed.
- (c) All building permit applications for the commercial district shall be scheduled for review by the planning commission at its next regularly scheduled meeting, prior to issuance of a building permit.

(Ord. No. 2006-013, att.(II-7), 8-14-2006; Ord. No. 2009-009, § 1, 12-14-2009)

Sec. 15-2-80. Building permit—Issuance.

- (a) If the proposed construction, moving, alteration, or use of the land, as set forth in the

application for a building permit under this article, is in conformity with the provisions of this chapter, the town clerk or his designee, upon receipt of a building permit approved and signed by the building inspector, shall issue the building permit.

- (b) The permit shall require a construction portable toilet or inspected vaulted privy located on the subject property before construction commences.

(Ord. No. 2006-013, att.(II-8), 8-14-2006)

Sec. 15-2-90. Building permit—Not a waiver of time limitation.

- (a) Issuance of a building permit shall in no case be construed as waiving any provision of this chapter or any other town ordinance.
- (b) The permittee shall have one year from the date of issuance of the building permit to commence substantial construction and two years from the date of issuance of the building permit to complete the exterior of the structure for which the permit was issued, including all roofing, siding or facing, windows and other exterior completion associated with the structure for residential areas, and one year for commercial areas. If either of said conditions are not followed, the permit shall be cancelled and declared null and void
- (c) If an extension for exterior completion is requested due to unusual hardships or unanticipated difficulties which are not the fault of the permittee, such requests shall require an application to the board of adjustment in accordance with its rules and procedures.

(Ord. No. 2006-013, att.(II-9), 8-14-2006)

Sec. 15-2-100. Building permit—Compliance required.

The building inspector shall approve and sign a building permit application and the town clerk or his designee shall issue a building permit when the imposed conditions of this article are complied with by the applicant, regardless of the effect of such a permit on contracts, such as deed covenants, deed restrictions or private agreements. (Ord. No. 2006-013, att.(II-10), 8-14-2006)

Sec. 15-2-110. Building permit—Disapproval.

If any application for a building permit is not approved by the building inspector, the cause for such disapproval shall be stated in writing. (Ord. No. 2006-013, att.(II-11), 8-14-2006)

Sec. 15-2-120. Building permit—Plan approval.

Plans submitted with an application for a building permit shall be reviewed and approved by the town clerk or his designee. (Ord. No. 2006-013, att.(II-12), 8-14-2006; Ord. No. 2009-009, § 1, 12-14-2009)

Sec. 15-2-130. Building permit—Unplatted land.

There shall be no building permit issued on a plot which does not consist of a platted lot or lots duly approved and recorded, except that on five acres or more where the use of the land is entirely for agricultural purposes, a building permit may be issued. (Ord. No. 2006-013, att.(II-13), 8-14-2006)

Sec. 15-2-140. Building permit—Time limit for variance or conditional use.

A building permit for a conditional use or for a use involving variance shall be void after one year from the day of issuance if no substantial construction has taken place. (Ord. No. 2006-013, att.(II-15), 8-14-2006)

Sec. 15-2-150. Use permit—Issuance, requirements not exempt.

A use permit is a document recognizing the approval of a conditional use or a variance as these terms are defined in this chapter. (Ord. No. 2006-013, att.(II-16), 8-14-2006)

Sec. 15-2-160. Use permit—When required, time limitation.

A use permit is required for all conditional uses and for all variances. A use permit may have a specified time limitation attached and may impose conditions other than those which are specifically set forth in this article. (Ord. No. 2006-013, att.(II-17), 8-14-2006)

Sec. 15-2-170. Use permit—Conditional uses and variances.

The town clerk or his designee shall issue use permits for approved conditional uses and variances. (Ord. No. 2006-013, att.(II-18), 8-14-2006; Ord. No. 2009-009, § 1, 12-14-2009)

Sec. 15-2-180. Use permit—Compliance required for completion, cancellation.

Following the issuance of a use permit, the town clerk or his designee shall ensure that if the development is undertaken, it is completed in compliance with the permit. However, if a use permit has not been used within one year after the date granted, the permit is automatically cancelled, which fact shall be noted by the signature of the town clerk or his designee, on the file copies of the permit, and the owner shall be so notified in writing. (Ord. No. 2006-013, att.(II-19), 8-14-2006)

Sec. 15-2-190. Certificate of occupancy.

A certificate of occupancy will be issued for commercial structures that are in compliance with the town's zoning regulations, and state electrical and plumbing codes, and upon exterior completion.

Sec. 15-2-200. Violations.

If the town clerk or his designee finds, or if any person files with him a complaint alleging that any of the provisions of this chapter are being violated, the town clerk shall cause the violation to be investigated and, when necessary, give written notice to the person responsible to cease and remedy such violation forthwith.

(Ord. No. 2006-013, att.(II-20), 8-14-2006)

ARTICLE 3. AMENDMENTS

Sec. 15-3-10. Authorization.

(a) An amendment to the text of this chapter may be initiated by the town board or by the planning commission, pursuant to procedures established for amending an ordinance of the town.

(b) An amendment to the zoning map of this chapter may be initiated by the town board or by the planning commission, or by application of an owner of a property affected thereby within the town or his authorized agent, which application shall be considered only at the regularly scheduled meetings of the town planning commission, and which amendment may be considered and enacted pursuant to the procedures described in this article.

(Ord. No. 2006-013, att.(III-1), 8-14-2006)

Sec. 15-3-20. Zoning district map—Application, fee.

(a) An application for an amendment of the zoning map shall be made on a form provided by the town.

(b) The application must be accompanied by a minimum nonrefundable review and processing fee as set forth in the consolidated fee schedule, appendix 2-F. The applicant shall also pay actual costs in excess of the established fee, which are incurred by the town relative to review and processing of the amendment.

(Ord. No. 2006-013, att.(III-2), 8-14-2006)

Sec. 15-3-30. Zoning district map—Recommendation of commission.

(a) The planning commission shall, within 30 days of receipt of the application for an amendment to the zoning map, unless a longer time is necessary for consideration of the application for reasons specifically stated by the planning commission, recommend either approval, approval with modifications, or disapproval of the application to the town board.

(b) The recommendation of the planning commission shall be transmitted to the town board and the applicant.

(Ord. No. 2006-013, att.(III-3), 8-14-2006)

Sec. 15-3-40. Zoning district map—Hearing, notice, time limit.

(a) The town board of trustees shall hold a public hearing on all proposed zoning map amendments after receiving the written report of recommendations from the planning commission.

- (b) The property to be re-zoned shall be posted, and a notice of the hearing shall be published in a newspaper of general circulation within the town at least 15 days prior to the hearing date.
- (c) A written notice of the hearing shall be hand-delivered evidenced by a signature, or sent by certified mail, at least 15 days prior to the hearing date, to property owners within 300 feet of the property in question, as such ownership information is available in the town clerk's office.
- (d) The town board of trustees, within 30 days of the public hearing, shall approve, approve with modifications, or disapprove the application. The decision of the town board of trustees shall be transmitted to the planning commission and to the applicant.
- (e) Proceedings of the public hearing shall be recorded. In addition, at the expense of any participant in the hearing, proceedings of the public hearing may be transcribed by a certified court reporter.

(Ord. No. 2006-013, att.(III-4), 8-14-2006)

Sec. 15-3-50. Zoning district map—Changes, amendments.

When the zoning district map is in any way to be changed or amended incidental to or as a part of a general revision of this chapter, whether the revision is made by repeal of the existing zoning ordinance and enactment of a new zoning ordinance, or otherwise, the notice by mailing designated in section 15-3-40(c) shall not be required. (Ord. No. 2006-013, att.(III-5), 8-14-2006; Ord. No. 2009-009, § 2, 12-14-2009)

Sec. 15-3-60. Zoning district map—Additional street right-of-way, screening.

In granting an amendment to the zoning map, upon application by a property owner or his

authorized agent, the town board may require the dedication of additional street rights-of-way where an officially adopted street plan indicates a need for increased width or where the nature of the proposed development warrants increased street width. The board may require permanent screen strips or other devices to minimize conflict with residential land use.

(Ord. No. 2006-013, att.(III-6), 8-14-2006)

Sec. 15-3-70. Court review of decisions.

- (a) Any person applying to the courts for a review of any decision made under the terms of this article shall apply for review within 30 days after the date of decision and is required to pay the cost of preparing a transcript of proceedings.
- (b) The application for review shall be in the nature of certiorari under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.
- (c) The town is entitled to appeal any decision of the district court under Rule 106 proceedings.

(Ord. No. 2006-013, att.(III-7), 8-14-2006)

Sec. 15-3-80. Records.

The town clerk shall maintain a record of amendments to the text and map of this chapter in a form convenient for the use of the public.

(Ord. No. 2006-013, att.(III-8), 8-14-2006)

Sec. 15-3-90. Rezoning policy.

- (a) For the purpose of establishing and maintaining sound, stable and desirable development within the town, rezoning of land is to be permitted.

- (b) Rezoning may only be considered if:
 - (1) The land to be rezoned was zoned in error, and as presently zoned is inconsistent to the policies and goals of the town's comprehensive plan.
 - (2) The area for which rezoning is requested has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area.
 - (3) The proposed rezoning is necessary in order to provide land for a community related use which was not anticipated at the time of adoption of the town's master plan, and if such rezoning will be consistent with the policies and goals of the master plan.
 - (4) The area for which rezoning is requested is of such a nature and so located that the proposed zone change will not adversely affect existing or anticipated uses or property values in the vicinity, and the proposed zone change will not result in land uses that are incompatible with the town's comprehensive plan.

(Ord. No. 2006-013, att.(III-9), 8-14-2006)

Sec. 15-3-100. Minimum size of parcel.

No amendment changing the zoning classification of any lot, parcel or tract of land shall be adopted unless such lot, parcel or tract has 150 feet of frontage on a public street, or has a minimum of one acre of area, or abuts on a lot, parcel or tract of land that has the same zoning classification as that which is proposed for the property which is the subject of the proposed amendments.

(Ord. No. 2006-013, att.(III-10), 8-14-2006)

Sec. 15-3-110. Annexed territory.

- (a) Zoning of land in the process of annexation may be done in accordance with the proce-

...dure and notice requirements of this article and the Colorado Revised Statutes. The proposed zoning amendment shall not be passed on final reading prior to the date when the annexation ordinance is passed on final reading, but the ordinance annexing the property can also zone the property. If the zoning process is commenced prior to the effective date of the annexation ordinance, the legal protest area for rezoning shall be determined solely on geographic location, irrespective of whether the land in such legal protest area is within or without, or partly within and partly without, the town limits.

- (b) Any area annexed shall be brought under the provisions of this chapter and the map thereunder within 90 days from the effective date of the annexation ordinance, irrespective of any legal review, which may be instituted challenging the annexation. During the 90-day period, or such portion thereof as is required to zone the territory, the town shall refuse to issue any building permit for any portion or all of the newly annexed area.

(Ord. No. 2006-013, att.(III-11), 8-14-2006)

ARTICLE 4. ZONING DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 15-4-10. Zoning districts.

In order to implement the provisions of this chapter, the town establishes the following basic zoning districts:

- (1) *Rural residential (RR)*. The rural residential (RR) district is comprised of areas which are primarily in a natural

- state or areas utilized for growing of crops and plant materials, or where similar farming activities are practiced.
- (2) *Residential low-density (RL)*. The residential low-density (RL) district is comprised of areas which provide for residential development of one-unit dwellings in the community, plus certain open space areas where similar residential development appears likely to occur.
 - (3) *Residential medium-density (RM)*. The residential medium-density (RM) district is comprised of areas which provide for residential development of one-unit dwelling areas in the community, plus certain open spaces areas where similar residential development appears likely to occur. The intent of this district is to encourage development that relates to the historic development pattern; to promote compact, well-defined, sustainable neighborhoods that enhance the town's character; to create livable neighborhoods that foster a sense of community and reduce dependency on private vehicles; and to protect sensitive, natural, historic areas and environmental quality.
 - (4) *Residential high-density (RH)*. The residential high-density (RH) district is comprised of areas which are primarily used for or permit high-density, multi-unit development.
 - (5) *Mobile home (MH)*. The mobile home (MH) district provides for mobile home lots and residential development.
 - (6) *Commercial (C)*. The commercial business (C) district is comprised of areas to provide a full range of retail sales and services, as well as small fabrication facilities as conditional uses.
 - (7) *Community services/recreational (CSR)*. The community services/recreational (CSR) district is comprised of areas to provide for the use and service of the community at-large. This district covers operations and structures of benefit to the general community.

(Ord. No. 2006-013, att.(IV-1), 8-14-2006)

Sec. 15-4-20. Zone specifications summary.

ZONE SPECIFICATIONS

	Minimum Lot Size in Zone	Minimum Lot Area per Dwelling Unit	Minimum Lot Length	Minimum Lot Width	Setback Front	Setback Side Street	Setback Interior Lot Line	Setback Rear and Alley	Setback Accessory Use	Maximum Height	Total Coverage All Buildings
Zone RR (Division 2 of this Article)	5 acres	5 acres	N/A	N/A	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	30 ft.	21,000 sq. ft.
Zone RL (Division 3 of this Article)	21,300 sq. ft.	21,300 sq. ft.	142 ft.	120 ft.	20 ft.	10 ft.	10 ft.	10 ft.	10 ft.	30 ft.	30%
Zone RM (Division 4 of this Article)	10,650 sq. ft.	10,650 sq. ft.	142 ft.	75 ft.	20 ft.	10 ft.	10 ft.	10 ft.	10 ft.	30 ft.	30%
Zone RH (Division 5 of this Article)	7,100 sq. ft.	7,100 sq. ft.	142 ft.	**	20 ft.	10 ft.	5 ft.*	15 ft.	5 ft.	30 ft.	60%
Zone MH (Division 6 of this Article)	10,650 sq. ft.	10,650 sq. ft.	142 ft.	75 ft.	20 ft.	10 ft.	10 ft.	10 ft.	10 ft.	30 ft.	40%
Zone C (Division 7 of this Article)	**	7,100 sq. ft.	142 ft.	50 ft.	8 ft.	8 ft.	5 ft.	15 ft.	15 ft.	30 ft.	80% as conforms with setbacks
Zone CSR (Division 8 of this Article)	**	Dwelling units not permitted	**	**	**	**	**	**	**	30 ft.	**

*Minimum side setback from an interior lot line, five feet, if any side yard is provided. Side yards must be provided unless structures utilize common walls and individual units and the land on which they are located are sold, as is commonly the case in townhouse developments.

**The planning commission shall review all community services/recreational district building permit applications and make recommendations to the town board of trustees that include lot sizes and setbacks.

**DIVISION 2. RURAL RESIDENTIAL (RR)
DISTRICT**

Sec. 15-4-110. Purpose.

The rural residential (RR) district is comprised of areas which are primarily in a natural state or areas utilized for growing of crops and plant materials, or where similar farming activities are practiced.

(Ord. No. 2006-013, att.(IV-51), 8-14-2006)

Sec. 15-4-120. Permitted uses.

Permitted uses in the RR district shall be as follows:

- (1) One-unit dwellings.
- (2) Accessory buildings and uses.
- (3) Manufactured homes.
- (4) Agricultural or commercial crop or animal production, not including feedlots. Animal density shall not exceed one large grazing animal and two small grazing animals per acre, up to a maximum of ten large grazing animals and 20 small grazing animals on any lot of up to 40 acres. No more than 50 fowl may be kept on any rural residential district lot.

- (5) Cemeteries.

(Ord. No. 2006-013, att.(IV-52), 8-14-2006)

Sec. 15-4-130. Conditional uses.

Conditional uses in the RR district shall be as follows:

- (1) Non-personal nonrenewable energy projects, utility installations, such as electric substations, sewer lift stations, telephone exchanges, gas regulators, major

transmission lines, and irrigation ditch rights-of-way (not including utility offices, repair, and storage or production facilities).

- (2) Recreational and social facilities, such as parks, playfields, and playgrounds.
- (3) Community-wide sewage treatment plants, water supply and treatment plant, and solid waste disposal sites and facilities.
- (4) Campgrounds.
- (5) Radio, television and microwave transmitting, receiving or relay stations or towers must be at least 300 feet from any dwelling or school and not exceeding 30 feet in height.
- (6) Spiritual centers.
- (7) Well-located, clean and safe home business occupations.
- (8) B&Bs.

(Ord. No. 2006-013, att.(IV-53), 8-14-2006)

Sec. 15-4-140. Minimum lot size.

Minimum lot size in the RR district shall be 5 acres.

(Ord. No. 2006-013, att.(IV-54), 8-14-2006)

Sec. 15-4-150. Setback requirements.

Setback requirements in the RR district shall be as follows:

- (1) Minimum front setback: 20 feet.
- (2) Minimum side setback from a street right-of-way: 20 feet.
- (3) Minimum side setback from an interior lot line: 20 feet.

(4) Minimum rear setback for principal uses: 20 feet.

(5) Minimum rear setback for accessory uses: 20 feet.

(Ord. No. 2006-013, att.(IV-55), 8-14-2006)

Sec. 15-4-160. Lot coverage.

The total coverage of all buildings in the RR district or any buildable lot shall not occupy more than 21,000 square feet.

(Ord. No. 2006-013, att.(IV-56), 8-14-2006)

Sec. 15-4-170. Building height.

The maximum height of buildings in the RR district shall be 30 feet.

(Ord. No. 2006-013, att.(IV-57), 8-14-2006)

**DIVISION 3. RESIDENTIAL
LOW-DENSITY (RL) DISTRICT**

Sec. 15-4-210. Purpose.

The residential low-density (RL) district is comprised of areas which provide for residential development of single-unit residence dwelling areas in the community, plus certain open spaces areas where similar residential development appears likely to occur.

(Ord. No. 2006-013, att.(IV-101), 8-14-2006)

Sec. 15-4-220. Permitted uses.

Permitted uses in the RL district shall be as follows:

- (1) One- and two-unit dwellings.
- (2) Accessory dwelling units.
- (3) Accessory buildings and uses.
- (4) Manufactured homes.

(Ord. No. 2006-013, att.(IV-102), 8-14-2006)

Sec. 15-4-230. Conditional uses.

Conditional uses in the RL district shall be as follows:

- (1) Utility installations, such as electric substations, sewer lift stations, telephone exchanges, gas regulators, and major transmission lines (not including utility offices, repair, storage or production facilities) if located at least 300 feet from any dwelling or school.
- (2) Public and private schools, hospitals, rest homes, nursing and convalescent homes and retirement homes.
- (3) Children's homes, nurseries and day care centers.
- (4) Churches, chapels, temples and synagogues, mortuaries and funeral chapels.
- (5) Recreational and social facilities, such as parks, playfields, and playgrounds.
- (6) Town, special districts, county, state and federal facilities, uses and buildings.
- (7) Personal services, retailing goods serving only residents of an area in which these uses are located, if part of a residential planned unit development.
- (8) B&Bs.
- (9) One grazing animal per acre. For each additional one acre, one additional horse, mule, donkey, or pony may also be housed or maintained. No more than 7,500 square feet may be used for grazing and corral open area. Manure storage shall not be maintained within 50 feet from any dwelling or adjoining lot.
- (10) Medical, dental offices.
- (11) Art studios and galleries.

(12) Clean and safe home business occupations.
(Ord. No. 2006-013, att.(IV-103), 8-14-2006)

Sec. 15-4-240. Lot size.

Lot size requirements in the RL district shall be as follows:

- (1) Minimum lot area: 21,300 square feet.
 - (2) Minimum lot length: 142 feet.
 - (3) Minimum lot width: 120 feet.
- (Ord. No. 2006-013, att.(IV-104), 8-14-2006; Ord. No. 2009-009, § 4, 12-14-2009)

Sec. 15-4-250. Setback requirements.

Setback requirements in the RL district shall be as follows:

- (1) Minimum front setback: 20 feet.
 - (2) Minimum side setback from a street right-of-way: Ten feet.
 - (3) Minimum side setback from an interior lot line: Ten feet.
 - (4) Minimum rear setback for principal uses: Ten feet.
 - (5) Minimum rear setback for accessory uses: Ten feet.
- (Ord. No. 2006-013, att.(IV-105), 8-14-2006)

Sec. 15-4-260. Lot coverage.

The total coverage of all buildings in the RL district shall not occupy more than 30 percent of the building lot area. ADUs are included in the density calculations for a building lot.
(Ord. No. 2006-013, att.(IV-106), 8-14-2006)

Sec. 15-4-270. Building height.

The maximum height for all uses in the RL district shall be 30 feet.
(Ord. No. 2006-013, att.(IV-107), 8-14-2006)

**DIVISION 4. RESIDENTIAL
MEDIUM-DENSITY (RM) DISTRICT**

Sec. 15-4-310. Purpose.

The residential medium-density (RM) district is comprised of areas which provide for residential development of single-unit residence dwelling areas in the community, plus certain open spaces areas where similar residential development appears likely to occur. The intent of this district is to allow development that relates to the historic development pattern; to promote compact, well-defined, sustainable neighborhoods that enhance the town's character; to create livable neighborhoods that foster a sense of community and reduce dependency on private vehicles; and to protect sensitive, natural, historic areas and environmental quality.
(Ord. No. 2006-013, att.(IV-151), 8-14-2006)

Sec. 15-4-320. Permitted uses.

Permitted uses in the RM district shall be as follows:

- (1) One- and two-unit dwellings.
 - (2) Accessory dwelling units.
 - (3) Boardinghouses with no more than five bedrooms.
 - (4) Accessory buildings and uses.
 - (5) Manufactured homes.
- (Ord. No. 2006-013, att.(IV-152), 8-14-2006)

Sec. 15-4-330. Conditional uses.

Conditional uses in the RM district shall be as follows:

- (1) Utility installations, such as electric substations, sewer lift stations, telephone exchanges, gas regulators, and major transmission lines (not including utility offices, repair, storage or production facilities).
- (2) Public and private schools, hospitals, rest homes, nursing and convalescent homes and retirement homes.
- (3) Children's homes, nurseries and day care centers.
- (4) Churches, chapels, temples and synagogues, mortuaries and funeral chapels.
- (5) Recreational and social facilities, such as parks, playfields, and playgrounds.
- (6) Town, special districts, county, state and federal facilities, uses and buildings.
- (7) Personal services, retailing goods serving only residents of an area in which these uses are located, if part of a residential planned unit development.
- (8) B&Bs.
- (9) Well-located clean and safe home business occupations.
- (10) Medical and dental clinics.
- (11) Art studios and galleries.

(Ord. No. 2006-013, att.(IV-153), 8-14-2006)

Sec. 15-4-340. Lot size.

Lot size requirements in the RM district shall be as follows:

- (1) Minimum lot area: 10,650 square feet.

- (2) Minimum lot length: 142 feet.

- (3) Minimum lot width: 75 feet.

(Ord. No. 2006-013, att.(IV-154), 8-14-2006)

Sec. 15-4-350. Setback requirements.

Setback requirements in the RM district shall be as follows:

- (1) Minimum front setback: 20 feet.
- (2) Minimum side setback from a street right-of-way: Ten feet.
- (3) Minimum side setback from an interior lot line: Ten feet.
- (4) Minimum rear setback for principal uses: Ten feet.
- (5) Minimum rear setback for accessory uses: Ten feet.

(Ord. No. 2006-013, att.(IV-155), 8-14-2006)

Sec. 15-4-360. Lot coverage.

The total coverage of all buildings in the RM district (including ADUs) shall not occupy more than 30 percent of the lot area. ADUs are included in the density calculations for a building lot.

(Ord. No. 2006-013, att.(IV-156), 8-14-2006)

Sec. 15-4-370. Building height.

The maximum height for all uses in the RM district shall be 30 feet.

(Ord. No. 2006-013, att.(IV-157), 8-14-2006)

DIVISION 5. RESIDENTIAL
HIGH-DENSITY (RH) DISTRICT

Sec. 15-4-410. Purpose.

The residential high-density (RH) district is comprised of areas which are primarily used for or permit residential high-density, multi-unit development.

(Ord. No. 2006-013, att.(IV-201), 8-14-2006)

Sec. 15-4-420. Permitted uses.

Permitted uses in the RH district shall be as follows:

- (1) One- and two-single unit residence buildings.
- (2) Accessory dwelling units.
- (3) Boardinghouses and lodginghouses.
- (4) Accessory buildings and uses.
- (5) Manufactured homes.
- (6) Multi-unit dwellings, of not more than six single-unit residence or clusters of single unit residences.

(Ord. No. 2006-013, att.(IV-202), 8-14-2006)

Sec. 15-4-430. Conditional uses.

Conditional uses in the RH district shall be as follows:

- (1) Utility installations, such as electric substations, sewer lift stations, telephone exchanges, gas regulators, and major transmission lines (not including utility offices, repair, storage or production facilities).
- (2) Public and private schools, hospitals, rest homes, nursing homes and retirement homes.

- (3) Children's homes, nurseries and day care centers.
- (4) Churches, chapels, temples and synagogues, mortuaries and funeral chapels.
- (5) Recreational and social facilities, such as parks, playfields, and playgrounds.
- (6) Town, special districts, county, state and federal facilities, uses and buildings.
- (7) Personal services, retailing goods serving only residents of an area in which these uses are located, if part of a residential planned unit development.
- (8) Medical and dental clinics.
- (9) Compatible commercial uses.
- (10) Art studios/galleries.
- (11) Well-located, clean and safe home business occupations.
- (12) B&Bs.

(Ord. No. 2006-013, att.(IV-203), 8-14-2006)

Sec. 15-4-440. Lot size.

Lot size requirements in the RH district shall be as follows:

- (1) Minimum lot area per dwelling unit shall be 7,100 square feet.
- (2) Minimum lot length: 142 feet.

(Ord. No. 2006-013, att.(IV-204), 8-14-2006)

Sec. 15-4-450. Setback requirements.

Setback requirements in the RH district shall be as follows:

- (1) Minimum front setback: 20 feet.
- (2) Minimum side setback from a street right-of-way: Ten feet.

- (3) Minimum side setback from an interior lot line, or alley: Five feet, if any side yard is provided. Side yards must be provided unless structures utilize common walls and individual units and the land on which they are located are to be sold, as is commonly the case in town-house developments.
- (4) Minimum rear setback for principal uses: Ten feet.
- (5) Minimum rear setback for accessory uses: Five feet.

(Ord. No. 2006-013, att.(IV-205), 8-14-2006)

Sec. 15-4-460. Lot coverage.

The total coverage of all buildings (including ADUs) in the RH district shall not occupy more than 60 percent of the lot area.

(Ord. No. 2006-013, att.(IV-206), 8-14-2006)

Sec. 15-4-470. Building height.

The maximum height for all uses in the RH district shall be 30 feet.

(Ord. No. 2006-013, att.(IV-207), 8-14-2006)

DIVISION 6. MOBILE HOME (MH) DISTRICT

Sec. 15-4-510. Purposes.

The mobile home (MH) district provides for individual mobile home lots and residential development.

(Ord. No. 2006-013, att.(IV-251), 8-14-2006)

Sec. 15-4-520. Permitted uses.

Permitted uses in the MH district shall be as follows:

- (1) Manufactured homes.

- (2) Mobile homes.
- (3) One-unit dwellings and two-unit dwellings.
- (4) Accessory buildings and uses.

(Ord. No. 2006-013, att.(IV-252), 8-14-2006)

Sec. 15-4-530. Conditional uses.

Conditional uses in the MH district shall be as follows:

- (1) Utility installations, such as electric substations, sewer lift stations, telephone exchanges, gas regulators, and major transmission lines (not including utility offices, repair, and storage or production facilities).
- (2) Children's homes, nurseries and day care center.
- (3) Recreational and social facilities such as parks, playfields, and playgrounds).
- (4) Well-located, clean and safe home occupations.
- (5) B&Bs.

(Ord. No. 2006-013, att.(IV-253), 8-14-2006)

Sec. 15-4-540. Lot size.

The lot size requirements in the MH district shall be as follows:

- (1) Minimum lot area: 10,650 feet.
- (2) Minimum lot width: 75 feet.
- (3) Minimum lot length: 142 feet.

(Ord. No. 2006-013, att.(IV-254), 8-14-2006)

Sec. 15-4-550. Setback requirements.

Setback requirements in the MH district shall be as follows:

- (1) Minimum front setback: 20 feet.

- (2) Minimum side setback from a street right-of-way: Ten feet.
- (3) Minimum side setback from an interior lot line or alley: Ten feet.
- (4) Minimum rear alley setback for principal uses: Ten feet.
- (5) Minimum rear setback or alley for accessory uses: Ten feet.

(Ord. No. 2006-013, att.(IV-255), 8-14-2006)

Sec. 15-4-560. Lot coverage.

The total coverage of all building shall not occupy more than 40 percent of the lot area.
(Ord. No. 2006-013, att.(IV-256), 8-14-2006)

Sec. 15-4-570. Height of buildings.

Maximum height for all uses in the MH district shall be 30 feet.
(Ord. No. 2006-013, att.(IV-257), 8-14-2006)

Sec. 15-4-580. Supplementary provisions.

- (a) The crawl space beneath mobile homes shall be enclosed by skirting within 90 days after location on site. The skirting shall be, or shall be equal to, skirting manufactured for that purpose.
- (b) All mobile homes shall be installed in accordance with state division of housing standards for installation of manufactured homes and factory-built housing.
- (c) A dwelling on a site less than 21,300 square feet must be connected to the municipal sewer system.

(Ord. No. 2006-013, att.(IV-258), 8-14-2006)

DIVISION 7. COMMERCIAL (C) DISTRICT

Sec. 15-4-610. Purpose.

The commercial (C) district is comprised of areas to provide a full range of retail sales and services.

(Ord. No. 2006-013, att.(IV-301), 8-14-2006)

Sec. 15-4-620. Permitted uses.

Permitted uses in the C district shall be as follows:

- (1) Medical and dental clinics.
- (2) Professional offices.
- (3) Financial institutions.
- (4) Membership clubs.
- (5) Mixed use buildings.
- (6) Multi-unit dwellings, boardinghouses and lodgings.
- (7) Churches, chapels, temples and synagogues.
- (8) Hotels and motels, including restaurants and other incidental vocational, business and private schools.
- (9) Vocational, business and private schools.
- (10) Automobile parking lots and parking garages.
- (11) Personal services, including, but not limited to, barbershops and beauty shops, dry cleaning outlets, self-service laundries, shoe repair shops and similar service activities.
- (12) Indoor eating and drinking establishments.
- (13) Indoor amusement and entertainment establishments.

- (14) Indoor retail establishments.
- (15) Establishments for a wide variety of commercial uses, including, but not limited to, cleaning and laundry plants, furniture and appliance repair, lumber dealers, building equipment and wholesaling services.
- (16) Parks, playfields and playgrounds.
- (17) Accessory buildings and uses.
- (18) Outdoor sales and repair.
- (19) Hospitals.
- (20) Reserved.
- (21) Drive-in eating restaurants.
- (22) Miniature golf courses, outdoor amusement and entertainment establishments.
- (23) Retail liquor stores. Drive-through sales prohibited.
- (24) Retail marijuana stores (subject to Ordinance No. 2016-002).
- (25) One- and two-unit dwellings.
(Ord. No. 2006-013, att.(IV-302), 8-14-2006)

Sec. 15-4-630. Conditional uses.

Conditional uses in the C district shall be as follows:

- (1) Manufactured structures.
- (2) Utility installations, such as electric substations, sewer lift stations, telephone exchanges, gas regulators, and major transmission lines (not including utility offices, and storage or production facilities).
- (3) Small fabrication facilities.
- (4) Recycling centers.

- (5) Gasoline service stations.
- (6) News, radio, television, and microwave transmitting, receiving or relay stations or towers. (Must be at least 300 feet from any dwelling or school.)

(Ord. No. 2006-013, att.(IV-303), 8-14-2006; Ord. No. 2009-009, § 4, 12-14-2009; Ord. No. 2010-007, 11-8-2010)

Sec. 15-4-640. Lot size.

Lot size requirements in the C district shall be as follows:

- (1) Minimum lot width: 50 feet.
- (2) Minimum lot length: 142 feet.
- (3) Minimum lot size: 7,100 square feet.
- (4) Minimum lot area per dwelling unit: 7,100 square feet.

(Ord. No. 2006-013, att.(IV-304), 8-14-2006; Ord. No. 2009-009, § 4, 12-14-2009)

Sec. 15-4-650. Setback requirements.

Setback requirements in the C district shall be as follows:

- (1) Minimum front setback: Eight feet.
- (2) Minimum side setback from a street right-of-way: Eight feet.
- (3) Minimum side setback from an interior lot line: Five feet.
- (4) Minimum rear setback: 15 feet.
- (5) Minimum rear setback for accessory uses: 15 feet.

(Ord. No. 2006-013, att.(IV-305), 8-14-2006)

Sec. 15-4-660. Lot coverage.

The total coverage of all buildings in the C district may occupy 80 percent of the lot area as it conforms with setbacks and parking requirements.

(Ord. No. 2006-013, att.(IV-306), 8-14-2006)

Sec. 15-4-670. Building height.

The maximum height for buildings in the C district shall be 30 feet.

(Ord. No. 2006-013, att.(IV-307), 8-14-2006)

**DIVISION 8. COMMUNITY SERVICES
AND RECREATIONAL (CSR) DISTRICT**

Sec. 15-4-710. Purpose.

The community services/recreational (CSR) district is comprised of areas to provide for the use and service of the community at-large. This district covers operations of benefit to the general community.

(Ord. No. 2006-013, att.(IV-351), 8-14-2006; Ord. No. 2009-009, § 4, 12-14-2009)

Sec. 15-4-720. Permitted uses.

Permitted uses in the CSR district shall be as follows:

- (1) Youth and adult public and private educational facilities.
- (2) Specialized training facilities.
- (3) Local government offices.
- (4) Conference centers.
- (5) Libraries.
- (6) Fire departments.
- (7) Police stations.
- (8) Courthouses.

(9) Postal centers.

(10) Nonprofit service organizations.

(11) Nursery and day care centers.

(12) Recreational centers.

(13) Parks, playfields and playgrounds.

(14) Miniature golf courses, outdoor amusement and entertainment establishments.

(15) Tennis clubs.

(16) Swimming facilities.

(17) Animal shelters.

(18) Greenhouses and gardens.

(19) Churches, chapels, temples and synagogues.

(Ord. No. 2006-013, att.(IV-352), 8-14-2006; Ord. No. 2009-009, § 4, 12-14-2009)

Sec. 15-4-730. Conditional uses.

Conditional uses in the CSR district shall be as follows:

(1) Utility installations, such as electric substations, sewer lift stations, telephone exchanges, gas regulators, and major transmission lines (not including utility offices, repair, storage or production facilities) not to exceed 40 feet.

(2) Recycle centers/community Freebox.

(Ord. No. 2006-013, att.(IV-353), 8-14-2006; Ord. No. 2009-009, § 4, 12-14-2009)

Sec. 15-4-740. Lot size and setback requirements.

The planning commission shall review all CSR district building permit applications and make recommendations to the town board of trustees that include lot sizes and setbacks.

(Ord. No. 2006-013, att.(IV-354), 8-14-2006; Ord. No. 2009-009, § 4, 12-14-2009)

Sec. 15-4-750. Building height.

The maximum height for buildings in the CSR district shall be 30 feet. (Ord. No. 2006-013, att.(IV-355), 8-14-2006; Ord. No. 2009-009, § 4, 12-14-2009)

ARTICLE 5. SUPPLEMENTARY REGULATIONS

Sec. 15-5-10. District boundaries.

Wherever possible, district boundaries shall be the centerlines of streets, alleys, railroad rights-of-way or such lines extended. (Ord. No. 2006-013, att.(V-1), 8-14-2006)

Sec. 15-5-20. Permitted uses and conditional uses in same building.

Permitted uses and conditional uses may be located in the same building. (Ord. No. 2006-013, att.(V-2), 8-14-2006)

Sec. 15-5-30. Accessory use provisions.

Accessory uses shall comply with all requirements for the principal use, except where specifically modified by this chapter, and shall also comply with the following limitation: Accessory buildings shall be set back from the side street a distance not less than that required for the principal building. (Ord. No. 2006-013, att.(V-3), 8-14-2006)

Sec. 15-5-40. Temporary uses permitted.

The following uses of land are permitted in each zoning district, unless restricted to particular zoning districts, subject to the specific regulations

and time limits, which follow, and to the other applicable regulations of the district in which the use is permitted:

- (1) Christmas tree sales in any district, for a period not to exceed 60 days; display of Christmas trees need not comply with the yard and setback requirements of this chapter, provided that no tree shall be displayed within 30 feet of the intersection of the right-of-way line of any two streets.
- (2) Contractors' office quarters and equipment sheds accessory to a construction project, to continue only during the duration of the project.
- (3) Real estate offices incidental to a new housing development to continue only until the sale or lease of all lots on the development, but not exceeding one year and subject to renewal under the discretion of the town board of trustees.

(Ord. No. 2006-013, att.(V-4), 8-14-2006)

Sec. 15-5-50. Mandatory sewer connection and approved water connection.

- (a) Any structure constructed or designed as a dwelling or dwelling unit in all districts shall be required to include plumbing facilities and must connect to the town sewer system wherein such structure lies within the sewer service area (as described in the town sewer service ordinance, Ordinance No. 2018-06), regardless of whether such structure lies upon a lot or lots totaling less than 21,000 square feet or whether a conditional use or variance has been granted for said structure.
- (b) Where the town sewer system is not available, a permitted or other state approved system

must be obtained for all dwelling units and a septic system, or other approved system, shall be installed upon approval of the application. In addition, such structure shall have a water connection in accordance with the state plumbing code and an adequate supply of potable water, as approved by the town prior to occupancy, as set forth in Ordinance No. 2018-01.

(Ord. No. 2006-013, att.(V-5), 8-14-2006)

Sec. 15-5-60. Installation of culverts.

If during site inspection for a building permit the public works coordinator determines that a culvert is needed to channel water through a drainage way where private property abuts town property, the public works coordinator will determine the size of the culvert needed, and the property owner is responsible for purchasing and installing the culvert.

Sec. 15-5-70. Maintenance of minimum requirements.

No lot area setback, or other open space, or required off-street parking or loading area existing on or after the effective date of the ordinance from which this chapter is derived shall be reduced in area, dimension, or size below the minimum required by this chapter. Any off-street parking or loading area which is required by this chapter for one use may be used as the off-street parking or loading area requirement for another use.
(Ord. No. 2006-013, att.(V-6), 8-14-2006)

Sec. 15-5-80. Exceptions—Setback requirements.

The following exceptions to the front setback requirements for a dwelling is authorized for a lot in any district:

- (1) If there are dwellings on both abutting lots with front setbacks of less than the

required depth for the district, the front setback for the lot need not exceed the average front setback of the abutting dwellings.

- (2) If there is a dwelling on one abutting lot with a front setback of less than the required depth for the district, the front setback for the lot need not exceed a depth one-halfway between the depth of the abutting lot and the required front setback depth.

(Ord. No. 2006-013, att.(V-8), 8-14-2006)

Sec. 15-5-90. Exceptions—Building height limitations.

The following types of structures or structural parts are not subject to the building height limitations of this chapter: chimneys, storage tanks, water towers, church spires, belfries, domes, public monuments, fire and hose towers, observation towers, transmission towers, utility poles, flagpoles, radio and television towers, masts, aerials, cooling towers, elevator shafts, grain elevators, ranch and farm accessory uses, silos, outdoor movie screens and other similar projections.

(Ord. No. 2006-013, att.(V-9), 8-14-2006)

Sec. 15-5-100. Projections from buildings.

Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features and other similar architectural features may project not more than three feet into a required setback or into required open space as established by coverage standards.

(Ord. No. 2006-013, att.(V-10), 8-14-2006)

Sec. 15-5-110. Vision clearance.

- (a) The vision clearance area shall contain no opaque plantings, walls, structures or tempo-

rary or permanent obstructions between 2½ feet and eight feet in height, except for trees or signs where no foliage or sign itself exists between 2½ feet and eight feet. The height shall be measured from the top of the curb or existing grade.

- (b) Vision clearance areas at street corners shall be triangular, with 15 feet of each street from the corner being the sides of the triangle and the hypotenuse of the triangle connecting the ends of the sides furthest from the corners. At alleys the sides of the vision clearance triangle shall be formed from the street and the alley and shall each be ten feet long. (Ord. No. 2006-013, att.(V-11), 8-14-2006)

Sec. 15-5-120. Screening.

Screening may be required for all exterior business activity areas, including, but not limited to, parking areas, service areas and outdoor storage areas, by means of plant materials, earth mounding, architectural screens or locating so as to provide visual and aural separation between these elements and adjacent residential property whether existing or proposed. (Ord. No. 2006-013, att.(V-12), 8-14-2006)

Sec. 15-5-130. Home business occupation.

A home business occupation shall be an accessory use by a bona fide resident of the dwelling that is clearly secondary and incidental to the residential use of the dwelling unit. Home business occupations shall be allowed as provided for and shall be governed by the following regulations:

- (1) A home business occupation must be clearly secondary to the use of the building and shall not occupy more than 50

percent of the total floor area of the main building and shall not occupy more than 25 percent of total lot area.

- (2) A home business occupation shall be operated entirely from an enclosed structure and all exterior storage of materials and equipment shall be adequately screened.
- (3) The residential character shall be maintained.
- (4) The operation shall not generate objectionable traffic, substantially increase traffic or result in increased on-street parking in the area.
- (5) The operation shall not be objectionable due to odor, dust, smoke, noise, vibration or other similar causes.
- (6) Signage may not exceed two square feet and may not be illuminated except when it is identifying a home business occupation of an emergency service nature.

(Ord. No. 2006-013, att.(V-13), 8-14-2006)

Sec. 15-5-140. Renting of rooms.

No more than six unrelated adults may live in the same single unit residence. (Ord. No. 2006-013, att.(V-14), 8-14-2006)

Sec. 15-5-150. Adult-oriented businesses.

- (a) *Restricted locations.*
 - (1) It shall be unlawful to operate or cause to be operated an adult-oriented business in any location other than the commercial zone (C). An adult-oriented business shall be deemed to be a conditional use.

- (2) It shall be unlawful to operate or cause to be operated an adult-oriented business within 750 feet of a church, school, child care or day care home or facility, dormitory, health services center or hospital, public park, or residential property. For the purposes of this subsection, the distance between an adult-oriented business and church, school, child care or day care home or facility, dormitory, health services center or hospital, public park, or residential property shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point of the building or structure in which the adult-oriented business is conducted to the nearest property line of the premises in which a church, school, child care or day care home or facility, dormitory, health services center or hospital, public park, or residentially zoned property is located.
- (3) It shall be unlawful to operate or cause to be operated an adult-oriented business within 750 feet of another adult-oriented business. The distance between any two such businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structures in which the adult-oriented businesses are located.
- (4) It shall be unlawful to operate or cause to be operated more than one adult-oriented business in the same facility or portion thereof.
- (b) *Restricted hours of operation.*
- (1) It shall be unlawful for an adult-oriented business to be open for business, or for a licensee to allow patrons on the premises, from 2:00 a.m. to 12:00 noon of any day.
- (2) Subsection (b)(1) of this section shall not apply to private rooms within an adult-oriented motel or hotel.
- (c) *Minimum age limitations.* All minors, being persons under 18 years of age, shall be prohibited admission to an adult-oriented business; provided, however, that this prohibition shall not apply to the non-adult-oriented business portion of a business's premises, if the interior of the adult-oriented business portion of the premises is not visible from the non-adult-oriented business portion of the premises, and access is restricted and regulated so as to bar entrance by minors. It shall be unlawful for either a licensee or minor to violate this provision.
- (Ord. No. 2006-013, att.(V-15), 8-14-2006)
- Sec. 15-5-160. Accessory dwelling units (ADUs).**
- (a) Purpose and density. ADUs are especially created to increase residential districts and are not allowed as short-term rentals. Not more than one ADU may be located on the same buildable parcel as the primary dwelling unit.
- (b) A building permit must be secured prior to the construction and installation of the ADU in compliance with the requirements of section 15-2-60.
- (c) All setbacks as required by the zoning regulations for the primary dwelling apply to the ADU.
- (d) The provisions of the lot coverage area of all buildings in the residentially zoned district lot shall include the ADU and all other buildings.

- (e) Utility connections for ADUs. ADUs are permitted only on lots connected to water and sewer or on lots with wells, and septic systems approved by the town. All Colorado state plumbing and electrical requirements, permits and extensions must be met, as well as requirements of chapter 7, relating to utilities and water and sewer taps and other requirements; provided, however, the ADU may be connected to the same taps as the principal dwelling unit; and the water connection shall contain a cross-connection control device.
- (f) The ADU shall be installed on a permanent foundation in the same manner as the principal dwelling.
- (g) The ADU may be attached or detached from the principal dwelling unit.
- (h) The size of the ADU shall be no more than 600 square feet total living area, and have not more than two bedrooms and must have a kitchen area and bathroom.
- (i) If the ADU is attached to the principal dwelling unit it shall have a separate entrance.
- (j) The ADU shall be entitled to use a different number than the principal dwelling unit as its address and assigned by the town clerk for "911" and mail delivery purposes.
- (k) If the primary dwelling unit is served by a private well, the ADU must file documented approval by the state division of water resources.
- (l) There shall be no on-street parking for the ADU. There shall be one dedicated off-street parking space for each bedroom located in the ADU.

- (m) ADUs shall only be allowed in RR, RL, RM, RH, and MH districts.
- (n) ADU approvals shall require a complete improvement location certificate to be furnished by the applicant.
- (o) Pets. There shall not be more than a combination of four dogs/cats on the entire parcel including the primary dwelling and the ADU. (Ord. No. 2018-001, 1-7-2018)

ARTICLE 6. CONDITIONAL USES

Sec. 15-6-10. Purposes.

Although each zone district is primarily intended for a predominant type of use, such as dwellings in residential districts, there are a number of uses which may or may not be appropriate in a particular district, depending upon, for example, the location, nature of the proposed use, character of surrounding development, traffic capacities of adjacent streets, and potential environmental effect. These factors may dictate that the circumstances of development should be individually reviewed. It is the purpose of this article to provide review of such uses so that the community is assured that they are compatible with their locations and surrounding land uses and will further the purposes of this article.

(Ord. No. 2006-013, att.(VI-1), 8-14-2006)

Sec. 15-6-20. Application, information.

- (a) An application for approval of a conditional use may be filed by a person having an interest in the property for which the conditional use is requested and shall be made on a form provided by the town.

- (b) The application must include:
- (1) A nonrefundable processing fee in an amount which is on file in the office of the town clerk which shall be submitted with the application.
 - (2) A complete site plan showing the major details of the proposed development consisting of the following: location of buildings and structures, off-street parking areas, off-street loading areas, service and refuse areas, means of ingress and egress, amount of traffic generated, amount and location of fill, major landscaping or screening proposals, signs, pedestrian areas, and pertinent dimensions and any areas to be used for large animals.
 - (3) A time schedule for development and completion.
 - (4) Such other information as the planning commission requires.
 - (5) Any other information the applicant believes will support his application.

(Ord. No. 2006-013, att.(VI-2), 8-14-2006)

Sec. 15-6-30. Notice.

Written notice that a conditional use application has been filed and that it may be reviewed during regular office hours of the town hall will be sent to owners of property within 500 feet of the property in question. If the planning commission decides to hold a public meeting, such owners will also be sent written notice of the date, time and place of the public meeting.

(Ord. No. 2006-013, att.(VI-3), 8-14-2006)

Sec. 15-6-40. Public meeting; recommendation.

- (a) Within 30 days after the planning commission receives a completed application, the

planning commission may, at its discretion, hold a public meeting to consider the application.

- (b) The planning commission shall, within 30 days of the public meeting, unless a longer time is necessary for consideration of the application for reasons specifically stated by the planning commission, either recommend approval of the application, in whole or in part, with or without modifications and conditions, or recommend disapproval of the of the application to the town board of trustees.
- (c) The recommendation of the planning commission shall be transmitted to the town board of trustees and to the applicant.

(Ord. No. 2006-013, att.(VI-4), 8-14-2006)

Sec. 15-6-50. Public hearing.

- (a) The town board may, at its discretion, hold a public hearing on any proposed conditional use after receiving the written report of recommendations from the planning commission.
- (b) A notice of the hearing shall be published in a newspaper of general circulation within the town at least 15 days prior to the hearing date.
- (c) A written notice of the hearing will be sent by first-class mail, at least 15 days prior to the hearing date, to property owners within 500 feet of the property in question, as such ownership is available in the town clerk's office.
- (d) The town board of trustees shall either approve the application, in whole or in part, with or without modifications and conditions, or disapprove the application. The de-

cision of the town board of trustees shall be transmitted to the planning commission and to the applicant.

(Ord. No. 2006-013, att.(VI-5), 8-14-2006)

Sec. 15-6-60. Site plans.

All approved site plans for conditional uses, including modifications and conditions, shall be certified by the town board and made a permanent part of the zoning map by reference.

(Ord. No. 2006-013, att.(VI-6), 8-14-2006)

Sec. 15-6-70. Review of decision, right to appeal.

(a) Any person applying to the courts for a review of any decision made under the terms of this article shall apply for review within 30 days after the date of decision and shall be required to pay the cost of preparing a transcript of proceedings.

(b) The application for review shall be in the nature of certiorari under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(c) The town shall be entitled to appeal any decision of the district court under Rule 106 proceedings.

(Ord. No. 2006-013, att.(VI-7), 8-14-2006)

Sec. 15-6-80. Application—Approval criteria.

No conditional use application shall be approved unless it is found that the application:

- (1) Complies with all requirements imposed by this article and with all applicable written rules.
- (2) Is consistent with the objectives and purposes of section 15-6-10.

(3) Is designed to be compatible with surrounding land uses and the area of its location.

(Ord. No. 2006-013, att.(VI-8), 8-14-2006)

Sec. 15-6-90. Application—Imposed modifications and conditions.

In considering an application for a conditional use, the planning commission and town board shall consider and may impose modifications or conditions concerning, by way of illustration and not limitation, the following development features, to the extent that such modifications or conditions are necessary to ensure compliance with the criteria of section 15-6-10:

- (1) Size and location of site.
- (2) Internal traffic circulation and access to adjoining public streets.
- (3) Location and amount of off-street parking.
- (4) Fencing, screening and landscaped separations including open space.
- (5) Building bulk and location.
- (6) Signs and lighting.
- (7) Noise, vibration, air pollution and other environmental influences.

(Ord. No. 2006-013, att.(VI-9), 8-14-2006)

Sec. 15-6-100. Modification after approval.

No approved conditional use may be substantially modified, structurally enlarged, expanded in parking area or expanded in ground area unless the site plan is amended and approved in accordance with the procedures applicable to initial approval of a conditional use.

(Ord. No. 2006-013, att.(VI-10), 8-14-2006)

Sec. 15-6-110. Preexisting.

Any approved conditional use which existed prior to the effective date of the ordinance from which this article is derived shall continue to be an approved conditional use, unless modified as noted in section 15-6-100.

(Ord. No. 2006-013, att.(VI-11), 8-14-2006)

Sec. 15-6-120. Termination.

Any approved conditional use will automatically terminate unless completed in accordance with the approved applicant timetable.

(Ord. No. 2006-013, att.(VI-12), 8-14-2006)

Sec. 15-6-130. Extension.

The applicant may submit an application for an extension of time, along with an extension fee in an amount which is on file in the town clerk's office.

(Ord. No. 2006-013, att.(VI-13), 8-14-2006)

ARTICLE 7. BOARD OF ADJUSTMENT**Sec. 15-7-10. Appeals generally.**

The BOA shall hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official charged with the enforcement of any ordinance adopted pursuant to C.R.S. Title 31, Article 23 (C.R.S. § 31-23-101 et seq.), and shall hear and decide all matters referred to it upon which it is required to pass. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such ordinance, the BOA has the power, in passing upon appeals, to vary or modify the application of the regulations or provisions of such ordinance relating to the construction, or alteration of buildings or struc-

tures, so that the spirit of the ordinance is observed, public safety and welfare secured, and substantial justice done.

Sec. 15-7-20. Powers.

The board of adjustment shall have the following powers:

- (1) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirements, decision or refusal made by an administrative official or agency based on or made in the enforcement of this chapter. The board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from.
- (2) To grant or deny variances from the provisions of this chapter when the strict application of the regulations codified in this chapter would result in peculiar and exceptional and undue hardship upon the owner of the property. The board may authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, provided relief may be granted without substantially impairing the intent and purpose of this chapter. In granting any variance, the board of adjustment may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter. In granting or denying variances the board shall consider the following criteria and standards:
 - a. Whether there are unique physical circumstances or conditions, such

as exceptional irregularity, narrowness or shallowness of a piece of property at the time of codification of the ordinance from which this chapter is derived, or whether there are exceptional topographic or other physical conditions or other extraordinary and exceptional situations or conditions peculiar to the affected property.

- b. Whether the unusual circumstances or conditions exist throughout the neighborhood or district in which the property is located.
- c. Whether the hardship has been created by the applicant.
- d. Whether the grant of the requested variance will cause a significant hazard, annoyance or inconvenience to the owners or occupants of nearby property, significantly change the character of the neighborhood or reduce the value of nearby property, impose any significant cost burden upon the town or create any significant obstacle to implementation of the zoning plan evidenced by this chapter or by any master plan of the town.
- e. Whether the variance, if granted, will alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use or development of adjacent property.

(3) To hear and decide such other special questions not inconsistent with this chapter, upon which the board is authorized by resolution of the town.

(4) To hear and decide whether a specific use is expressly permitted in a use group as specified in article 4, division 2 of this chapter.

(5) To decide questions concerning the interpretation of this chapter where any ambiguity or conflict exists or concerning the application of this chapter to specific property where any ambiguity might exist.

(Ord. No. 2006-002, 2-13-2006; Ord. No. 2006-013, att.(VII-10), 8-14-2006)

Sec. 15-7-30. Application procedures.

The application for a variance shall be made on such a form as provided by the town. The application shall be submitted to the town clerk, who shall be responsible for ensuring that a complete application has been submitted.

Sec. 15-7-40. Hearing, notice.

(a) The BOA shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide the same within a reasonable time. Upon hearing, any party may appear in person or by agent or attorney. The BOA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end has all the powers of the officer from whom the appeal is taken.

(b) Within 30 days after the town clerk receives a completed application, the board of adjustments shall hold a public hearing to consider the application.

- (c) **Published notice.** At least 15 days prior to any public hearing which requires published notice, the town clerk shall cause to be published a notice of public hearing in the legal section of a newspaper of general circulation within the town. The notice shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration, by both address and legal description.
- (d) **Posted notice.**
 - (1) At least 21 days prior to any public hearing which requires posted notice, the town clerk shall cause to be pre-

pared, and the applicant shall post a sign (one per street frontage) upon the parcel under consideration which provides notice of the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel by both address and legal description. The signs shall consist of at least one sign facing each adjacent public right-of-way. The fact that a parcel was not continuously posted the full period may not, at the sole discretion of the hearing authority, constitute grounds for continuance where the applicant can show that a good faith effort to meet this posting requirement was made.

- (2) The sign shall be at least three feet by four feet in size, of a durable material, such as plywood, metal or particle board, with each letter being at least two inches in height and being waterproof so as not to smear. The following information shall be placed on the sign:

NOTICE OF PUBLIC HEARING

(Crestone board of adjustment or other hearing authority, such as the town board of trustees or the planning commission)

PROPERTY OWNER: _____

ADDRESS: _____

LEGAL DESCRIPTION: _____

ACTION (E.G., VARIANCE, ZONE CHANGE, CONDITIONAL USE, ETC.)

REQUEST: _____

HEARING TO BE HELD: (date and time)

 CRESTONE TOWN HALL
 CRESTONE, COLORADO

- (e) Mailed notice. At least 20 days prior to any public hearing which requires notification by letter, the town shall cause to be sent, by first-class mail, postage prepaid, with a certificate of mailing, a letter to:
 - (1) All property owners within 300 feet; and
 - (2) Owners of property included within the application.
- (f) The letter shall include a vicinity map, a short narrative describing the application and an announcement of the date, time and location of the scheduled hearing. The letter shall specify the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel under consideration by address or approximate address. Failure of a property owner to receive a mailed notice will not necessitate the delay of a hearing and shall not be regarded as constituting inadequate notice.
- (g) Either the applicant or his representative must be present at the public hearing to present the application. Non-appearance may justify the denial of the application.

(Ord. No. 2006-013, att.(VII-13), 8-14-2006)

Sec. 15-7-50. Appeals—Time limit.

- (a) Appeals to the board of adjustment may be taken by any person aggrieved by any administrative decision based upon or made in the course of the administration or enforcement of the provisions of this chapter. Appeals to the board of adjustment may also be taken by any officer, department, board or bureau of the town or the town officer or agency based on or made in the course of the administration or enforcement of the provisions of this chapter.

- (b) The time within which such an appeal must be made, and the form or other procedure relating thereto, shall be as specified in the rules of procedure adopted by the board of adjustment, and in the absence of specific rules, the time period shall be 30 days.

(Ord. No. 2006-002, 2-13-2006; Ord. No. 2006-013, att.(VII-11), 8-14-2006)

Sec. 15-7-60. Appeals—Effect on proceedings.

An appeal stays all proceedings and furtherance of the action appealed from, unless the officer from whom the appeal was taken certifies to the board of adjustment after the notice of appeal which was filed with him that, by reason of fact stated in the certificate, the stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, other than by restraining order which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal was taken and on due cause shown.

(Ord. No. 2006-002, 2-13-2006; Ord. No. 2006-013, att.(VII-12), 8-14-2006)

Sec. 15-7-70. Vote to revoke official order.

The concurring vote of four members of the board of adjustment shall be necessary to revoke any order, requirement decision or determination of any administrative official charged with the enforcement of this chapter or to decide in favor of the applicant any matter upon which it is required to pass under this chapter or to effect any variation in this chapter.

(Ord. No. 2006-002, 2-13-2006; Ord. No. 2006-013, att.(VII-6), 8-14-2006)

Sec. 15-7-80. Decisions.

The board shall render written decisions accompanied by findings of fact and conclusions based thereon.

Sec. 15-7-90. Oaths, witnesses.

The chairperson of the board of adjustment or, in his absence, the acting chairperson, may administer oaths and compel the attendance of witnesses by subpoena.

(Ord. No. 2006-013, att.(VII-8), 8-14-2006)

Sec. 15-7-100. Records.

The board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each decision, or, if absent or failing to vote, indicating such fact, all of which shall be a public record and immediately filed in the office of the town clerk.

(Ord. No. 2006-013, att.(VII-9), 8-14-2006)

Sec. 15-7-110. Court review.

- (a) Any person applying to the courts for a review of any decision made under the terms of this article shall apply for review within 30 days after the date of decision and shall be required to pay the cost of preparing a transcript of proceedings.
- (b) The application for review shall be in the nature of certiorari under Rule 106(a)(4) of the Colorado Rules of Civil Procedure.
- (c) The town or board of adjustment shall be entitled to appeal any decision of the district court under Rule 106 proceedings.

(Ord. No. 2006-013, att.(VII-14), 8-14-2006)

**ARTICLE 8. NONCONFORMING USES,
SIGNS, ETC.**

Sec. 15-8-10. Continuation.

Subject to the provisions of this article, a nonconforming structure or use may be continued and maintained in reasonable repair and may be

altered or extended if a conditional use is applied for and approved. The extension of a nonconforming use to a portion of a structure which is under construction for the nonconforming use at the time of adoption of the ordinance from which this article is derived is not an extension of a nonconforming use.

(Ord. No. 2006-013, att.(VIII-1), 8-14-2006)

Sec. 15-8-20. Alteration.

A structure conforming as to use but nonconforming as to height, setback or coverage may be altered or extended, providing the alteration or extension does not result in a violation of this chapter.

(Ord. No. 2006-013, att.(VIII-2), 8-14-2006)

Sec. 15-8-30. Discontinuance.

- (a) If a nonconforming use involving a structure is discontinued from use for a period of one year, a notice of abandonment of use shall be sent to the owner, and if after a second year the use is not continued, then further use of the property shall be for a conforming use.
- (b) If a nonconforming use not involving a structure is discontinued for a period of six months, further use of the property shall be for a conforming use.

(Ord. No. 2006-013, att.(VIII-3), 8-14-2006)

Sec. 15-8-40. Change.

If a nonconforming use is changed, it shall be changed to a use conforming to the regulations of the district and, after change, it shall not be changed back again to a nonconforming use.

(Ord. No. 2006-013, att.(VIII-4), 8-14-2006)

Sec. 15-8-50. Destruction; restoration.

- (a) If a nonconforming structure or a structure containing a nonconforming use is destroyed by fire, flood, wind, explosion or act of God to an extent exceeding 50 percent of its appraised value for tax purposes, exclusive of its foundations, the structure may not be rebuilt.
- (b) If destruction is determined to be less than 50 percent, restoration must be started within 12 months of the calamity and completed within 24 months of initiating restoration.
(Ord. No. 2006-013, att.(VIII-5), 8-14-2006)

Sec. 15-8-60. Completion of work.

Nothing contained in this article shall require any change in the plans, construction, alteration, or designated use of a building for which a building permit has been issued and construction work has commenced prior to the adoption of the ordinance from which this article is derived, except that if the designated use will be nonconforming, it shall, for the purposes of section 15-8-30, be a discontinued use if not in operation within two years of the date of the issuance of the building permit.
(Ord. No. 2006-013, att.(VIII-6), 8-14-2006)

Sec. 15-8-70. Screening.

A use which is nonconforming with respect to provision for screening shall provide screening within a period of three years from the date of adoption of the ordinance from which this article is derived.
(Ord. No. 2006-013, att.(VIII-7), 8-14-2006)

Sec. 15-8-80. District changes.

Whenever the boundaries of a district are changed so as to transfer an area from one district

to another district of a different classification, this article shall also apply to any nonconforming uses existing therein.
(Ord. No. 2006-013, att.(VIII-8), 8-14-2006)

ARTICLE 9. PLANNED UNIT DEVELOPMENT

Sec. 15-9-10. Purpose.

In accordance with C.R.S. §§ 31-23-101 et seq., and 24-67-101 et seq., and in order that the public health, safety, morals, integrity and general welfare may be furthered in an era of increasing urbanization and growing demand for housing of all types and design, this article is designed to implement the following purposes:

- (1) Provide for necessary commercial, recreational, and educational facilities conveniently located to such housing.
- (2) Ensure that the provisions of the zoning laws which direct the uniform treatment of dwelling type, bulk, density and open space within each zoning district will not be applied to the improvement of land by other than lot-by-lot development in a manner which would distort the objectives of the zoning laws.
- (3) Encourage innovation in residential and commercial development and renewal so that the growing demands of the population may be met by greater variety in type, design and layout of buildings and by the conservation and more efficient use of open space ancillary to the buildings.
- (4) Encourage a more efficient use of land and of public services in lieu thereof, and to reflect changes in the technology

of land development so that resulting economies may inure to the benefit of those who need homes.

- (5) Lessen the burden of traffic of streets and highways.
- (6) Conserve the value of the land.
- (7) Provide a procedure which can relate the type, design and layout of residential and commercial development to the particular site, thereby encouraging the preservation of the site's natural characteristics.
- (8) Encourage integrated planning in order to achieve the purposes designated in this section.

(Ord. No. 2006-013, att.(IX-1), 8-14-2006)

Sec. 15-9-20. Scope.

- (a) Application for a planned unit development may be made for land located in any zoning district.
- (b) The yard and bulk requirements stated in article 5 of this chapter shall not apply to planned unit developments, except minimum lot area will be utilized in determining density as provided for in section 15-9-40. In specific cases, the off-street parking requirements stated in article 10 of this chapter may be reduced. These requirements shall be controlled by the criteria and standards of this article and as shown on the approved planned development plan.

(Ord. No. 2006-013, att.(IX-2), 8-14-2006)

Sec. 15-9-30. Types designated.

- (a) The following types of planned unit developments may be established by overlaying a

PUD development plan over the applicable existing zoning district. The overlays are as follows:

- (1) Planned residential development over zones RR, RL, RM, RH and MH.
- (2) Planned commercial development over zone C.
- (b) A zoning change is not required; however, the area included in each approved planned unit development shall be indicated on the zoning map.

(Ord. No. 2006-013, att.(IX-3), 8-14-2006)

Sec. 15-9-40. Planned unit development—Residential (PUDR).

It is the intent of this article that any residential property may be developed as PUDR (Planned Unit Development—Residential). Within a PUDR, the following uses and densities will be permitted subject to the approval of the town board of trustees:

- (1) Uses permitted by right or permitted by conditional in the underlying residential district.
- (2) Commercial uses, subject to the following requirements:
 - a. The centers, including parking, shall be included as an integral part of the PUDR and shall not occupy more than 16.67 percent of the total area of the PUDR, if not less than 16.67 percent of the total square footage of housing is dedicated to low income housing, which is defined as 80 percent of the median income of the town residents.

b. Commercial uses in any one development stage shall not be open to use prior to the completion of 50 percent of the dwelling units in that stage.

(3) The total number of units permitted in a PUDR shall be determined by dividing the gross residential acreage (the total acreage less land to be dedicated for public use, including streets, parks, schools and greenbelts) by the minimum lot area per dwelling unit requirements of the underlying district as stated in article 5 of this chapter, or as approved by the town board, as provided for in section 15-9-60. If the amount of land to be dedicated exceeds the requirements stipulated in the town subdivision regulations, the amount of land in excess shall be included in gross residential acreage.

(Ord. No. 2006-013, att.(IX-4), 8-14-2006)

Sec. 15-9-50. Planned unit development—Commercial (PUDC).

The PUDC (Planned Unit Development—Commercial) is created to provide for the development of planned business and shopping centers and mixtures thereof. It is intended to promote the grouping of professional and commercial uses and to provide areas large enough to establish harmonious relationships between structures, people and the automobiles through the use of well-planned parking, access, pedestrian walkways, courtyards, malls and open spaces. Any commercial zoned area may be developed as a PUDC.

Uses permitted by right or by special use review in the underlying zoning district are permitted in the PUDC.

(1) Except as stated in section 15-9-20, all requirements applicable to the C district are applicable to the commercial center in the PUDC.

(2) The commercial centers shall be limited to categories reasonably necessary to efficiently serve residents of the planned unit development in which it is located.

(Ord. No. 2006-013, att.(IX-5), 8-14-2006)

Sec. 15-9-60. Standards.

The following provisions apply to all planned unit developments:

(1) The number of off-street parking spaces in each planned unit development must not be less than the requirements as stated in article 10 of this chapter, except that the town board of trustees may increase or decrease the required number of off-street parking spaces in consideration of the following factors:

a. Probable number of cars owned by occupants of dwellings in the planned unit development.

b. Parking needs of any non-dwelling uses.

c. Varying time periods of use, and whatever joint use of common parking areas is proposed.

d. Whenever the number of off-street parking spaces is reduced because of the nature of the occupancy, the town board of trustees shall obtain assurance that the nature of the occupancy will not change.

- (2) The minimum lot area per dwelling unit requirements, as stated in article 5 of this chapter, applies to the planned unit development, except that the town board of trustees may reduce the requirements up to 25 percent if common and/or dedicated open space exceeds the public sites and dedication requirements of the town subdivision regulations, or if exceptional amenities and/or other improvements warrant an increase in density and the reduction would not be detrimental to the character of the planned unit development or surrounding area.
- (3) All other requirements applicable to the underlying zoning district shall apply.
- (4) The town board of trustees must be satisfied that the final development plan has met with each of the following criteria or can demonstrate that one or more of them is not applicable and that a practical solution consistent with public interest has been achieved for each of these elements:
 - a. There is an appropriate relationship to the surrounding area.
 - b. Circulation in terms of internal street circulation system is designed for the type of traffic generated, safety, separation from living areas, convenience, access, and noise and exhaust control. Proper circulation in parking areas in terms of safety, convenience, separation and screening.
 - c. Consideration for low- and moderate-income housing.
 - d. Functional open space in terms of optimum preservation of natural features, including trees and drainage areas, recreation, views, density relief and convenience of function.
 - e. Variety in terms of housing types, densities, facilities and open space.
 - f. Privacy in terms of needs of individuals, families and neighbors.
 - g. Pedestrian and bicycle traffic in terms of safety, separation, convenience, access points of destination and attractiveness.
 - h. Building types in terms of appropriateness to density, site relationship and bulk.
 - i. Building design in terms of orientation, spacing, materials, color and texture, storage, signs and lighting.
 - j. Landscaping of total site in terms of purpose, such as screening, ornamental types used and materials used, if any, maintenance, suitability and effect on the neighborhood.
- (5) It is the intent of this article that subdivision review under the town subdivision regulations can be carried out contemporaneously with the review of a planned unit development under this article.
- (6) The requirements of both this article and those of the town subdivision regulations apply to all planned unit developments. All actions of the town board of trustees pertaining to planned unit

developments shall be based upon a recommendation by the town planning commission.

(Ord. No. 2006-013, att.(IX-6), 8-14-2006)

Sec. 15-9-70. Pre-application conference.

A pre-application conference shall be held with the planning commission in order for the applicant to become acquainted with the planned unit development procedures and related town requirements and to obtain copies of any guidelines or ordinance interpretations.

(Ord. No. 2006-013, att.(IX-7), 8-14-2006)

Sec. 15-9-80. Application—Submission.

(a) An applicant shall make application for the approval of the planned unit development to the planning commission. The applicant shall accompany his application with a preliminary development plan as specified in this section.

(b) The preliminary development plan must include both a preliminary development plan map and a written statement.

(c) The preliminary development plan map must contain the following information:

- (1) The existing topographic character of the land at a contour interval of two feet. Spot elevations may be required if land is too flat for contours.
- (2) Proposed land uses and their respective acreage.
- (3) The type and character of proposed development and, if applicable, the proposed number of dwelling units per gross residential acre.
- (4) The location of proposed streets.

- (5) The location and size of proposed public and semipublic uses, both dedicated and other.
- (6) The 100-year floodplain and floodway, if applicable.
- (7) The location of existing utility facilities and recorded easements.

(d) The written statement to accompany the preliminary development plan map must contain the following information:

- (1) An explanation of the character of the planned unit development and the manner in which it has been planned to take advantage of the planned unit development regulations.
- (2) A statement of the present ownership and legal description of all the land included within the planned unit development.
- (3) A general indication of the expected schedule of development.

(e) The applicant may submit any other information or exhibits he deems pertinent in evaluation of the proposed planned unit development. The planning commission may request additional information which it deems necessary for adequate review and evaluation.

(f) Accompanying the application will be a non-refundable filing fee in the amount which is on file in the office of the town clerk. The fee satisfies the requirements of the town subdivision regulations.

(Ord. No. 2006-013, att.(IX-8), 8-14-2006)

Sec. 15-9-90. Application—Review, recommendation.

(a) The planning commission shall, within 60 days of receipt of the application, unless a

longer time is necessary for consideration of the application for reasons specifically stated by the planning commission, recommend either approval, approval with modifications and conditions, or disapproval of the application to the town board.

- (b) The recommendation of the planning commission shall be transmitted to the town board of trustees and to the applicant.

(Ord. No. 2006-013, att.(IX-9), 8-14-2006)

Sec. 15-9-100. Application—Public hearing.

- (a) The town board shall hold a public hearing on all planned unit development applications after receiving the written report of recommendations from the planning commission.
- (b) A notice of the hearing shall be published in a newspaper of general circulation within the town at least 15 days prior to the hearing date.
- (c) A written notice of the hearing shall be sent by certified mail, at least 15 days prior to the hearing date, to property owners within 300 feet of the property in question, as such ownership is available in the town clerk's office.
- (d) The town board of trustees shall, within 60 days of the public hearing, approve, approve with modifications or disapprove the application. The decision of the town board of trustees shall be transmitted to the planning commission and to the applicant.

(Ord. No. 2006-013, att.(IX-10), 8-14-2006)

Sec. 15-9-110. Application—Approval; building permit issuance.

- (a) Approval of the application shall constitute approval of the preliminary development plan and shall be valid for one year.

- (b) A one-year extension of approval time may be applied for in writing to the planning commission.

- (c) All or any portion of an approved preliminary development plan may be submitted for final development plan purposes.

- (d) In the case of partial submission, the approval of the remaining portion of the preliminary development plan shall automatically gain an extension of one year before another phase of the plan must be submitted in final form.

- (e) No building permits may be issued on land within the planned unit development until the final development plan for subject land has been approved by the town board of trustees.

(Ord. No. 2006-013, att.(IX-11), 8-14-2006)

Sec. 15-9-120. Final development plan—Submission.

The final development plan, which may reflect the entire preliminary development plan, or any logical part thereof, must be submitted within one year following approval of the preliminary development plan, unless written request is made for an extension of one year and approved by the planning commission.

(Ord. No. 2006-013, att.(IX-12), 8-14-2006)

Sec. 15-9-130. Final development plan—Specifications.

- (a) The final development plan shall be prepared at a scale of not less than one inch equals 200 feet and shall be submitted with sufficient detail to evaluate the building design and other features of the planned unit.

- (b) In addition, the final development plan will conform in all respects to the contents, supplementary information and procedure requirements of the subdivision regulations. In such cases where this article conflicts with the subdivision regulations, the provisions of this article shall apply.
- (c) The final development plan must contain, insofar as applicable, the following minimum information in graphic or written form:
 - (1) The existing topographic character of the land at a contour interval of two feet. Spot elevations may be required if land is too flat for contours.
 - (2) The proposed land uses and their respective acreage.
 - (3) The location and size of all proposed buildings, structures, utilities and other improvements.
 - (4) The maximum height of all buildings may be stipulated as a general note; however, where significant views may be obscured by building heights, the maximum height of individual structures shall be indicated.
 - (5) The density and type of dwellings, if applicable.
 - (6) The location, number of lanes, median width, curb cuts, access control and proposed turning movement restrictions or arterial streets.
 - (7) The location of collector and local streets.
 - (8) The off-street parking and loading areas.

- (9) The location, height and size of proposed signs, lighting and advertising devices.
- (10) The areas to be dedicated to the town or reserved as common park areas.
- (11) The 100-year floodplain and floodway, if applicable.
- (12) A general landscaping plan at the time of submission, to be followed by a detailed landscaping plan once the plan has been approved showing the spacing, sizes and specific types of landscaping material.
- (13) The location of existing utility facilities and recorded easements.

(Ord. No. 2006-013, att.(IX-13), 8-14-2006)

Sec. 15-9-140. Final development plan—Related documents.

Copies of any special agreements, conveyances, restrictions or covenants which will govern the use, maintenance and continued protection of the planned unit development and any of its common park areas must accompany the final development plan.

(Ord. No. 2006-013, att.(IX-14), 8-14-2006)

Sec. 15-9-150. Final development plan—Additional information.

The applicant may submit any other information or exhibits he deems pertinent in evaluating his proposed planned unit development. The planning commission may request additional information it deems necessary for adequate review and evaluation.

(Ord. No. 2006-013, att.(IX-15), 8-14-2006)

Sec. 15-9-160. Final development plan—Review; recording.

- (a) The planning commission shall review the final development plan to determine conformity with the preliminary development plan as approved by the town board. If the final plan is in conformity, it will be certified by the planning commission and forwarded on to the town board for final approval and certification.
- (b) The final development plan shall be recorded following approval and certification as if it were a final subdivision plat.

(Ord. No. 2006-013, att.(IX-16), 8-14-2006)

Sec. 15-9-170. Final development plan—Building permit and certificate of occupancy issuance.

- (a) The building inspector shall approve and sign the building permit application, and the clerk, upon receiving the signed building permit application, shall issue a building permit for buildings and structures in the area covered by an approved final development plan if the time limit established by the tentative development schedule has not passed, the plan has been recorded, and the buildings and structures are in conformity with the approved final development plan and with all other applicable ordinances and regulations.
- (b) The building inspector shall approve and sign the request for a certificate of occupancy, and upon receipt of such signed request the town clerk shall issue a certificate of occupancy for any completed building or structure located in an area covered by the approved final development plan, if the completed building or structure conforms to

the requirements of the approved final development plan and all other applicable ordinances and regulations.

- (c) If the time limit established by the development schedule has passed, no building permits or certificates of occupancy shall be issued until the planning commission has reviewed the development plan and a new development schedule has been established. (Ord. No. 2006-013, att.(IX-17), 8-14-2006)

Sec. 15-9-180. Final development plan—Development schedule, compliance required, extension.

- (a) From time to time, the planning commission shall compare the actual development accomplished in the various planned unit developments with the approved development schedules.
- (b) If the owner of property in the planned unit developments have failed to meet the approved development schedule, proceedings may be initiated to revoke the approved final development plan.
- (c) For good cause shown by the property owner, the planning commission may extend the limits of the development schedule.

(Ord. No. 2006-013, att.(IX-18), 8-14-2006)

Sec. 15-9-190. Final development plan—Development of common open space.

The town board of trustees shall require adequate assurance that the common open space shown in the final development plan will be provided and developed.

(Ord. No. 2006-013, att.(IX-19), 8-14-2006)

Sec. 15-9-200. Final development plan—Amendment procedure.

No changes may be made in the approved final development plan during the construction of the planned unit development, except upon application to the appropriate agency under the following procedures provided below:

- (1) Minor changes in the location, siting and height of buildings and structures and other minor changes may be authorized by the planning commission, if required by engineering or other circumstances not foreseen at the time the final plan was approved.
- (2) No change authorized by this section may increase the overall outside dimensions of any building or structure by more than ten percent.
- (3) All changes in use, density or in the outline development plan must be approved by the town board under the procedures authorized by this article for the amendment of the zoning map.
- (4) All other changes in the arrangement of lots, blocks, and buildings, any changes in the provision of common open spaces and all other changes in the approved final development plan must be approved by the town board under the procedures authorized for final plan approval, unless they are shown to be required by changes in the development policy of the community, or by conditions that were unforeseen at the time of approval of the final development plan.

- (5) Any changes which are approved for the final development plan must be recorded as amendments to the recorded copy of the final development plan.

(Ord. No. 2006-013, att.(IX-20), 8-14-2006)

Sec. 15-9-210. Certificate of completion—Issuance.

The planning commission shall sign on the approved final development plan when the planned use development is complete, and the town clerk shall issue a certificate of completion of the planned unit development and note the issuance of such certificate on the approved final development plan.

(Ord. No. 2006-013, att.(IX-21), 8-14-2006)

Sec. 15-9-220. Certificate of completion—To govern after issuance.

After the certificate of completion has been issued, the use of the land and the construction, modification or alternation of any buildings or structures within the planned development will be governed by the approved final development plan rather than by any other provisions of this article.

(Ord. No. 2006-013, att.(IX-22), 8-14-2006)

Sec. 15-9-230. Provisions to run in favor of town.

To further the mutual interest of the residents, occupants and owners of a planned unit development and of the public in the preservation of the integrity of the final development plan, the provisions of the final development plan relating to the use of land and the location of common open space shall run in favor of the town and shall be enforceable at law or in equity by the town without limitation on any power or regulation otherwise granted by law.

(Ord. No. 2006-013, att.(IX-23), 8-14-2006)

State law reference—Similar provisions, C.R.S. § 24-67-106(1).

Sec. 15-9-240. Provisions to run in favor of residents.

All provisions of the final development plan shall run in favor of residents, occupants and owners of the planned unit development, but only to the extent expressly provided in the plan and in accordance with the terms of the final development plan, and, to that extent, the provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by residents, occupants or owners acting individually, jointly or through an organization designated in the plan to act on their behalf.

(Ord. No. 2006-013, att.(IX-24), 8-14-2006)

State law reference—Similar provisions, C.R.S. § 24-67-106(2).

Sec. 15-9-250. Changes restricted.

After the certificate of completion has been issued, no changes may be made in the approved final development plan, except upon application to the appropriate agency under the following procedures provided:

- (1) Any extension, alteration or modification of existing buildings or structures may be authorized by the planning commission if they are consistent with the purposes and intent of the final plan.
- (2) No change authorized by this section may increase the dimensions of any building or structure by more than ten percent.
- (3) Any uses not authorized by the approved final development plan, but permitted in the planned unit development as a use by right under the provisions of this article or as a use permitted by a conditional in the zone in which the planned development is located, may

be added to the final development plan under the procedures as stated in the subdivision regulations.

- (4) A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan, unless an amendment to the final development plan is approved in accordance with this article.
- (5) Changes in use of common open space may be authorized only by an amendment to the final development plan in accordance with this article.
- (6) All other changes in the final development plan must be made by the town board under the procedures authorized by this article for the amendment of the zoning map.
- (7) No changes may be made in the final development plan unless they are required for the continued successful functioning of the planned unit development or unless they are required by changes in conditions that have occurred since the final development plan was approved or by changes in the development policy of the town.

(Ord. No. 2006-013, att.(IX-25), 8-14-2006)

Sec. 15-9-260. Approved changes not to be considered waiver.

No changes in the final development plan which are approved under this article are to be considered as a waiver of the covenants limiting the use of land, buildings, structures and improvements within the area of the planned unit devel-

opment, and all rights to enforce these covenants against any changes permitted in this section are expressly reserved.

(Ord. No. 2006-013, att.(IX-26), 8-14-2006)

ARTICLE 10. OFF-STREET PARKING AND LOADING

Sec. 15-10-10. General maintenance and use of off-street parking; compliance.

- (a) The provisions and maintenance of off-street parking spaces is a continuing obligation of the property owner.
- (b) No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking space required by this article.
- (c) Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking requirements, it shall be unlawful and a violation of this article to begin or maintain such altered use until such time as the increased off-street parking or loading requirements are complied with.

(Ord. No. 2006-013, att.(X-1), 8-14-2006)

Sec. 15-10-20. Buildings and uses not designated.

Requirements for types of buildings and uses not specifically listed in this article shall be determined by the board of trustees after a report and

recommendation from the planning commission, based upon the requirements of comparable uses listed.

(Ord. No. 2006-013, att.(X-2), 8-14-2006)

Sec. 15-10-30. Multiple uses in single structure or parcel.

If several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

(Ord. No. 2006-013, att.(X-3), 8-14-2006)

Sec. 15-10-40. Joint use.

If approved by the town board of trustees, owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the building inspector in the form of deeds, leases or contracts to establish the joint use.

(Ord. No. 2006-013, att.(X-4), 8-14-2006)

Sec. 15-10-50. Location restriction.

- (a) Off-street parking spaces for a dwelling may be located on the same lot with the dwelling.
- (b) Other required parking spaces shall be located not further than 300 feet from the building or use they are required to serve, measured in a straight line from the building.

(Ord. No. 2006-013, att.(X-5), 8-14-2006)

Sec. 15-10-60. Use restriction.

Required parking spaces shall be available for the parking of operable passenger vehicles of residents, customers, patrons and employees only,

and shall not be used for parking or storage of vehicles or materials used in conducting the business or use.

(Ord. No. 2006-013, att.(X-6), 8-14-2006)

Sec. 15-10-70. Plan required; contents.

- (a) A plan, drawn to scale, indicating how the off-street parking and loading requirements, excluding single-dwelling unit areas, are to be fulfilled shall accompany an application for a building permit.
- (b) The plan shall show all elements necessary to indicate that the requirement is being fulfilled, including the following:
 - (1) Delineation of individual parking and loading spaces.
 - (2) Circulation area necessary to serve spaces.
 - (3) Access to streets and property to be served.
 - (4) Curb cuts.
 - (5) Dimensions, continuity and substance of screening.
 - (6) Grading, drainage, surfacing and subgrading details.
 - (7) Delineation of obstacles to parking and circulation in finished parking area.
 - (8) Specifications as to sign and bumper guards.
 - (9) Other pertinent details.

(Ord. No. 2006-013, att.(X-7), 8-14-2006)

Sec. 15-10-80. Design requirements for parking lots.

Design requirements for parking lots shall be as follows:

- (1) *Standing and maneuvering areas.* Areas used for standing and maneuvering of

vehicles shall have durable surfaces maintained adequately for all-weather use.

- (2) *Spaces along outer boundaries.* Parking spaces along the outer boundaries of a parking lot shall be contained by a curb or wheel stops at least four inches high and set back a minimum of four feet from the sidewalk or property line or shall be contained by the bumper rail set back a minimum of one foot from the sidewalk or property line.
- (3) *Artificial lighting.* Artificial lighting which may be provided shall be so deflected as not to create glare in any residential district, on any adjacent dwelling, or on any public rights-of-way and in conformity with "dark sky" provisions of this chapter.
- (4) *Interior access lanes.* Interior access lanes shall be of sufficient width for all vehicles turning and maneuvering.
- (5) *Location.* Except for dwellings, parking lots shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.
- (6) *Service drives.*
 - a. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic; to provide maximum safety for pedestrians and vehicular traffic on the site.
 - b. The number of service drives shall be limited to the minimum that

will allow the property to accommodate the traffic to be anticipated.

- c. In the case of a corner lot, service drives shall be located no closer than 30 feet to the intersecting street line. The access to service drives from a street shall be located no closer than 15 feet to a side lot line, except that the common service drive to two adjacent properties may be provided at the common lot line.
- d. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining the lines through points 30 feet from their intersection.

(7) *Landscaping.* Landscaping is required with a minimum of one shade tree per eight parking spaces.

(8) *Pedestrian access.* Pedestrian access is required.

(Ord. No. 2006-013, att.(X-8), 8-14-2006)

Sec. 15-10-90. Parking lots, completion time.

- (a) Required parking spaces shall be improved as required and made available for use before the final inspection is completed by the building inspector.
- (b) An extension of time may be granted by the building inspector providing a performance bond, or its equivalent, is posted equaling the cost to complete the improvements as

estimated by the building inspector, provided the parking space is not required for immediate use.

- (c) If the improvements are not completed within one year's time, the bond, or its equivalent, shall be forfeited and the improvements thenceforth constructed under the direction of the town.

(Ord. No. 2006-013, att.(X-9), 8-14-2006)

Sec. 15-10-100. General parking requirements.

- (a) At the time of erection of a new structure or at the time of enlargement or change in use of an existing structure within any district in the town, off-street parking spaces shall be provided as required in this article. If parking space has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this article.

- (b) Where square feet are specified, the area measured shall be the floor area primary to the functioning of the particular use of property and shall exclude stairwells, elevator shafts, hallways, ornamental balconies, space occupied by heating, air conditioning or other utility equipment and space devoted to off-street parking or loading.

- (c) The number of employees of a new or expanding business shall be estimated in a manner approved by the planning commission. The number of employees of an established business shall be determined from an examination of employment information presented by applicants.

(Ord. No. 2006-013, att.(X-10), 8-14-2006)

Sec. 15-10-110. Parking requirements for specific uses.

Required off-street parking spaces for the following uses shall be as set forth in this section:

- (1) *Residential uses.*
 - a. Single-unit dwellings and two-unit dwellings with separate driveways: one space per dwelling unit located on private property and with direct access to the street or alley at all times.
 - b. Multi-unit dwellings containing three or more dwelling units: 1½ spaces per dwelling unit.
 - c. Residential lodging facility or hostel: four spaces per five guest accommodations, plus one additional space for owner.
- (2) *Places of public assembly.*
 - a. Places of spiritual assembly: one space per four seats.
 - b. Library, reading room: one space per 400 feet of floor area, plus one space per employee.
 - c. Preschool nursery, day care school, kindergarten: two spaces per employee.
 - d. Vocational or commercial school: one space per two seats in classrooms, plus one space per employee.
 - e. Auditoriums, exercise facilities, other meeting rooms: one space per 300 square feet of floor area.
- (3) *Indoor amusements and entertainment establishments.*
 - a. Bowling alley, skating rink: if developed in the commercial district, parking will be determined by the planning commission on a case to case basis.
- (4) *Commercial.*
 - a. Retail store, service repair shop, offices, personal services, medical/dental office, eating or drinking establishment, lodging: one-half space per 400 square feet with a minimum of three parking places.
 - b. Parking lot for the following uses: grocery stores, hospital, nursing homes, auto repair shops, mortuaries, theaters, retail stores handling exclusively bulky merchandise such as automobiles and furniture, and other high intensity uses will be determined on a case by cases basis by the planning commission.
 - c. Mixed use: one space per living unit and one space per 400 square feet with a minimum of three parking places for commercial use.

(Ord. No. 2006-013, att.(X-11), 8-14-2006; Ord. No. 2009-009, § 5, 12-14-2009)

Sec. 15-10-120. Storage and parking of mobile homes, camping units and commercial vehicles.

Parking and operation restrictions of commercial (which for purpose of this section means a truck-trailer, or trailer exceeding 22 feet total length from bumper to bumper or a vehicle in excess of

two tons weight and operated for the transportation of property) and other specified vehicles upon town streets and rights-of-way are as follows:

- (1) Commercial vehicles, railroad cars, truck-trailers, tractor-trailers and semi-trailers, and similar units designed primarily for conveying commercial products shall only be allowed in commercial areas of the town, upon the town public streets and rights-of-way; provided, however, truck-trailers, semi- and tractor-trailers, delivery trucks, moving vans, and other trucks delivering commercial products shall be allowed to enter residential areas for the purpose of delivery or retrieval of commercial products to specific residences in said areas as well as commercial vehicles necessarily utilizing the town streets for the purpose of construction or contracting in a residential area zoned RR, RL, RM, RH and MH, within the town.
- (2) Parking restrictions in residential, commercial zones. No person shall park any trailer, semi-trailer, tractor-trailer or commercial vehicle upon any highway, street, alley, or public way or upon any public place otherwise ordinarily used for vehicular parking which is zoned RR, RL, RM, RH or MH for more than one hour. No person shall park any such vehicle in any such area which is zoned commercial for more than 72 hours. Movement of said vehicle from one location to another within the town shall be no defense to this section. These provisions shall not apply to any such trailer, semi-trailer, tractor trailer or commercial vehicle which

is in the process of being loaded or unloaded, or disabled in such a manner and to such an extent that it is impossible to avoid stopping and temporarily leaving the disabled trailer, semi-trailer, tractor-trailer or commercial trailer on that portion of the highway, alley, or public way or upon any public place ordinarily used for public parking. Neither shall such provision apply to any such trailer, semi-trailer, tractor-trailer or commercial vehicle which is leased or owned by any permittee granted a permit for construction or repair work or by a public utility engaged in work for which no such permit is required or a vehicle leased or owned by any contractor hired by such permittee or public utility provided that the trailer, semi-trailer, tractor-trailer or commercial vehicle is used on such construction or repair site or within 150 feet thereof as measured from the limits of the work area as specified in the permit and only during the period of actual construction or to any such trailer, semi-trailer, tractor trailer or commercial vehicle, which is leased or owned by a town department or contractor or vendor hired by such town department for construction or repair work or by a subcontractor thereof.

- (3) Trucks carrying flammable liquids. No truck used for transportation of flammable gases or liquids shall be parked in the town in excess of 30 minutes in residential areas. No truck used for the transportation of flammable liquids shall be parked nearer than 25 feet to

any residence or business building except when loading or unloading such flammable liquids or gases.

- (4) Parking of operable and licensed travel trailers, multipurpose trailers, camper coaches, camper trailers, fifth-wheel trailers, recreational park trailers, recreational vehicles, truck campers, and motor homes shall be permitted as long as such parking does not infringe upon safety regulations and other parking restrictions of the town and where not expressly prohibited by the town's nuisance ordinance and code of public safety of the town. Such units shall not be parked on street rights-of-way or adjacent to a neighbor's residence longer than 14 days in any year. Movement of such units from one location to another shall not be deemed a defense to this prohibition.
- (5) Towing authorized. The town is authorized to remove and tow away or have removed and towed away by commercial towing service any vehicle, trailer, motor home, tractor-trailer, truck tractor, or other vehicle or trailer parked in violation of this section. Such vehicles, trailers, and motor homes so towed for illegal parking shall be stored in a safe place and shall be restored to the owner or operator of such vehicle upon payment of the towing and storage fees.

(Ord. No. 2006-013, att.(X-12), 8-14-2006)

ARTICLE 11. SIGNS

Sec. 15-11-10. Applicability.

- (a) Signs shall only be allowed as permitted by this article. Permitted sign categories and

sign characteristics are summarized in table A, section 15-11-80, and are fully described within this article.

- (b) Sign permit required. It shall be unlawful to erect, place, construct, reconstruct, maintain or relocate a sign without first obtaining a sign permit from the town clerk.

(Ord. No. 2006-013, att.(XI-1), 8-14-2006)

Sec. 15-11-20. Prohibited signs.

The following signs shall not be erected, placed, constructed, reconstructed, maintained or relocated within the town:

- (1) *Signs with flashing lights.* Signs with lights or illumination which flash, rotate, move, scintillate, blink, flicker, vary in intensity, vary in color or use intermittent electronic pulsations are not allowed, except historic signs with lights no larger than 25 watts.
- (2) *Signs with moving parts.* Signs with visible moving, revolving, rotating parts, or visible mechanical movement of any description, or other apparent visible movement achieved by electrical, electronic or mechanical means, including automatic electronically controlled copy changes, are not allowed.

(Ord. No. 2006-013, att.(XI-2), 8-14-2006)

Sec. 15-11-30. Special pennants and banners.

Nothing in this article shall be construed to prevent the erection of pennants and banners advertising a special civic event. Such pennants and banners may be erected two weeks prior to the opening of the event advertised and shall be removed promptly upon its conclusion.

(Ord. No. 2006-013, att.(XI-3), 8-14-2006)

Sec. 15-11-40. Permitted signs.

The types of signs which are allowed within the town shall meet the following conditions:

- (1) *Freestanding signs.* A freestanding sign is any sign structurally separate from the building, being supported on itself or on a standard or legs. Freestanding signs shall be limited to one sign per principal use, shall not be located higher than the principal building, and shall be a minimum of eight feet above grade when located adjacent to a pedestrian way.
- (2) *Projecting signs.* A projecting sign is any sign supported by a building wall and projecting therefrom. Projecting signs shall not be higher than the eave line or parapet wall of the principal building, shall be a minimum of eight feet above grade when located adjacent to or projecting over a pedestrian way and shall not extend more than four feet from the building wall except where such a sign is an integral part of an approved canopy or awning.
- (3) *Wall signs.* A wall sign is any sign painted on, incorporated in or affixed to the building wall, or any sign consisting of cut-out letters or devices affixed to the building wall with no background defined on the building wall. Wall signs shall not be higher than the eave line or parapet wall of the principal building, and no sign part, including cut-out letters, shall project more than six inches from the building wall.
- (4) *Sandwich board signs.* A sandwich board sign is a sign of A-frame design which is

posted daily to reflect specials of the day. Sandwich board signs shall not be larger than two feet by three feet. Only one sign may be utilized per business and must be taken inside at the close of business each day.

(Ord. No. 2006-013, att.(XI-4), 8-14-2006; Ord. No. 2009-009, § 6, 12-14-2009)

Sec. 15-11-50. Sign categories and size limitations.

(a) *Generally.* Permitted signs shall only be erected, placed, constructed, reconstructed, maintained or relocated according to the following limitations:

- (1) *Business identification signs.* Business identification signs are permitted in conjunction with permitted uses, except residences, provided such signs identify a business occupying the premises. The combined size of all signs at any one business shall not exceed 65 square feet. There may be a combination of the following three types of signs: freestanding, projecting and wall, including cut-out letter sign, subject to the following conditions:

- a. *Freestanding sign.* One per use, not to exceed 24 square feet in area.
- b. *Projecting sign.* Shall not extend more than four feet from the building wall except where such a sign is an integral part of an approved canopy or awning, and no projecting sign shall exceed 12 square feet in area where two faces are visible or 24 square feet where only one face is visible.

- c. *Wall sign.* shall not exceed one-tenth of building frontage or 65 square feet on any one building wall.
 - d. *Sandwich board sign.* shall not be larger than two feet by three feet and may be illuminated. Only one sign may be utilized per business and must be taken inside at the close of business each day.
- (2) *Office building registry.* A wall sign or freestanding sign identifying included business offices, not to exceed one square foot in area per office. Such sign shall be excluded from regular sign area limitations.
 - (3) *Historic sign.* A wall sign identifying a structure of historic interest, not to exceed four square feet in area. Such sign shall be excluded from sign area limitations and be located only on historic buildings.
 - (4) *Residential identification signs.* A freestanding or wall sign may be erected on the same lot with any dwelling identifying the occupant thereof or any home business occupation pursued therein, not to exceed two square feet per dwelling unit. Such a sign may be illuminated as prescribed in this section only when it is identifying a home business occupation of an emergency service nature, a multifamily dwelling complex or a mobile home park.
 - (5) *Institutional identification signs.* Freestanding and wall signs may be erected on the same lot with any school, church or public building for administration, provided that the aggregate sign area along one street shall not exceed one-tenth of the building frontage or a total of 65 square feet. In the case of institutional uses located in a residential zone district, illumination of signs shall be subject to approval of the planning commission.
 - (6) *Recreation identification signs.* Freestanding or wall signs may be erected on the same lot with any recreation club or open-use recreation site, provided the aggregate sign area does not exceed one-tenth of any building frontage or 65 square feet. In the case of such uses located in a residential district, illumination of signs shall be subject to the approval of the planning commission.
 - (7) *Directional signs.* A freestanding sign, non-illuminated and conforming to a standardized design, six inches by 30 inches in size, directing persons to tourist and cultural facilities, may be erected in any district on the public right-of-way.
 - (8) *For sale/for rent signs.* A freestanding or wall sign, non-illuminated, not to exceed six square feet in area, when advertising sale of the premises, and not to exceed three square feet when advertising rental of the premises, may be erected on any property for sale/rent.
 - (9) *Construction signs.* A freestanding non-illuminated sign not to exceed 24 square feet in area if single sided, and 12 square feet in area if double sided, may be erected on a project site for purposes of identifying all contractors and/or describing a project. Only one construc-

tion sign may be permitted per street frontage. Construction signs may remain in place for one year following completion of the building project, with a 90-day extension permitted at the discretion of the town manager.

(10) *Political signs.* For freestanding signs displayed on private property, in accordance with an official election, or erected on behalf of candidates for public office:

- a. Signage may be displayed no more than 45 days prior to an election day and no more than ten days following election day.
- b. Signage may only be placed on private property and with the written permission of the property owner and shall not be placed in the public right-of-way.
- c. Signage in the commercial district shall not exceed 16 square feet total or four feet in height.
- d. Signage in the residential district shall not exceed nine square feet total or three feet in height.

(b) *Illumination, animation and sign obstruction.* Signage shall not be illuminated, animated, shall not flash, blink, and shall not block the flow of traffic or pedestrians on streets, sidewalks, or trails or visually or physically obstruct a traffic control device and shall be in conformity with the "dark sky" provisions of this chapter.

(Ord. No. 2006-013, att.(XI-5), 8-14-2006; Ord. No. 2009-009, § 6, 12-14-2009; Ord. No. 2012-001, 6-11-2012; Ord. No. 2012-006, 11-12-2012)

Sec. 15-11-60. Sign measurement.

(a) *All signs counted.* The area allowed for signs in any category shall include all signs allowed, including window decals and signs identifying distinctive features and regional or national indications of approval of facilities.

(b) *Sign area.* Sign area shall be the area of the smallest geometric figure which encompasses the sign facing, including copy, insignia, background and borders.

(Ord. No. 2006-013, att.(XI-6), 8-14-2006; Ord. No. 2009-009, § 6, 12-14-2009)

Sec. 15-11-70. Sign location and appearance standards.

(a) *Location on same site.* Signs shall identify or advertise only interests conducted on the lot, unless the planning commission, upon request, makes a determination that an off-site sign, conforming to the regulations of the district in which the sign is located, is necessary to promote the interests of a use not occupying the same lot. All signs shall be maintained in good repair.

(b) *Traffic safety.* No sign shall be located so that the safety of a moving vehicle will be impaired by obscuring the driver's vision or such that direct glare is caused on any public right-of-way. The color or format of signs shall not resemble or conflict with traffic signs or signals.

(c) *Illumination.* Illumination of signs shall be arranged in such a manner as to be reflected away from residential properties and motorists' vision.

(Ord. No. 2006-013, att.(XI-7), 8-14-2006; Ord. No. 2009-009, § 6, 12-14-2009)

Sec. 15-11-80. Table A. Specifications for permitted signs.

The following are specifications and characteristics of signs permitted in the town:

TABLE A. PERMITTED SIGNS AND SIGN CHARACTERISTICS

<i>Sign Category</i>	<i>Sign Type Permitted</i>	<i>Maximum Number</i>	<i>Maximum Sign Area</i>	<i>Location</i>	<i>Illumination/Design</i>
Residential identification	Freestanding or wall	1	2 square feet	On the same lot	Only to identify a home occupation of an emergency service nature, a multifamily dwelling complex or a mobile home park
Institutional identification	Freestanding or wall	No limit	One-tenth (1/10th) of the building frontage or a total of 65 square feet	On the same lot	If located in a residential district, illumination is subject to approval by the planning commission
Recreation club or open-use recreation site identification	Freestanding or wall	No limit	One tenth (1/10th) of the building frontage or a total of 65 square feet	On the same lot	If located in a residential district, illumination is subject to approval by the planning commission
Directional	Freestanding	No limit	6 inches by 30 inches	In the public right-of-way	May not be illuminated; must conform to a standardized design
For sale/for rent	Freestanding or wall	1	For sale sign: 6 square feet; For rent sign: 3 square feet	On the same lot	May not be illuminated
Construction	Freestanding or wall	1/street frontage	24 square feet single-sided; 12 square feet double-sided	On the same lot	May not be illuminated
Business identification	See sections 15-11-40 and 15-11-50	3	The combined size of all signs at any one business shall not exceed 65 square feet	On the same lot	May be illuminated
Sandwich board signs	Freestanding	1	A-frame, not larger than 2 feet by 3 feet	On the same lot	Must be taken in at the close of business each day.

(Ord. No. 2006-013, att.(XI, table A), 8-14-2006; Ord. No. 2009-009, § 6, 12-14-2009)

ARTICLE 12. SHORT-TERM RENTALS

Sec. 15-12-10. Purpose.

Short-term rentals of dwelling units in any residentially zoned district for a period of 21 or less consecutive days shall be allowed as a conditional use in accordance with the procedures in article 5 of this chapter.

Sec. 15-12-20. Permits, insurance, and taxes.

- (a) All owners of short-term rentals shall obtain a permit from the town clerk. The permit application must include the owner's name, address, the short-term rental address, the maximum number of guests, the owner representative and contact information, a parking plan for guests, evidence of property and liability insurance, and be accompanied by an application fee set forth in the consoli-

dated fee schedule (appendix 2-F). The parking plan shall comply with all provisions of the residential zone for parking for which the short-term rental is located.

- (b) Before issuing or renewing a short-term rental related permit, all owners of said property within 300 feet of the proposed short-term rental property shall be notified of their opportunity to make comment or objection on the application. The notices shall contain the property location, that the full application may be copied and reviewed at town hall, and the date (at least 15 days from the date of the notice) by which comments must be received. The notice shall be posted on the property and at the town hall and mailed.
- (c) Permits are issued for one year and, subject to the requirements of this section, may be renewed.
- (d) All owners of short-term rentals are required to collect and remit lodging tax and sales tax. Evidence of issuance of a state sales tax license number is required as a condition of the town clerk's consideration of a short-term rental property license application to be complete.
- (e) Short-term rental permits may be used only for the property for which they are issued and are not transferrable upon sale of the property.

Sec. 15-12-30. Occupancy; number of inhabitants.

No more than three persons per bedroom (including children) with a maximum of six persons for the dwelling shall be permitted to occupy a short-term rental.

Sec. 15-12-40. Licensing.

- (a) The owner of a short-term rental property must possess a current town business license for each such short-term rental property. The business license must be renewed concurrently for every year the owner desires to let the premises as a short-term rental. The business license may be denied or revoked if the owner is not in conformance with the terms and conditions of the short-term rental permit, as well as other applicable laws.
- (b) Short-term rentals shall be subject to all of the applicable provisions of the chapters of this Code addressing zoning regulations, nuisances, and offenses.

Sec. 15-12-50. Safety and operations.

All short-term rentals shall comply with the following safety and operational requirements:

- (1) There shall be an owner representative within the 81131 zip code who is on call full-time (24/7) to manage the property during any period within which the property is occupied as a short-term rental. The name, address, and phone number of the owner representative shall be listed on the business license, which is on file at town hall, and shall be prominently posted inside and outside of the rental property. It is the responsibility of the owner representative to inform short-term rental tenants regarding town ordinances, including, but not limited to, pets, parking, trash, and noise.
- (2) No trash or garbage shall be left outside the unit.
- (3) The owner shall ensure compliance with the parking plan approved as part of the application.

- (4) A notarized life safety inspection shall be submitted by the owner, on a town approved form, and provided to the town prior to issuance of the initial license, and within 60 days prior to each annual renewal. The owner shall attest to the following for the short-term rental residence:
 - a. Exit signs inside the residence;
 - b. Adequate fire extinguishers shall be installed and maintained together with smoke alarms and CO alarms;
 - c. Maximum occupancy notices shall be clearly posted based on square footage;
 - d. "Bear Beware" signs posted; and
 - e. No trash or garbage shall be left outside except in a "bear proof" container.

Sec. 15-12-60. Maximum duration of short-term rentals.

Short-term rentals of dwelling units in any residentially zoned district for a period of 21 or less consecutive days shall only be allowed as a conditional use in accordance with the procedures in article 6 of this chapter.

ARTICLE 13. STORAGE CONTAINERS

Sec. 15-13-10. Applicability.

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

Storage/shipping container means a metal, fiberglass, or similar unit designed for

transport or storage of household or business equipment, goods, machinery, or furnishings on either a temporary or permanent basis. (If the container is a semi-trailer, it must have wheels and undercarriage removed.)

- (b) Size. The maximum size of such unit shall not exceed eight feet, six inches in height not more than eight feet in width, and not more than 20 feet in length. Any size exceeding such dimensions will be subject to a conditional use procedure as set forth in article 6 of this chapter. Not more than one container will be allowed on each parcel of property, provided that parcels containing multiple lots may be considered for additional containers pursuant to the conditional use procedure and any containers over 20 feet in length must go through a conditional use process.
- (c) Placement of all storage/shipping containers will be subject to a permit issued by the town clerk and based upon a plot plan, submitted by the applicant, showing all principal and accessory structures upon the subject property and subject to the same setbacks and other requirements as accessory structures as set forth in section 15-4-20 and shall be placed on a suitable base.
- (d) Placement of such container units in planned unit development (PUD) areas will be subject to conditional use approvals as set forth in article 6 of this chapter.
- (e) Such containers shall not be placed in the front yard setbacks of any industrial, commercial, or residentially zoned districts, except as a conditional use in accordance with the procedures set forth in article 6 of this

chapter, which procedures shall likewise apply to any such container over 160 square feet in floor space.

- (f) Reserved.
- (g) Temporary uses, such as construction sites, shall be considered by the town clerk on a case by case basis, prior to issuing or denying a permit, which may indicate a reasonable schedule of time duration for placement and removal of such containers based upon reasons for placement and compatibility with neighboring property. After the property owner has been issued a permit, the container shall be removed as scheduled by the town clerk unless it conforms to all other requirements of this section.
- (h) Conformance to the standards and conditions established by the board will be accomplished by the property owner within six months of issuing the permit, in the absence of which, the permit will be considered cancelled. Such placement may require screening, specific time duration, and like factors regarding plot compatibility.
- (i) No shipping/storage containers shall be placed on public streets or rights-of-way and, if so placed, shall be subject to immediate removal and impoundment by the town.
- (j) Existing containers which were placed prior to this section and prior to any previous moratoria concerning such placements shall conform to the standards in this section not later than one year after the effective date of such moratorium.

ARTICLE 14. OUTDOOR LIGHTING/DARK SKY REGULATIONS

Sec. 15-14-10. Title, purpose and scope.

- (a) This article shall be known and cited as the "Outdoor Lighting/Dark Sky Regulations."
- (b) The purpose of this article is:
 - (1) To reduce glare and improve nighttime visibility which contributes to safer, more secure, and attractive outdoor living spaces;
 - (2) To encourage efficient, controlled lighting that conserves energy;
 - (3) To make our community a better place to live and work and a more inviting place for tourist to visit;
 - (4) To protect properties from light trespass;
 - (5) To preserve our heritage of a clear, dark night sky; and
 - (6) To position the town to apply for a designation as an International Dark Sky Community.
- (c) Scope.
 - (1) This article shall apply within the town limits, hereinafter referred to as "town".
 - (2) Nothing herein shall be construed as preventing or limiting the town from applying this article within the surrounding areas where the town asserts powers of extraterritorial jurisdiction through agreements with property owners, or as a term affixed to a conditional use approval (or a variance).

(Ord. No. 2021-001, 2-18-2021)

Sec. 15-14-20. Definitions.

The following definitions are hereby adopted for the purposes of this article:

Adaptive controls means mechanical or electronic devices, when used in the context of outdoor lighting systems, intended to actively regulate the switching, duration, and/or intensity of light emitted by the outdoor lighting system. Examples of adaptive controls include timers, dimmers and motion-sensing switches.

Beam of a light fixture means the spatial distribution of the emitted light.

Correlated color temperature (CCT) means a measure of the color properties of light emitted by lamps, being equal to the temperature, expressed in Kelvins (K). CCT values are typically provided on lighting manufacturer packaging or data sheets.

Decorative holiday lighting means low-intensity string lights, whose luminous output does not exceed 50 lumens per linear foot, and fully shielded floodlights, whose luminous output does not exceed 1,000 lumens and which are aimed and oriented in such a way as to not create light trespass onto another property nor into the night sky, operated only during prescribed periods of time during the calendar year.

Electronic message display means any illuminated sign of an informative or advertising nature, whether on-or off-premises, and operable at night, whose content is made visible to the viewer by means of luminous elements under active electronic control and therefore subject to alteration in order to vary the content of the message. Electronic displays may be either static or dynamic in terms of light color and intensity.

Existing light fixtures means those outdoor light fixtures already installed at the time this article is adopted.

Floodlight means a light fixture having a wide beam.

Fully shielded means an outdoor luminaire constructed so that in its installed position, all of the light emitted from the light fixture is projected below the horizontal plane passing through the lowest light-emitting part of the fixture.

Glare means visual discomfort or impairment caused by a bright source of light in a direction near one's line of sight.

Greenhouse means any building that is constructed of glass, plastic, or other transparent material in which plants are grown under climate-controlled conditions and includes hoop houses and other similar structures.

Illuminance means the intensity of light in a specified direction measured at a specific point.

Light source means a light emitting portion of the luminaire and any diffusing elements and surfaces intended to reflect or refract light emitted from the lamp individually or collectively, for example, a lamp, bulb, lens, highly reflective surface, or frosted glass.

Light pollution means the unintended, adverse and /or obtrusive effect of the use of outdoor light at night.

Light trespass means light emitted from fixtures designed or installed in a manner that unreasonably causes light to fall on a property other than the one where the light is installed, in a motor vehicle drivers' eyes, or upwards toward the sky. If the light appears star-like from another property or the public roadway, the light is creating light trespass. It is expected that the illumination pro-

duced by a light source may be viewed from other properties but the light source itself should not be visible from other properties. Exhibit 3 of section 15-14-90 is a sample educational illustration about light trespass.

Lumen means the unit of measurement used to quantify the amount of light produced by a bulb or emitted from a light source. Lumen values are typically provided on lighting manufacturer packaging or data sheets. For the purposes of this article, unless otherwise stated, the lumen output values shall be the initial lumen output ratings as defined by the manufacturer, multiplied by the lamp efficiency. Lamp efficiency of 95 percent shall be used for all solid-state lamps and 80 percent for all other lamps, unless an alternate efficiency rating is supplied by the manufacturer.

Lumens per net acre means the total outdoor light output, as defined in this article, divided by the number of acres, or part of an acre with outdoor illumination. Undeveloped, non-illuminated portions of the property may not be included in the net acreage calculation.

Luminaire means a complete lighting assembly or lighting fixture, consisting of a lamp, housing, optic(s), and other structural elements, but not including any mounting pole or surface.

Luminance is a measure of light emitted by or from a surface.

Nit is the standard unit of measure of luminance used for internally illuminated signs, digital signs, or electronic message displays.

Outdoor lighting means temporary or permanent lighting that is installed, located, or used in such a manner to cause light rays to shine outdoors. Nonresidential fixtures that are installed indoors that cause light rays to shine outside are considered outdoor lighting for the intent of this

article. See Exhibit 1 of section 15-14-90 for an illustration of this type of situation. Residential fixtures installed indoors generating more than 3,800 lumens (approximately equal to a 300-watt incandescent bulb) that cause light to shine outside are also considered outdoor lighting for the intent of this article. All of the lighting that illuminates the translucent portion of a greenhouse or solarium, including roofing material, is considered outdoor lighting for the intent of this article.

Private lighting means outdoor light fixtures that are owned or leased or operated or maintained or controlled by individual persons, including but not limited to families, partnerships, corporations, and other entities engaged in the conduct of business or other non-governmental activities.

Public lighting means outdoor light fixtures that are owned or leased or operated or maintained or controlled by the town or other governmental entity or entities completely or partly funded by grants obtained by the town or its agents from federal, state or private sources. The light fixtures are normally located on, but are not limited to, streets, highways, alleys, easements, parking lots, parks or playing fields.

Sag-lens or drop-lens fixture means a fixture, typically seen on older streetlights or parking lot lights, where the lens extends below the lowest opaque part of the fixture such that light is scattered above the horizontal plane.

Searchlight means a light fixture having a narrow beam intended to be seen in the sky.

Spotlight means a light fixture having a narrow beam.

Temporary lighting means non-permanent lighting installations installed and operated for a duration not to exceed 30 days.

Total outdoor light output means the total amount of light, measured in lumens, from all outdoor light fixtures within the illuminated area of a property. The lumen value to be used in the calculation is the lumen value as defined in this article. To compute the total, add the lumen outputs attributed to each light fixture together.

(Ord. No. 2021-001, 2-18-2021)

Sec. 15-14-30. Nonconforming existing outdoor light fixtures.

- (a) All existing outdoor lighting that was legally installed before the enactment of this article, that does not conform with the standards specified by this article shall be considered nonconforming. Nonconforming outdoor lighting is allowed to remain until required to be replaced pursuant to the terms of this article.
- (b) If more than 50 percent of the total appraised value of a structure (as determined from the records of the county's assessor), has been destroyed, the nonconforming status expires and the structure's previously nonconforming outdoor lighting must be removed and may only be replaced in conformity with the standards of this article.
- (c) Nonconforming outdoor lighting shall be brought into conformance with this article as follows:
 - (1) *Nonresidential application.* All existing outdoor lighting located on a subject property that is part of an application for a rezoning application, conditional use permit, subdivision approval, or a building permit for a major addition is required to be brought into conformance with this article before final inspection, issuance of a certificate of occupancy, or final plat recordation, when applicable. For the following permits issued by the town, the applicant shall have a maximum of 90 days from date of permit issuance to bring the lighting into conformance: site development permit, sign permit for an externally or internally illuminated outdoor sign, initial alcoholic beverage permit, initial food establishment permit, and on-site sewage facility permit.
 - (2) *Residential addition or remodel.* Nothing herein shall be construed to terminate a residential property's nonconforming status as a result of an addition or remodel. However, all outdoor residential lighting that is affixed to a construction project requiring a building permit is required to conform the standards established by this article.
 - (3) *Abandonment of nonconforming.* A nonconforming structure shall be deemed abandoned if the structure remains vacant for a continuous period of six months. In that instance, the nonconforming status expires and the structure's previously nonconforming outdoor lighting must be removed and may only be replaced in conformity with the standards of this article.
 - (d) It is unlawful to expand, repair or replace outdoor lighting that was previously nonconforming, but for which the prior nonconforming status has expired, been forfeited, or otherwise abandoned.
 - (e) Outdoor lighting on any property that is not in conformance with this article shall be brought into conformance with this article within five years from the date of adoption

of this article. All new construction and/or new luminaires installed (including replacements for existing fixtures) shall comply after the adoption of this article.

- (f) Amortization extension. Residential property owners may request from the town an amortization extension of up to a maximum of ten years from the date a nonconforming fixture was installed provided that the fixture was compliant with existing town ordinances at the time it was installed, and that date of installation can be substantiated via documents, date stamped photographs, etc. or, at the prerogative of the town clerk, corroborative written statements.

Amortization extensions to the date at which outdoor lighting shall conform with this article shall be on a per fixture basis with the following requirements:

- (1) The light fixture must be documented to cost at least \$100.00 when originally purchased;
- (2) The fixture cannot be brought into compliance by changing the bulb or lighting element or installing shielding;
- (3) If the bulbs or other lighting elements of the fixture require replacement during the amortization period, the replacement bulbs or lighting elements shall not be rated in excess of 2700 Kelvin.

(Ord. No. 2021-001, 2-18-2021)

Sec. 15-14-40. General provisions.

(a) *Shielding.*

- (1) Unless exempted elsewhere in this article, all outdoor lighting shall be fully shielded.

- (2) New streetlights shall be fully shielded fixtures of approved historical design, utilizing a minimum output consistent with the safety of drivers and pedestrians.
- (3) Mounting height or topography or proximity to other properties may cause public or private outdoor light fixtures to require additional shielding to prevent glare or an unsafe condition on properties other than the one on which it is installed.
- (4) All of the lighting that illuminates the translucent portion of a greenhouse or solarium must be shielded so that no direct light shines outside of the structure and no more than four percent of the reflected or refracted illumination is allowed to escape outside the structure.

(b) *Light trespass.*

- (1) Light trespass is prohibited. No luminaire installed within the town limits, except governmental owned streetlights, shall create conditions of light trespass. Governmental owned street lights may only create light trespass below it within 100 feet of its installed location.
- (2) All outdoor lighting, except governmental owned streetlights, shall be shielded so that the light source shall not be visible from any other property.

(c) *Outdoor sports facilities.*

- (1) Lighting at public and private outdoor sports facilities, including but not limited to playing fields, arenas, tracks, and swimming pools, will be shielded to the

greatest practical extent to reduce glare, safety hazards, light trespass, and light pollution;

- (2) Will provide levels of illuminance that are adjustable according to task, allowing for illuminating levels not to exceed nationally recognized Illuminating Engineering Society of North America (IESNA) standards according to the appropriate class of play, as well as for lower output during other times, such as when field maintenance is being actively performed; and
 - (3) Shall be provided exclusively for illumination of the surface of play and adjacent viewing stands, and not for any other application, such as lighting a parking lot; and
 - (4) Must be extinguished by 11:00 p.m. or within one hour of the end of active play. The outdoor sports facility lighting shall be fitted with mechanical or electronic timers to prevent lights from being left on accidentally overnight.
 - (5) Outdoor sports facility lighting will be exempted from the other regulations of this article if its design and installation, as certified by a professional engineer (PE) licensed in the state, adheres to the version of the International Dark-Sky Association's Criteria for Community-Friendly Outdoor Sports Lighting operative at the time when the construction permit is submitted to the town for review.
- (d) *Towers.* No lighting of towers and associated facilities is allowed, except by permit, and except as required by the Federal Aviation

Administration or other federal or state agency. In coordination with the applicable federal or state agency, the applicant shall determine the maximum height of the tower that would not require lighting. If a proposed tower would require lighting, the applicant shall demonstrate that a tower height that requires lighting is necessary. Such justification shall include documentation showing:

- (1) Coverage limitations;
- (2) Type of system (e.g. cellular, radio, television);
- (3) Technical and engineering details of the lighting to be installed; and
- (4) Requirements of federal, state, and local agencies.

If a tower height that requires lighting is justified, slowly blinking red lights must be used at night. White strobe lights at night are prohibited.

(e) *Color temperature.*

- (1) The correlated color temperature (CCT) of luminaires shall not exceed 2700 Kelvins.
- (2) Luminaires rated below 2500 Kelvin are encouraged for better nighttime visibility.

(f) *Fuel station canopies and other building overhangs.* All luminaires mounted on or recessed into the lower surface of fuel station canopies or other overhangs shall be fully shielded and utilize only flat lenses or windows. Shielding must be provided by the luminaire itself, and not by surrounding structures such as canopy edges. Light directed on fuel station pumps may be angled to illumi-

nate the pump to the level of federal standards and to shield the light from normal view.

structure or area to be lit, whichever is later unless needed for public safety as determined by the town clerk.

(g) *General curfew.*

(1) In all nonresidential zones:

- a. All privately owned exterior lighting not adaptively controlled shall be extinguished by 11:00 p.m. or within one hour of the end of normal business hours, whichever occurs later unless needed to mitigate a safety hazard as determined by the town clerk.
- b. Exterior lighting with adaptive controls shall reduce lighting to 25 percent or less of the total outdoor light output allowed by 11:00 p.m. or within one hour of the end of normal business hours, whichever occurs later. Adaptive controls may be used to activate lights and resume normal light output when motion is detected and be reduced back to 25 percent or less of total outdoor light output allowed within five minutes after activation has ceased, and the light shall not be triggered by activity off property.
- c. Businesses whose normal operating hours are 24 hours per day are exempt from this provision.

(2) All publicly owned lighting not adaptively controlled must be fully extinguished by 11:00 p.m., or within one hour of the end of occupancy of the

(3) All outdoor lighting is encouraged to be turned off when no one is present to use the light.

(h) *Lumen caps.* The lumen per net acre values are an upper limit and not a design goal; design goals should be the lowest levels that meet the requirement of the task. Lumen per net acre values exclude governmental owned streetlights used for illumination of public rights-of-way and outdoor recreation facilities.

(1) *Nonresidential property.* Total outdoor light output installed on any nonresidential property shall not exceed 15,000 lumens per net acre. Fixtures shall be limited to 1,600 lumens each.

(2) *Residential property.* Total outdoor light output installed on any residential property shall not exceed 5,000 lumens per net acre. Fixtures shall be limited to 850 lumens each.

(i) *Adaptive controls.* All new publicly owned light fixtures installed six months after adoption of the ordinance from which this article derives, including streetlights, will incorporate adaptive controls (e.g., timers, motion-sensors, and light-sensitive switches) to actively regulate the emission of light from light fixtures such that the lighting of areas is restricted to times, places and amounts required for safe occupancy.

(j) *Flagpoles.* Property owners are encouraged to not illuminate flagpoles at night, but rather to hoist flags after dawn and lower flags before sunset. If flags are illuminated at night,

lighting of up to a total of two flags per property is permitted with the following conditions:

- (1) Flagpoles with a height greater than 20 feet above ground level shall be illuminated only from above. This may be achieved by utilizing a luminaire attached to the top of the flagpole or a luminaire mounted above the top of the flagpole on a structure within 15 feet of the flagpole and must comply with all sections of this article. The total light output from any luminaire mounted on top of or above a flagpole shall not exceed 800 lumens.
- (2) Flagpoles with a height equal to or less than 20 feet above ground level may be illuminated from below. If ground-level illumination is used, flagpoles may be illuminated with up to two spotlight type luminaires, utilizing shields or diffusers to reduce glare, whose maximum combined lumen output is 75 lumens per linear foot of pole height, measured from the level of the luminaire above grade to the top of the flagpole. Luminaires are to be mounted so that their lenses are perpendicular to the flagpole and the light output points directly toward the flag(s).
- (k) *Prohibitions.* The use of the follow types of outdoor lighting are prohibited, except as specifically exempted here or elsewhere in this article.
 - (1) Sag-lens or drop lens fixtures.
 - (2) Any luminaire that uses mercury vapor lamps.
 - (3) Searchlights, skybeams, and similar lighting, except as required by response personnel during emergency conditions.
 - (4) Any light that dynamically varies its output by intermittently fading, flashing, blinking, or rotating. This type of lighting includes strobe lighting.
 - (l) *Warranting.* New installations of outdoor lighting will only be installed on public properties and right-of-way upon determination by the town clerk that a public safety hazard exists in the area to be lit, and that the hazard can only be effectively mitigated through the use of outdoor lighting and not through some other passive means, such as reflectorized roadway paint or markers.
(Ord. No. 2021-001, 2-18-2021)

Sec. 15-14-50. Plan submission and compliance review.

- (a) Any individual applying for a compliance review or building permit under this article intending to install new outdoor lighting or update existing outdoor lighting shall file a lighting plan with the town clerk. A lighting plan shall be filed at the same time as any other plans required by the town. The individual may obtain from town staff a document that lists all of the items that comprise a proper and complete outdoor lighting submittal. The submittal shall contain, but shall not necessarily be limited to the following:
 - (1) Plans indicating the number and location on the premises of proposed and existing light fixtures, the type of light fixture (the manufacturer's order number), the lamp type, Kelvin rating, initial lumens produced, the mounting height for each fixture, adaptive con-

trols, building elevations for any structure whose interior lighting is defined as outdoor lighting per this article and the manufacturer's specification sheet for each light fixture.

- (2) The number of acres or part of an acre that is to be illuminated contiguously, the square footage of the footprint for each structure within the area to be illuminated; and
 - (3) Any other evidence that the proposed installation will comply with this article.
- (b) The lighting plan shall be reviewed by the town clerk to determine compliance with this article, taking into account all factors, including but not limited to, levels of illuminance, luminance, glare, safety hazards, light trespass, and light pollution. The town clerk may seek input from community members knowledgeable about outdoor lighting during the review process. The town clerk shall approve or reject the plan within 30 days of submission, returning it to the applicant with an explanation. The applicant shall not move forward with the outdoor lighting project until the lighting plan is approved. After the lighting plan is approved, no substitutions may be made for approved light fixtures without re-submitting the plan for review with the substitutions.

(Ord. No. 2021-001, 2-18-2021)

Sec. 15-14-60. Exemptions, temporary permitting, amendments, enforcement, civil remedies and public nuisance.

- (a) This article shall not apply to the following:
 - (1) Decorative holiday lighting from November 15 through the next January 15

during the hours of 6:00 a.m. to 11:00 p.m. each day, except that flashing holiday lights are prohibited on nonresidential properties. Holiday lights may be illuminated one additional seven-day period per calendar year. Holiday flood lighting on nonresidential and residential properties shall be prohibited.

- (2) String, festoon, bistro, and similar lighting, provided that the emission of no individual lamp exceeds 50 lumens, and no installation of such lighting exceeds, in the aggregate, 6,000 lumens. These lights must be rated at or below 2700 Kelvin.
- (3) Underwater lighting of swimming pools and similar water features.
- (4) Lighting required by law to be installed on surface vehicles and aircraft;
- (5) Airport lighting required by law;
- (6) Lighting required by federal or state laws or regulations;
- (7) Temporary emergency lighting needed by law enforcement, fire and other emergency services as well as building egress lighting whose electric power is provided by either battery or generator;
- (8) Lighting employed during emergency repairs of roads and utilities provided such lighting is deployed, positioned and aimed such that the resulting glare is not directed toward any roadway or highway or residence;
- (9) Temporary lighting, other than security lighting, at construction projects provided such lighting is deployed, po-

- sitioned and aimed such that the resulting glare is not directed toward any roadway or highway or residence;
- (10) Governmental facilities where compelling needs are demonstrated; and
 - (11) Temporary lighting, permitted in this article, for theatrical, television, performance areas, or events provided the lights are positioned safely and do not create issues of light trespass.
- (b) Temporary permitting.
- (1) Lighting such as that needed for theatrical, television, performance areas, or events may be allowed by temporary exemption. Temporary lighting that does not conform to the provisions of this article may be approved at the discretion town board of trustees or the town clerk subject to submission of an acceptable temporary outdoor lighting permit.
 - (2) Permit term and renewal. Permits issued shall be valid for no more than seven calendar days and subject to no more than one renewal, at the discretion of town board of trustees or the town clerk, for an additional seven calendar days.
 - (3) Conversion to a permanent status. Any lighting allowed by temporary outdoor lighting permit that remains installed after 14 calendar days from the issue date of the permit is declared permanent and is immediately subject to all of the provisions of this article.
 - (4) Permit contents. A request for a temporary outdoor lighting permit for a temporary exemption to any provision of
- this article must list the specific exemption requested and the start and end date of the exemption. Search lights, skybeams and similar lighting will not be allowed. The town clerk may ask for any additional information which would enable a reasonable evaluation of the request for temporary exemption.
- (c) Amendment. This article may be amended from time to time as local conditions change, and as changes occur in the recommendations of nationally recognized organizations such as the Illuminating Engineering Society of North America and the International Dark-Sky Association, if the town wishes to do so.
 - (d) Enforcement.
 - (1) It will be the responsibility of the town to publish this article in the newspaper of record and to disseminate the ordinance from which this article derives by other appropriate means; to publish information about the ordinance on the town website; and, as time permits, to inform owners of noncompliant lighting of these provisions.
 - (2) The town clerk is authorized to promulgate one or more interpretive documents to aid in the administration of, and compliance with, this article. Such interpretive documents, with examples such as Exhibits 2, 3 and 4 of section 15-14-90, shall be educational only and shall not constitute regulations, amendments, or exceptions.
 - (3) Violations. It shall be unlawful to install or operate any outdoor lighting luminaire in violation of any provision

of this article. Any person violating any provision of this article shall be guilty of an offense punishable by the general penalty provisions found in section 1-4-10 of this Code and may also be subject to suit for injunctive relief. Each and every day during which the illegal erection, maintenance and use of such nonconforming lighting continues shall be considered to constitute a separate offense.

- (4) Any owner who fails to comply with these provisions may be issued a warning notice. The owner of the noncompliant lighting must, within 30 days from the issuance of such warning notice, submit a lighting plan as defined in section 15-14-50 to come into compliance with this article. Any owner who further fails to comply after 60 days from the issuance of such warning notice may be subject to penalties as provided in subsection (3) above for each day of noncompliance.
- (e) Civil remedies. Nothing in this article shall be construed as limiting the right of any person or entity to pursue legal action against any other person or entity under any applicable law, including the doctrine of light trespass.
- (f) Public nuisance. Any violation of this article that results in light trespass or an unreasonable interference with the common and usual use of neighboring property is hereby declared to be a public nuisance as provided in section 12-1-200 of this Code and which is likewise prohibited by this article.

(Ord. No. 2021-001, 2-18-2021)

Sec. 15-14-70. Notification.

All building permit applicants will be notified of the town outdoor lighting ordinance (this article).

(Ord. No. 2021-001, 2-18-2021)

Sec. 15-14-80. Sign illumination.

- (a) All permanent signs may be non-illuminated, illuminated by internal, internal indirect (halo), or lit by external indirect illumination, unless otherwise specified. All illuminated signs shall be extinguished at 11:00 p.m. or within one hour of the end of normal business hours, whichever occurs later. All sign illumination must comply with the correlated color temperature (CCT) requirements of this article.
- (b) Top-down lighting. Externally illuminated signs shall be lit only from the top of the sign, with fully shielded luminaires designed and installed to prevent light from spilling beyond the physical edges of the sign.
- (c) Outdoor internally illuminated signs (whether free standing or building mounted) shall be subject to all the following requirements:
 - (1) The sign must be constructed with an opaque background and translucent letters and symbols or with a colored background and lighter letters and symbols. (See Exhibit 5 of section 15-14-90 for examples).
 - (2) The internally illuminated portion of the sign cannot be white, cream, off-white, light tan, yellow or any light color unless it is part of a registered logo that does not have an alternate version with dark tones. Light tone colors such as white, cream, off-white, light tan, yel-

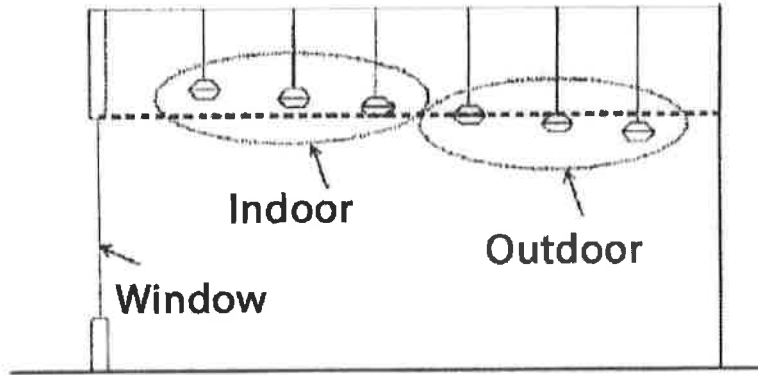
low or any light color are permitted in the logo only, provided that such colors in the logo shall represent not more than 33 percent of the total sign area permitted.

cations for permitted signs) of this Code and whichever sections are the most restrictive shall be deemed to apply.
(Ord. No. 2021-001, 2-18-2021)

- (3) The internal illumination, between sunset and sunrise, is to be the lowest intensity needed to allow the sign to be visible for up to one-half mile from its installation and shall not exceed 100 nits.
 - (4) Size limit. The luminous surface area of an individual sign shall not exceed 200 square feet.
 - (5) Electronic message displays are discouraged and shall comply with outdoor lighting curfews stipulated in this article. Messages appearing on electronic displays shall not be displayed for less than 30 seconds and shall require no longer than 0.25 seconds to transition from one message to another. Moving and/or flashing text or images are prohibited.
 - (6) Permitted location. Off-premise signs shall not be placed within 1,000 feet of another off-premise sign on the same side of an arterial street or highway, regardless of face orientation, or within 1,000 feet of a residential area.
- (d) The provisions in this section concerning sign illumination are to be construed with subsection 15-11-50(b) (sign categories and sign limitations) illumination, animation, and sign obstruction, subsection 15-11-70(c) (sign location and appearance standards) illumination, and section 15-11-80 Table A (specifi-

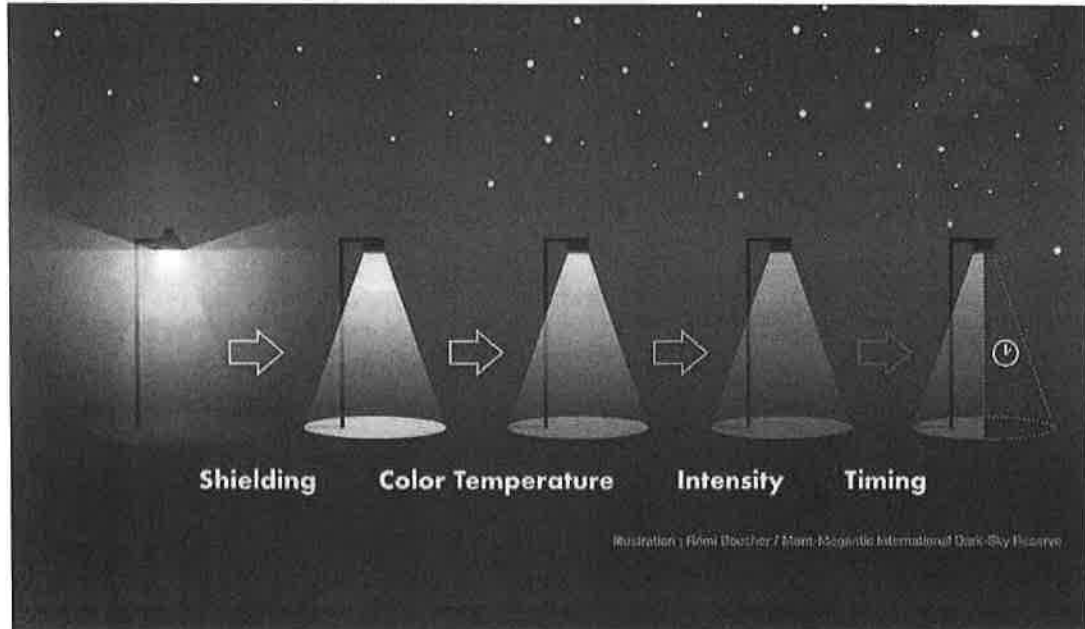
Sec. 15-14-90. Exhibits.

Exhibit 1. Indoor/Outdoor Lighting



Elevation view showing an example of a nonresidential application of indoor lighting, labeled "Outdoor", which is will be subject to this article. The example presumes the structure in question is not elevated such that any of the luminaires labeled "Indoor" may be seen from any other property. If the structure is elevated such that the luminaires labeled "Indoor" are visible from another property then, they are actually "outdoor lighting" and subject to this article. All luminaries under skylights or other translucent roofing materials are subject to this article just as the fixtures behind the window are in this example.

Exhibit 2. An Illustration of Best Outdoor Lighting Practices



- (1) Use shielding to reclaim wasted light and direct it to the area to be lit.
- (2) Lower the correlated color temperature (CCT) from "cool" white light to "warm" white.
- (3) Lower the intensity to provide as much light as needed for the application, but no more.
- (4) Use adaptive controls, e.g., timers, half-night photocells, motion sensors, etc., to limit the hours the light is in use.

Exhibit 3. Light Trespass

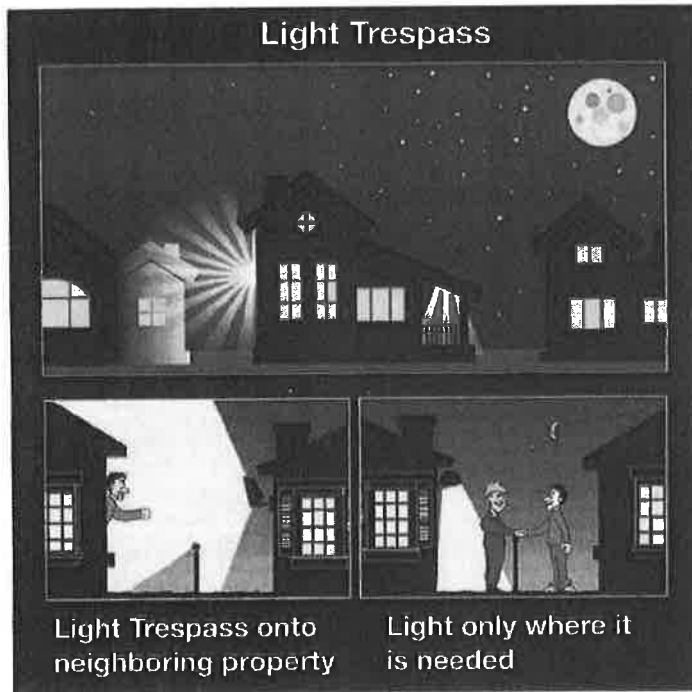
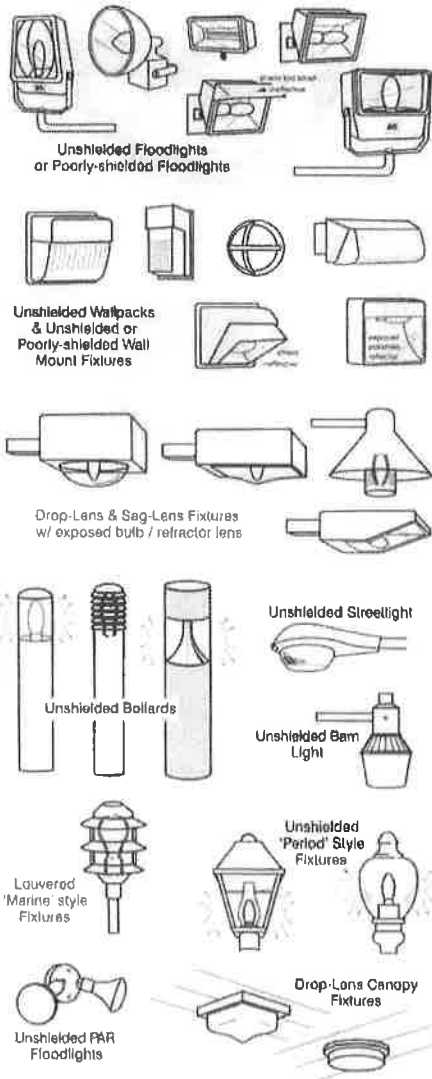


Exhibit 4. Unacceptable Fixtures and Acceptable Fixtures

Examples of Acceptable / Unacceptable Lighting Fixtures

Unacceptable / Discouraged
Fixtures that produce glare and light trespass





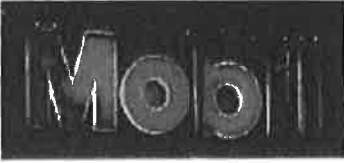
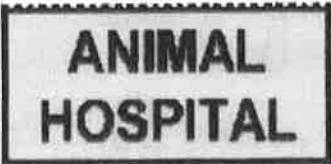


Acceptable

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



Illustrations by Bob Green © 2005. Rendered for the Town of Southampton, NY. Used with permission.

Exhibit 5. Internally Illuminated Signs

Light Background <input type="checkbox"/>	Colored Background <input checked="" type="checkbox"/>	Opaque Background <input checked="" type="checkbox"/>
		
		

(Ord. No. 2021-001, 2-18-2021)

Chapter 16

SUBDIVISIONS

Article 1. General Provisions

- Sec. 16-1-10. Authority.
- Sec. 16-1-20. Purpose.
- Sec. 16-1-30. Acceptance of public lands.
- Sec. 16-1-40. Interpretation.
- Sec. 16-1-50. Jurisdiction.
- Sec. 16-1-60. Control over platting.
- Sec. 16-1-70. Application to types of subdivisions.
- Sec. 16-1-80. Rules of construction.
- Sec. 16-1-90. Definitions.

Article 2. Plat Requirements and Procedures

- Sec. 16-2-10. Pre-application conference; vicinity sketch plan.
- Sec. 16-2-20. Preliminary plan.
- Sec. 16-2-30. Preliminary plan procedure.
- Sec. 16-2-40. Preliminary plan contents.
- Sec. 16-2-50. Preliminary plan supplementary information.
- Sec. 16-2-60. Restrictions on lot sales.
- Sec. 16-2-70. Final plat.

Article 3. Vested Property Rights

- Sec. 16-3-10. Site-specific development plan.
- Sec. 16-3-20. Procedure.
- Sec. 16-3-30. Approval; effective dates; amendments.
- Sec. 16-3-40. Notice of approval.
- Sec. 16-3-50. Costs.
- Sec. 16-3-60. Revocation.
- Sec. 16-3-70. Exemptions.
- Sec. 16-3-80. Applicable law.
- Sec. 16-3-90. Request for approval.
- Sec. 16-3-100. Effective date.
- Sec. 16-3-110. Legislative act.
- Sec. 16-3-120. Revocation.
- Sec. 16-3-130. Applicable laws.
- Sec. 16-3-140. Repeal.

Article 4. Design Standards

- Sec. 16-4-10. General requirements.
- Sec. 16-4-20. Alleys.

CRESTONE MUNICIPAL CODE

- Sec. 16-4-30. Easements.
- Sec. 16-4-40. Blocks.
- Sec. 16-4-50. Lots.
- Sec. 16-4-60. Streets.
- Sec. 16-4-70. Public sites and open spaces.

Article 5. Improvements

- Sec. 16-5-10. Plan preparation.
- Sec. 16-5-20. Guarantee of completion of public improvement.
- Sec. 16-5-30. Monuments.
- Sec. 16-5-40. Street improvements.
- Sec. 16-5-50. Utilities.
- Sec. 16-5-60. Other improvements.
- Sec. 16-5-70. Street trees.

Article 6. Short Procedure Subdivisions, Minor Subdivisions and Boundary Line Adjustments

- Sec. 16-6-10. Short procedure subdivisions.
- Sec. 16-6-20. Minor subdivisions.
- Sec. 16-6-30. Boundary line adjustments.

Article 7. Development Policy for Construction In Single Family Subdivisions

- Sec. 16-7-10. Purpose.
- Sec. 16-7-20. Subdivisions.
- Sec. 16-7-30. Engineering.
- Sec. 16-7-40. Street standards.
- Sec. 16-7-50. Streetlights.
- Sec. 16-7-60. Utilities.
- Sec. 16-7-70. Cost sharing of development.
- Sec. 16-7-80. Development process.

Article 8. Administrative Provisions

- Sec. 16-8-10. Variance.
- Sec. 16-8-20. Repeal of regulations.
- Sec. 16-8-30. Severability clause.
- Sec. 16-8-40. Amendments or additions.
- Sec. 16-8-50. Effective date.

ARTICLE 1. GENERAL PROVISIONS

Sec. 16-1-10. Authority.

These subdivision regulations are designed and enacted in accordance with C.R.S. Title 31, Article 23 (C.R.S. § 31-23-101 et seq.) and are hereby declared to be in accordance with all provisions of those statutes. No final plat of a subdivision shall be approved and accepted by the town board of trustees unless it conforms to the provisions of this chapter.

(Ord. No. 2008-005(01), § 1.2, 1-12-2009)

Sec. 16-1-20. Purpose.

These regulations are designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the town, by encouraging the proper arrangement of streets in relation to existing or planned streets and to the comprehensive plan, if such exists; providing for adequate and convenient open spaces for traffic, utilities, access of firefighting equipment, civil defense, recreation, sites for school and educational facilities and related structures, light and air; avoiding congested population, including minimum area and width of lots; promoting good civic design; and regulating such other matters as the town planning commission and the town board of trustees may deem necessary in order to protect the best interests of the public.

(Ord. No. 2008-005(01), § 1.3, 1-12-2009)

Sec. 16-1-30. Acceptance of public lands.

(a) Approval of a subdivision plat by the town board of trustees shall not constitute an acceptance by the town for maintenance of the roads, streets, alleys, or other public lands dedicated on the subdivision plat by the own-

ers thereof. The acceptance of any of these lands for a public use of any nature within the town shall be only by appropriate action of the town board of trustees. In any territory for which the town planning commission has adopted a major street plan, the town shall not accept any street or authorize water mains or sewers or connections to be laid out in any street unless such street has received the legal status of a public street prior to the adoption of a major street plan; or corresponds with a street shown on the official master plan or with a street on a subdivision plat made and adopted by the town planning commission.

(b) However, the town board of trustees may accept any street if the ordinance accepting such street is first submitted to the town planning commission and, if approved, is enacted by not less than a majority of the entire membership of the town board of trustees, or, if disapproved by the planning commission, is enacted by not less than two-thirds of the entire membership of the town board of trustees.

(Ord. No. 2008-005(01), § 1.4, 1-12-2009)

Sec. 16-1-40. Interpretation.

In the interpretation and application of the provisions of these regulations, the following criteria shall govern:

(1) Whenever both a provision of these regulations and any other provisions of these regulations or any other provision in any other law, ordinance, resolution, rule, statute or regulation of any kind, contain any restrictions covering any of the same subject matter, whichever re-

strictions are more restrictive or impose higher standards or requirements shall govern.

- (2) These regulations are not intended to abrogate or annul any plat, easements, covenants or permits recorded or issued before the effective date of these regulations.

(Ord. No. 2008-005(01), § 1.5, 1-12-2009)

Sec. 16-1-50. Jurisdiction.

The territorial jurisdiction of these regulations shall include all of the incorporated land located within the town; land in the process of annexation; and all land lying within three miles of the corporate limits of the town and not located in any other municipality.

(Ord. No. 2008-005(01), § 1.6, 1-12-2009)

Sec. 16-1-60. Control over platting.

- (a) All plans of streets or highways for public use and all plans, plats, plots and replots of land laid out in a subdivision or building lots, and the streets, highways, alleys or other portions of the same intended to be dedicated to a public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall be submitted to the town planning commission for approval before they are recorded. Acceptance of said proposed dedication by the public shall be given by action of the town board of trustees. The town board of trustees may accept any proposed dedication if the ordinance accepting such dedication is first submitted to the town planning commission and, if approved by the planning commission, is enacted by not less than a majority of the entire membership of the board of trustees, or, if disap-

proved by the planning commission, is enacted by not less than two-thirds of the entire membership of the board of trustees.

- (b) In any territory for which the town planning commission has adopted a major street plan, no building shall be erected, nor shall a building permit be issued therefor, unless the street giving access to the lot upon which such building is proposed to be placed has received the legal status of a public street prior to the adoption of such plan, or corresponds with a street shown on the official master plan, with a street on a subdivision plat approved by the town planning commission or on a street plat made and adopted by the town planning commission, or with a street accepted by the town board of trustees, after submission to the town planning commission, by favorable vote as required in section 16-1-30. Any building erected in violation of this section shall be deemed an unlawful structure, and the building inspector, or other appropriate official, may cause it to be vacated or have it removed.
- (c) The town board of trustees shall withhold all public street improvements and public maintenance from all rights-of-way which have not been accepted for such purposes by the town board of trustees.
- (d) Any subdivider, or agent of a subdivider, who transfers, sells, agrees to sell or offers to sell any subdivided land before a final plat for such subdivided land has been approved by the town board of trustees and recorded or filed in the office of the county clerk and recorder shall be guilty of an offense, and shall be subject to a fine not to exceed \$1,000.00 for each parcel or interest in subdivided land which is sold or offered for sale,

or by imprisonment in jail not exceeding 365 days, or by both such fine and imprisonment. Each day of continuance of such violation shall be deemed a separate offense. All fines collected under this subsection shall be credited to the general fund of the town. The town board of trustees shall have the power to bring an action to enjoin any subdivider from transferring, selling, agreeing to sell or offering to sell subdivided land before a final plat for such subdivided land has been approved by the town board of trustees. The description of such lot or parcel by metes and bounds in the instrument of transfer shall not exempt the transaction from such penalties or from the remedies provided in this subsection.

- (e) No changes, erasures, modifications or revisions shall be made in a final plat after approval of the plat has been given by the town board of trustees, except for the correction of typographical errors, with consent of the board of trustees.
- (f) No subdivision shall be approved until such data, surveys, analysis, studies, plans and designs as required by these regulations have been submitted, reviewed and found to meet all sound planning and engineering requirements of the town contained in these regulations.
- (g) Every approved plat shall be recorded in the office of the county clerk and recorder.
(Ord. No. 2008-005(01), § 1.7, 1-12-2009)

Sec. 16-1-70. Application to types of subdivisions.

- (a) Unless the method of disposition is adopted for the purpose of evading these regulations, these regulations shall not apply to any subdivision:
 - (1) Which creates parcels of land each of which comprise 35 or more acres of land, none of which is intended for use by multiple owners.
 - (2) Which creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in 35 or more acres per interest.
 - (3) Which is created by order of any court in the state or by operation of law, or which could be created by any court in the state pursuant to the law of eminent domain.
 - (4) Which is created by a lien, mortgage, deed of trust, or any other security instrument.
 - (5) Which is created by a security or unit of interest in any investment trust regulated under the laws of the state or any other interest in an investment entity.
 - (6) Which creates cemetery lots.
 - (7) Which creates an interest or interests in oil, gas, minerals or water, which are now or hereafter severed from the surface ownership of real property.
 - (8) Which is created by the acquisition of interest in land in the name of a husband and wife or other persons in joint tenancy, or as tenants in common, and

any such interest shall be deemed for purposes of these regulations as only one interest.

- (9) Which is created by any transfer of a part of another lot or parcel for the purpose of enlarging an existing lot or parcel that does not create an additional lot.
- (b) Common, corporate, syndicated or other similar ownership which creates multiple building sites shall be subject to these regulations.
- (c) Any division of land which is not accepted, but which is a division of land by metes and bounds description, shall constitute a subdivision of land and shall require compliance with these regulations.
- (d) No land shall be subdivided for any use where the town board of trustees finds that the land has severe limitations for such use by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, unfavorable load-bearing strength, slow permeability, erosion susceptibility, high groundwater table, inability of the subdivision to be served by town sewer and water, likely to be harmful to the health, safety, prosperity, esthetics and general welfare of the future residents or users of the proposed subdivision or of the town. The town board of trustees, in applying the provisions of this subsection, shall in writing recite the particular facts upon which it bases its conclusions that the land is not suitable for certain uses. The subdivider shall have an opportunity to present evidence contesting such findings if he so desires. Thereafter, the town board of trustees may affirm, modify or withdraw its determination that the land is not suitable for certain uses.

- (e) For any such division, a plat shall be required to be approved by the town board of trustees and shall be recorded in the office of the county clerk and recorder after such approval is granted. Said plat shall be developed in accordance with the design standards set forth in article 4 of this chapter; shall indicate the boundaries of all tracts, lots, sites, plats or parcels included in the proposed subdivision; shall accurately show all new and existing streets included in the subdivision; and shall clearly label all streets as either public or private.
- (f) All public streets shall be dedicated to the town and notice given on the plat that the streets will not be accepted by the town for maintenance until such streets meet town street standards.

(Ord. No. 2008-005(01), § 1.8, 1-12-2009)

Sec. 16-1-80. Rules of construction.

- (a) The particular controls the general.
- (b) In case of any difference of meaning or implication between the text of these regulations and the captions for each section, the text shall control.
- (c) The term "shall" is always mandatory and not directory. The term "may" is permissive.
- (d) Words used in the present tense include the future, unless the context clearly indicates the contrary.
- (e) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.

- (f) The phrase "used for" includes the phrase "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
(Ord. No. 2008-005(01), § 1.9(A), 1-12-2009)

Sec. 16-1-90. Definitions.

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

Alley means a minor right-of-way dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting street land, which may be used for public utility purpose.

Arterial highway means a right-of-way used primarily for fast or heavy traffic volumes for long distance and usually is or would be designated as a state highway.

Block means a parcel of land intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or green strips, rural land, drainage channels or a combination thereof.

Board of trustees means the chief legislative body of the town.

Building line or *setback line* means a line or lines designating the area outside of which buildings may not be erected.

Collector street means a right-of-way which collects traffic from minor streets and serves as the most direct route to a major street or community facility.

Comprehensive plan means the comprehensive plan which has been officially adopted for the town, including any areas outside of its boundaries, subject to the approval of the legislative body

having jurisdiction thereof, which, in the judgment of the town planning commission, bear relation to the planning of the town. Such plan shall show the town planning commission's recommendations for the development of said territory, including, among other things, plans for circulation, which shall include a major street plan for the territory within the subdivision control of the town; public facilities; land subdivision; and zoning for the control of the height, area, bulk, location and use of buildings and premises.

County means Saguache County, Colorado.

County board of commissioners means the board of county commissioners of Saguache County, Colorado.

Cul-de-sac means a minor street having one end open to vehicular traffic and having one closed and terminated by a turnaround.

Dedication means the setting aside by the subdivider of land within the subdivision for public purpose and the formal acceptance by the town of such land.

Density, gross, means a measurement of the number of dwellings per acre and/or the number of square feet of enclosed commercial space per acre of land area with a proposed planned unit development.

Density, net, means the same measurement as in the term "gross density," except that the land area considered excludes lands dedicated to the public, rights-of-way, and dedicated open space whether such open space is held in public or private ownership.

Developer means any person, firm, partnership, joint venture, association, or corporation who participates as the owner, promoter, devel-

oper, seller or agent in the planning, platting, development, promotion, sale or lease of land subdivided or to be subdivided.

Disposition means a contract of sale resulting in the transfer of equitable title to an interest in subdivided land; an option to purchase an interest in subdivided land; a lease or an assignment of an interest in subdivided land; or any other conveyance of an interest in subdivided land which is not made pursuant to one of the foregoing.

Easement means authorization of a property owner for the use by the public, a corporation, or persons, of any designated part of his property for specific purposes.

Engineer or licensed professional engineer means a person licensed as a professional engineer by the state.

Evidence means any map, table, chart, contract, or any other document or testimony prepared or certified by a qualified person to attest to a specific claim or condition, which evidence must be relevant and competent and must support the position maintained by the subdivider.

Legislative or governing body means the board of trustees of the town.

Lot means a subdivision of a block or other parcel intended as a unit for the transfer of ownership or for development.

Lot, corner, means a lot located at the intersection of and abutting on two or more streets.

Lot, double frontage, means a lot which runs through a block from street to street and which has two nonintersecting sides abutting on two or more streets.

Lot, single tier, means a lot which backs upon an arterial highway, a major street, a railroad, a

physical barrier or a nonresidential use and to which vehicular access from the rear is usually prohibited.

Major street plan means the plan which has been officially adopted for the town, showing the town planning commission's recommendations for circulation for the territory within the subdivision control of the town.

Major thoroughfare means a right-of-way which generally carries traffic throughout the county or across urban communities.

Marginal access or frontage street means a minor street auxiliary to and located on the side of a major thoroughfare or arterial highway for providing and controlling access to abutting properties and adjacent areas.

Mayor means the chief executive of the town.

Minor street means a right-of-way, the primary purpose of which is to provide access to adjacent properties and which is designed so that its use by arterial traffic will be discouraged.

Municipality or municipal includes or relates to cities, towns, villages and other incorporated political subdivisions, but does not include incorporated improvements districts formed for special classes of improvements.

Open spaces mean areas within an approved PUD dedicated to the public or to the property owners within the PUD which are either landscaped or are developed as recreational areas or which are in either a natural or quasi-natural state.

Plan, preliminary, means the map of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with the requirements of adopted regulations to permit the evaluation of the proposal prior to detailed engineering and design.

Planned unit development (PUD) means a parcel which is subdivided and developed under a unified, detailed and integrated plan, usually with mixed land uses and mixed intensities of use, which may or may not be allowed under other adopted land use regulations due to proposed lot size, lot coverage, setbacks, land uses, densities or other regulatory requirements.

Planning commission means the officially appointed planning and zoning commission of the town.

Plat, final, means a map and supporting materials of certain described land prepared in accordance with these regulations as an instrument for recording of real estate interests with the county clerk and recorder.

Reservation means the setting aside by the subdivider of land within the subdivision for a public purpose pursuant to the terms of a subdivision improvements agreement or other agreements or contracts setting forth the plan, method and parties responsible for providing any required public improvements shown on the final plat documents. The term "reservation" does not import acceptance by the town of any land or improvements thereon which has been set aside for a public purpose.

Site-specific development plan means a detailed graphic representation drawn to scale of a proposed development which depicts the specific land uses, site design and dedication requirements for the property. The site-specific development plan provides information including, but not limited to, the building location and exact building footprints, parking areas and designs, ingress/egress, access and utility easements, a detailed landscape plan, and location and size of signage. The approved site-specific development plan be-

comes the official plan for the property and is the final site plan submitted with the request for a vesting of property rights. Physical development of the property shall be in strict conformance with the approved site-specific development plan. A final plat for a residential subdivision with the districts may constitute a site-specific development plan.

Sketch plan means a map of a proposed subdivision, drawn and submitted in accordance with the requirements of these regulations, to evaluate feasibility and design characteristics at an early stage in the planning.

Street means a public way for vehicular traffic, however designated, which includes the entire width between the boundary lines of such public way. The term "street" includes, but is not limited to, streets, avenues, boulevards, roads, lanes, alleys, viaducts and other ways.

Street tree means a tree located, as required by the town planning commission, along public streets.

Subdivider or *developer* means any person, partnership, joint venture, association firm or corporation who shall participate as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a subdivision.

Subdivision means the division of a lot, tract or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development. The term "subdivision" includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

Subdivision improvements agreement means one or more security arrangements which may be

accepted by the town to secure the construction of such public improvements as are required by these regulations within the subdivision, and shall include collateral such as, but not limited to, performance or property bonds, private or public escrow agreement, loan commitment, assignments of receivables, liens on property, deposit of certified funds, irrevocable letters of credit, or similar surety agreements.

Terrain, flat or rolling, means an average slope less than 15 percent and the ridges and draws are not well-defined.

Terrain, mountainous, means an average slope 15 percent or greater and the ridges and draws are not well defined.

Town engineer means the duly designated engineer for the town or the town clerk.

Vested property right means the right to undertake and complete the development and use of property under the terms and conditions of the site-specific development plan.

(Ord. No. 2008-005(01), § 1.9(B), 1-12-2009)

ARTICLE 2. PLAT REQUIREMENTS AND PROCEDURES

Sec. 16-2-10. Pre-application conference; vicinity sketch plan.

Prior to preparing a preliminary plan for presentation to the town planning commission, the subdivider shall make known his intentions to the town planning commission by submitting a sketch plan drawn to scale and discuss informally any town plans or standards that would affect the proposed development.

(Ord. No. 2008-005(01), § 2.1, 1-12-2009)

Sec. 16-2-20. Preliminary plan.

After the subdivider has reached preliminary conclusions concerning the feasibility and design of his proposed subdivision, he shall prepare a preliminary plan and required supplemental material for presentation to the town planning commission for its consideration. The purpose of this preliminary review is to check the proposed subdivision against the design standards and improvement requirements stated herein and to be sure that town zoning and town master plan standards can be met. Thorough analysis of the problems at this stage will expedite approval of the final plat and will prevent the repetition of expensive calculations and drafting required for the final plat.

(Ord. No. 2008-005(01), § 2.2(intro. ¶), 1-12-2009)

Sec. 16-2-30. Preliminary plan procedure.

(a) *Filing fee.*

- (1) The filing fee is required for review of the plat and shall be submitted with the preliminary plan. The filing fee shall be set by the board of trustees.
- (2) Any additional costs made necessary by unusual circumstances and more than ordinary review and other services provided by the town or authorized personnel are to be paid by the subdivider prior to approval of the final plat.

(b) *Copies to be submitted.* Five copies, unless additional copies are required by the town clerk, of the preliminary plan and required supplemental material shall be organized into packet form, with one copy of each required item included in each packet, and packets shall be presented by the subdivider to the town clerk at least 30 days prior to a regular planning commission meeting.

(c) *Review process.*

- (1) Within five days of receipt of the preliminary plan, the preliminary plan shall be reviewed in general by the town clerk and, if in acceptable form for further processing, may be referred to the following offices and interested persons as appropriate:
 - a. County planning commission.
 - b. San Luis Valley development resources group.
 - c. County road superintendent.
 - d. Public service company.
 - e. San Luis Valley rural electric cooperative.
 - f. Appropriate telephone company.
 - g. Appropriate school districts.
 - h. Where applicable to special utility districts, the state department of transportation, appropriate ditch companies and fire protection districts.
- (2) In order to be considered, all recommendations from the preceding listed offices shall be submitted to the town clerk at least five days prior to the next regular town planning commission meeting, unless a necessary extension of not more than 30 days has been consented to by the subdivider and the town clerk. The failure of any agency or office to respond within the prescribed time period shall, for the purpose of the hearing on the plan, be deemed an approval of such plan.

(d) *Public hearing.*

- (1) The preliminary plan, along with available comments from the above-listed offices, agencies and governmental bodies, shall be presented at a public hearing before the town planning commission.
 - (2) Notice of the time and place of the public hearing shall be sent by certified mail to the subdivider and property owners within 300 feet of the property in question not less than 15 days prior to the public hearing. Additionally, notice of the public hearing shall be published in a newspaper of general circulation within the town at least 15 days prior to such hearing.
- (e) *Planning commission action.* Within 30 days of the public hearing, the town planning commission shall recommend approval, disapproval, or approval with modifications of the preliminary plan to the town board of trustees.
- (f) *Time limitations.* Approval of a preliminary plan shall be effective for a period of 12 consecutive months. One or more 12-month extensions may be granted by the planning commission upon application for the same. Notice of the granting of such application shall be furnished in writing by the planning commission. If a final plat is not submitted within the granted time, the preliminary plan shall be deemed vacated and a new preliminary plan must again be submitted before action may be taken on a final plat. Any fees that have previously been paid shall be forfeited.

(Ord. No. 2008-005(01), § 2.2(A), 1-12-2009)

Sec. 16-2-40. Preliminary plan contents.

The preliminary plan shall show the following information:

- (1) Name of the subdivision.
- (2) Scale: one inch equals 100 feet, or a scale more appropriate to the size and scope of the project.
- (3) Total acres to be subdivided.
- (4) Name and address of the landowner.
- (5) Location of the subdivision as a part of some larger subdivision or tract of land and by reference to permanent survey monuments with a tie to a section corner or a quarter-section corner.
- (6) Names and addresses of the subdivider, the designer of the subdivision and the surveyor (who shall be licensed by the state board of examiners for land surveyors).
- (7) Names and locations of abutting subdivisions and the names and addresses of all abutting landowners.
- (8) Location of section lines and approximate location and principal dimensions for all existing and proposed streets, alleys, easements, rights-of-way, lot lines, areas to be reserved for public use and other important features within and adjacent to the tract to be subdivided.
- (9) Date of preparation and north sign.
- (10) Location by preliminary survey of streams, washes, canals, irrigation laterals, private ditches, culverts, lakes or other water features, including direction of flow, water level elevations, and typical depths and location and extent

of areas subject to inundation, whether such inundation is frequent, periodic or occasional.

- (11) Proposed sites, if any, for multifamily residential use, business areas, industrial areas, churches and other nonpublic uses, exclusive of single-family residential areas.
- (12) Total number of proposed dwelling units.
- (13) Total number of square feet of proposed nonresidential floor space.
- (14) Total number of proposed off-street parking spaces, excluding those associated with single-family residential development.
- (15) Approximate boundary lines and dimensions of subdivision.
- (16) Location of existing and/or proposed utility facilities, to include water, sewer, electric, gas, telephone, drainage and cable television.
- (17) Estimated total number of gallons per day of sewage to be treated.
- (18) Estimated total number of gallons per day of water system requirements.
- (19) Location map drawn to scale showing the relationship of the proposed subdivision to the town.
- (20) Proposed street names.

(Ord. No. 2008-005(01), § 2.2(B), 1-12-2009)

Sec. 16-2-50. Preliminary plan supplementary information.

The preliminary plan shall contain the following supplementary information:

- (1) Preliminary plan application filled out in detail.

- (2) Perimeter property survey and disclosure of ownership.
- (3) Relevant site characteristics and analysis applicable to the proposed subdivision, including the following:
 - a. Reports concerning streams, lakes, topography, water table and vegetation.
 - b. Reports concerning geologic characteristics of the area significantly affecting the land use and determining the impact of such characteristics on the proposed subdivision.
 - c. In areas of potential radiation hazard to the proposed future land use, the potential radiation hazards shall be evaluated.
 - d. Maps and tables concerning suitability of types of soil in the proposed subdivision, in accordance with the National Cooperative Soil Survey.

(Ord. No. 2008-005(01), § 2.2(C), 1-12-2009)

Sec. 16-2-60. Restrictions on lot sales.

- (a) *Recordation of final plat.* No land shall be subdivided, or any parcel thereof advertised for sale, until a final plat has been approved and recorded with the county clerk and recorder. A developer may utilize reservation agreements or conditional sales or listing contracts in order to advertise a property to a potential buyer following final plat approval and before completion of the subdivision improvements. Any such agreement or contract must specifically state that the parcel in that subdivision is subject to release of the subdivision lot sales restriction following construction and completion of the subdivision improvements. The agreement or contract must be non-binding, and any monies paid by the buyer must be held in an escrow account and be fully refundable until release of the lot sales restriction and the improvements agreement. No advertising for such reservations may occur until after final plat approval.
- (b) *Penalties.* In addition to other remedies and penalties permitted under law or equity, any developer, subdivider or agent of any developer or subdivider who transfers legal or equitable title or sells any subdivided land before a final plat for such subdivided land has been approved by the board of trustees and recorded and filed with the county clerk and recorder is guilty of an offense and, upon conviction thereof shall be punished by a fine, as set forth in section 1-4-10. In addition to other remedies and penalties permitted under law or equity, if the board of trustees determines that any provision of chapter 15 have been violated or there are outstanding conditions of approval, the town may withhold building permits with respect to any or all lots in the subdivision or development.
- (c) *Injunction.* In addition to all other remedies provided herein, the board of trustees may enjoin any such transfer or sale in violation of this Code by action for injunctions brought in any court having jurisdiction.
- (d) *Plat withdrawal.* The board of trustees may withdraw any approval by the board of trustees of any preliminary or final plat when it is determined that information provided by the

subdivider or developer, upon which such decision was based, is false or materially inaccurate.

Sec. 16-2-70. Final plat.

(a) *General conformance; applicability.* The final plat shall conform substantially to the preliminary plan as approved, except that, if desired by the subdivider, the final plat may constitute only a portion of the approved preliminary plan. If only a portion of the preliminary plan is included on the final plat, letters of acknowledgement shall be obtained by the subdivider from all public utility companies involved in the subdivision, and copies of such letters shall be submitted with the final plat. However, sections 16-2-20 through 16-2-60 will apply on the remainder of the preliminary plan.

(b) *Procedure.*

(1) *Filing.* After approval of the preliminary plan and within the time limitations provided in section 16-2-30(f), the subdivider shall present to the town clerk the original and four copies of the final plat and the required supplemental material. The final plat shall be presented at least ten days prior to a regular planning commission meeting.

(2) *Planning commission review.* The planning commission shall review the final plat and approve, disapprove, or approve the final plat with modifications, and submit the plat together with the planning commission's recommendations in writing to the town board of trustees.

(3) *Town board of trustees' resolution.* The town board of trustees shall review the final plat and approve, disapprove, or approve the final plat with modifications, approved by the planning commission, or in the event of the planning commission's disapproval, the town board of trustees, by a favorable vote of not less than two-thirds of its entire membership, may modify such plat and adopt the modified plat. If the plat is disapproved or referred, the reasons shall be stated in writing and furnished to the subdivider.

(4) *Recording.* Following the acceptance of the final plat by the town board of trustees, the plat shall be signed by the mayor and attested by the town clerk. The town clerk shall then record the plat in the office of the county clerk and recorder. The subdivider shall furnish to the town clerk the recording fee required by the county clerk and recorder prior to recording of the plat.

(c) *Final plat contents.*

(1) The final plat shall be drafted at a scale of one inch equals 100 feet, or as referenced in section 16-2-40(2). The final plat shall be drafted by the use of permanent black ink, on linen or Mylar drafting media, with outer dimensions of 24 inches by 36 inches. Good draftsmanship shall be required in order for all of the following information to be shown accurately and legibly.

(2) Title, scale, north sign and date.

(3) Primary control points or descriptions and "ties" to such control points to which

all dimensions, angles, bearings, and similar data on the plat shall be referred. These primary control points shall be determined prior to the final approval; also, the monuments and ties to monuments shall actually exist in the field before final approval. Evaluation data shall be referred to U.S.G.S. datum.

- (4) Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites, with accurate dimensions, bearings or angles, and radii, arcs or chords, and central angles of all curves.
- (5) Name of each street and right-of-way, and width of each street, alley or other right-of-way.
- (6) Any easements granted to public utility companies or required by the town planning commission shall be included, and the location, dimensions, and purpose of all easements shall be given.
- (7) Number to identify each lot or site and each block, and the area of each lot.
- (8) Location and description of monuments.

- (9) Certificate of acceptance, as outlined below:

NOTICE

Public notice is hereby given that acceptance of this platted subdivision by the town does not constitute an acceptance of the roads and rights-of-way reflected hereon for maintenance by said town.

Until such roads and rights-of-way meet town streets standards and are specifically accepted by this town by recording with the clerk and recorder of the county an official "acceptance," the maintenance, construction, and all other matters pertaining to or affecting said roads and rights-of-way are the sole responsibility of the owners of the land embraced within this subdivision.

Notice is further given that no building permit will be issued by officials of this town for improvements of any nature on any property reflected on this platted subdivision until such time as the "acceptance" as hereinabove described has been filed for record with the clerk and recorder of this county.

-
- (10) Certification of final plat as outlined on the dedication form as follows:

DEDICATION

KNOW ALL PEOPLE BY THESE PRESENTS:

THAT _____ (a Colorado Corporation) is the owner of that real property situated in the Crestone, Saguache County, Colorado, and lying within the exterior boundary of _____ (subdivision name).

THAT it has caused said real property to be laid out and surveyed as _____ (subdivision name), and does hereby dedicate and set apart all of the

streets, alleys, public ways and places as shown on the accompanying plat to the use of the public forever, and does hereby dedicate those portions of said real property which are indicated as easements on the accompanying plat as easements.

IN WITNESS WHEREOF _____ (corporation name) has caused its name to be hereunto subscribed by its President and its Corporate Seal to be hereunto affixed, attested by its Secretary, the _____ day of _____, _____.

ATTEST (Corporation name)

(President's name)

STATE OF COLORADO)

)ss.

COUNTY OF SAGUACHE)

The foregoing instrument was acknowledged before me this _____ day of _____, _____ by _____ (president's name) as President and _____ as secretary of _____ (corporation name) (a Colorado Corporation).

Witness my hand and Official Seal.

Notary Public

My Commission Expires: _____

SURVEYOR'S CERTIFICATE

I, _____ (surveyor's name), a duly registered land surveyor in the State of Colorado, do hereby certify that this plat of _____ (subdivision's name) truly and correctly represents the results of a survey made by me or under my direct supervision.

(Surveyor's name)

(Surveyor's stamp shall appear with this certificate.)

PLANNING COMMISSION CERTIFICATE

Approved this _____ day of _____, _____, Town Planning Commission, Town of Crestone, Colorado.

Chairperson

TOWN'S CERTIFICATE

Approved this _____ day of _____, _____, Town Board, Crestone, Colorado. This approval does not guarantee that the size or soil conditions of any lot shown hereon are such that a building permit may be issued. This approval is with the understanding that all expenses involving necessary improvements for all utility services, paving, grading, landscaping, curbs, gutters, streetlights, street signs, and sidewalks shall be financed by others and not the Town of Crestone.

Mayor

ATTEST

Town Clerk

CLERK AND RECORDER'S CERTIFICATE

STATE OF COLORADO)

)ss

SAGUACHE COUNTY)

I hereby certify that this instrument was filed in my office at _____ o'clock, on _____, and is duly recorded in Book No. _____, Page No. _____.

Fees paid: _____

Recorder

Deputy

(Surveyor's name)

(Surveyor's stamp shall appear with this certificate.)

-
- (d) *Final plat supplementary information.*
 - (1) Submit plan and centerline profiles for all streets and roads.
 - (2) Submit plan and profiles for sanitary and storm sewers and for water distribution systems.
 - (3) Show stationing on plan and profile (100-foot intervals).
 - (4) Define and locate horizontal and vertical curves both on plan and profile (length, PC, PI, PT, radius, tangent, delta).

- (5) Show existing grade by a dashed line on profile.
- (6) Show new or proposed grade by a heavy solid line on profile.
- (7) Show percent of grade from PI to PI on profile.
- (8) Draw typical cross-section.
- (9) Show and dimension roads, alleys, curbs and gutters, sidewalks, water and sewer utility lines and structures within rights-of-way on plan, to meet design standards and any architectural/design standards adopted by the town board of trustees.
- (10) Locate and size culverts, including CSP, RCP, Box, etc., on both plan and profile.
- (11) Show direction of water flow on plans.
- (12) Show street names on profile plans.
- (13) Show minimum 20-foot radius at shoulder or curb line at all intersections on plans.
- (14) Show design benchmark data on plans and submit one set of traverse closure computations and solar or Polaris computations of the exterior boundary of the subdivision.
- (15) Submit final construction plans for all structures (e.g., box culverts, bridges, etc.). All structure plans must bear the seal of a registered professional engineer and must be approved by the town board of trustees or their designated representative.
- (16) Submit drainage plans as required by section 16-5-50(c).

- (e) *Computer check of subdivision exterior and interior lines.* The subdivider shall be responsible for providing a computer check on the final plat to ensure that all exterior and interior lines of the subdivision join or close. If this is not provided, the town shall order the computer check and have it charged to the subdivider.

(Ord. No. 2008-005(01), § 2.3, 1-12-2009)

ARTICLE 3. VESTED PROPERTY RIGHTS

Sec. 16-3-10. Site-specific development plan.

For all developments, the final approval step, irrespective of its title, which occurs prior to issuance of a site permit, shall be considered the site-specific development plan for purposes of C.R.S. Title 24, Article 68 (C.R.S. § 24-68-101 et seq.). Such final approval step shall include the board of trustees' approval of a final plat and designated by the board of trustees as a portion of the site-specific development plan for the purpose of creating a vested property right, together with an infrastructure improvements plan, subdivision improvements agreement and any appended documents, which are specifically approved by the board of trustees, concerning such final plat, for the purpose of creating such vested property rights. Such approvals may be effected after receiving the recommendation of the planning commission in accordance with procedures in this article. Said approval process includes the recorded approval of the final plat and any appended documents.

Sec. 16-3-20. Procedure.

No site-specific development plan shall be approved until after a public hearing preceded by written notice of such hearing. Such notice may, at the town's option, be combined with any no-

tices or hearings required by the subdivision regulations or zoning regulations of the town. At such hearing, interested persons shall have an opportunity to be heard. Such hearings shall be conducted before the planning commission, which shall transmit its recommendation forthwith to the board of trustees for final approval or disapproval. Such approval may be transmitted at the same time of any recommendation of approval or disapproval of a final plat. Notice of the time or place of the public hearing shall be sent by first-class mail, postage prepaid, with a certificate of mailing, to the applicant and owners of land within 300 feet of the platted land or project not less than 20 days prior to the public hearing. Additionally, notice of the public hearing shall be published in the newspaper of general circulation within the town at least 15 days prior to such hearing.

Sec. 16-3-30. Approval; effective dates; amendments.

A site-specific development plan shall be deemed approved upon the effective date of the board of trustees' approval of the same (and any appended referenced documents). If amendments to a site-specific development plan are proposed and approved, the effective date of such amendments, for purposes of the duration of a vested property right, shall be the date of the approval of the original site-specific development plan unless the board of trustees specifically finds to the contrary and incorporates such findings in its approval of the amendment.

Sec. 16-3-40. Notice of approval.

Each map, plat, site plan or the document constituting a site-specific development plan shall contain the following language: "Approval of this plan may create a vested property right pursuant to C.R.S. § 24-68-101 et seq., as amended." Failure

to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific parcel of property affected and stating that a vested property right has been created shall be prepared by the applicant, approved by the town clerk, and published once, not more than 14 days after approval of the site-specific development plan, in a newspaper of general circulation within the town before such vested property right is considered effective.

Sec. 16-3-50. Costs.

In addition to any and all other fees and charges imposed by this section, the applicant for approval of the site-specific development plan shall pay all costs occasioned to the town as a result of the site-specific development plan review, including publication notices, public hearing and review costs, at the time of recording.

Sec. 16-3-60. Revocation.

The board of trustees may revoke a vested property right for failure to abide by the terms and conditions of such vested property right. Prior to taking action to revoke a vested property right, the board of trustees shall provide a public hearing to the affected landowner and shall provide at least 15 days' prior written notice mailed to the property address of record in the county assessor's office, as well as providing notice by publication. The mailed notice to the landowner shall specifically identify the terms and conditions which are not in compliance with the site-specific development plan approval. During the period of determining compliance with the terms and conditions of the site-specific development plan, the town may administratively withhold any building, utility, excavation, road cut or other town permit, and may withhold acceptance of additional devel-

opment applications or processing of existing development applications for the property subject to the site-specific development plan.

Sec. 16-3-70. Exemptions.

Other provisions not affected by approval of a site-specific development plan shall not constitute an exemption from, or a waiver of, any other provisions of the subdivision regulations or zoning ordinances of the town pertaining to the development and use of property.

Sec. 16-3-80. Applicable law.

A pending site-specific development plan application will be governed by the adopted laws and regulations in effect at the time the application is submitted, with the exception that the town reserves the right, pursuant to C.R.S. § 24-6-102.5(2), to enforce new or amended laws or regulations to pending applications when such law or regulation is necessary for the immediate preservation of public health and safety, including temporary development restrictions duly adopted by ordinance, for the purposes of preparing planning studies and considering land use regulations related to public health and safety, or for the purpose of promoting concurrency of the essential public infrastructure.

Sec. 16-3-90. Request for approval.

In the event an applicant for a site development plan approval wishes said approval to have the effect of creating vested property rights pursuant to C.R.S. Title 24, Article 68 (C.R.S. § 24-68-101 et seq.), the applicant must so request, in writing, at least 30 days prior to the date said approval is to be considered. Failure to so request

renders the approval not a site-specific development plan, and no vested rights shall be deemed to have been created thereby.

Sec. 16-3-100. Effective date.

In the event amendments to a site-specific development plan are proposed and approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site-specific development plan, unless the body granting final approval of such amendments specifically finds to the contrary and incorporates such finding in its approval of the amendment.

Sec. 16-3-110. Legislative act.

Pursuant to C.R.S. § 24-68-104(2), the approval by the board of trustees of a development or other agreement providing for property rights to be vested for a period exceeding three years shall, upon final action upon said approval, be considered a legislative act subject to referendum.

Sec. 16-3-120. Revocation.

The board of trustees may revoke a vested property right for failure to abide by the terms and conditions of such vested property right. Prior to taking action to revoke a vested property right, the board of trustees shall provide a hearing to the affected landowner and shall provide at least 14 days' prior written notice mailed to the property address of record in the county assessor's office, as well as provide notice in the same manner as the posting or publishing of ordinances and resolutions. The mailed notice to the landowner shall specifically identify the terms and conditions which are not in compliance with the site-specific development plan approval. During the period of determining compliance with the terms and condi-

tions of a site-specific development plan approval, the town may administratively withhold any building, utility, excavation, road cut or other land use permit and may withhold acceptance of additional development applications or processing of existing development applications for the property subject to the site-specific development plan.

Sec. 16-3-130. Applicable laws.

A pending site-specific development plan application will be governed by the duly adopted laws and regulations in effect at the time the application is submitted, with the exception that the town reserves the right, pursuant to C.R.S. § 24-68-102.5(2), to enforce new or amended laws or regulations to pending applications when such law or regulation is necessary for the immediate preservation of public health and safety, including temporary development restrictions duly adopted by ordinance, for the purpose of preparing planning studies and considering land use regulations related to public health and safety or for the purpose of promoting concurrency of essential public infrastructure, equipment or services with increased demand.

Sec. 16-3-140. Repeal.

Nothing in this article is intended to create any vested property right, but only to implement the provisions of C.R.S. Title 24, Article 68 (C.R.S. § 24-68-101 et seq.). In the event of the repeal of said article, or a judicial determination that said article is invalid or unconstitutional, this article shall be deemed to be repealed and the provisions hereof no longer effective.

ARTICLE 4. DESIGN STANDARDS

Sec. 16-4-10. General requirements.

(a) Consideration shall be given to the influence of topography insofar as it affects street pattern, proper drainage and maintenance of scenic views.

(b) Where railroads, canals or ditches are abutting or contained within a proposed subdivision, provisions for buffer strips and other protective treatments shall be made.

(Ord. No. 2008-005(01), § 3.1, 1-12-2009)

Sec. 16-4-20. Alleys.

(a) Alleys shall be provided in commercial and industrial developments, except that the town planning commission may waive this requirement where another definite provision is made for service access and off-street parking adequate for the uses proposed.

(b) The width of an alley shall be 16 feet.

(c) Dead-end alleys shall be avoided where possible but, if unavoidable, shall be provided with adequate turnaround facilities at the dead-end.

(Ord. No. 2008-005(01), § 3.2, 1-12-2009)

Sec. 16-4-30. Easements.

(a) Utility easements normally shall be 20 feet in width, measuring ten feet on each side of abutting rear lot lines. Easements alongside lot lines where required will measure five feet on each side. On subdivision perimeter rear lot lines adjacent to unsubdivided property, easements will measure ten feet in width. Where front lot line easements are required, a minimum of ten feet shall be allocated adjacent to the public street. In the event that the location of utility easements adjacent to rear property lines is unsuitable for use of utility companies due to drainage, irrigation ditches, timbered areas, or other obstructions, suitable width easements will be provided adjacent to said areas of obstruction.

- (b) Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further widths as may be required for necessary flood control measures. The minimum requirements for such easements shall be based on the greatest flood of record in the county.

(Ord. No. 2008-005(01), § 3.3, 1-12-2009)

Sec. 16-4-40. Blocks.

- (a) The lengths, widths and shapes of blocks shall be determined with due regard to:
 - (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
 - (2) Zoning requirements as to lot sizes and dimensions.
 - (3) Needs for convenient access, circulation, control and safety of street traffic.
 - (4) Limitations and opportunities of topography.
- (b) Block lengths shall not exceed 300 feet. Length requirements may be waived by the planning commission when the proposed density of the subdivision is one dwelling unit per acre or less.
- (c) Pedestrian crosswalks not less than 14 feet wide shall be required where deemed essential to provide access to schools, playgrounds, shopping centers or other community facilities.

(Ord. No. 2008-005(01), § 3.4, 1-12-2009)

Sec. 16-4-50. Lots.

- (a) The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision, for the type of development and use contemplated and for future resubdividing where appropriate. Lots shall be orientated to allow for construction of passive solar.
- (b) Residential lot dimensions shall conform to the requirements of chapter 15.
- (c) Depth and width of properties shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
- (d) Lot frontage.
 - (1) Lot frontage widths shall conform to the requirements of chapter 15.
 - (2) Double-frontage lots should be avoided except where essential to provide separation of residential development from expressways, arterial highways and major thoroughfares or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten feet in width, and across which there shall be no vehicular right of access, may be required along the property line of lots abutting such a traffic artery or other disadvantageous use.
- (e) Corner lots for residential use shall have extra width to permit appropriate building setback from, and orientation to, both streets.
- (f) Side lot lines shall be substantially at right angles or radial to street lines.

(Ord. No. 2008-005(01), § 3.5, 1-12-2009)

Sec. 16-4-60. Streets.

The arrangement, character, extent, width, grade and location of all streets shall conform to existing topographical conditions to enhance public convenience and safety, and such streets shall be designed in accordance with the following provisions:

- (1) The proposed street layout shall be made according to sound land planning practice for the type of development proposed and shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation of appropriate protection of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding acreage tracts.
- (2) Whenever a subdivision abuts or contains an existing or proposed arterial highway or major thoroughfare, the planning commission may require marginal access or frontage streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of arterial and local traffic.
- (3) Minor streets shall be laid out so that their use by arterial traffic will be discouraged.
- (4) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the planning commission and the town board of trustees may require a street approximately parallel to, and on each side of, such right-of-way at a distance suitable for the appropriate use of the intervening land. Such distances also shall be determined with due regard for the requirements of approach grades and future grade separation structures.
- (5) Reserve strips controlling access to streets shall be prohibited except where their control is placed in the town under conditions approved by the planning commission and the town board of trustees.
- (6) Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be required of the subdivider.
- (7) When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be arranged to permit the logical location and opening of future streets and appropriate resubdivision, with provision for adequate utility easement.
- (8) A tangent at least 400 feet long shall be introduced between reverse curves on major thoroughfares.
- (9) The dedication of a half-street shall not be accepted unless:
 - a. The subdivider obtains for the town a dedication from the abutting landowner of the other one-half of the street;
 - b. The subdivider obtains from said abutting landowner an agreement

in a form satisfactory to the town attorney which guarantees the cost of the improvements and construction of the same on the half-street within a time suitable to the planning commission;

- c. The subdivider guarantees the construction of the improvements on the half-street which he is dedicating; or
- d. Any other similar arrangement approved by the planning commission and town board of trustees.

(10) Cul-de-sacs or dead-end streets, designed to be so permanently, shall not be longer than 600 feet measured from the entrance to the rear of the turnaround, and shall be provided at the closed end with a turnaround having an outside right-of-way diameter of at least 100 feet. Length requirements may be waived by the planning commission when the proposed density of the subdivision is one dwelling unit per acre or less.

(11) No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the town board of trustees.

(12) Intersections.

- a. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than 70 degrees.

- b. Street jogs with centerline offsets of less than 125 feet shall not be permitted.
- c. Street and alley right-of-way widths, curves and grades shall meet the following standards unless otherwise approved by the planning commission:

1. Table.

**STREET/ALLEY
RIGHT-OF-WAY
WIDTHS, CURVES
AND GRADES**

<i>Classification</i>	<i>Right-of-Way</i>	<i>Minimum Centerline Curve Radius</i>	<i>Maximum Grade</i>
Minor	60'	100'	5%
Collector	80'	300'	5%
Marginal Access	40'	100'	5%
Major Thoroughfare	120'	850'	5%
Alley	16'	100'	5%

- 2. Freeway standards shall conform to the state department of transportation standards.
- 3. Minimum grade shall be one-half of one percent.
- 4. Maximum grade through intersections shall be four percent. Said maximum grade shall extend a minimum of

50 feet each direction from the centerline of the intersecting streets.

(Ord. No. 2008-005(01), § 3.6, 1-12-2009)

Sec. 16-4-70. Public sites and open spaces.

- (a) The board of trustees, upon consideration of town circulation and community facility plans and the particular type of development proposed, shall require the dedication or reservation of ten percent of the total area of the subdivision for public purposes other than streets. The land so dedicated or reserved shall be of a character, extent and location suitable for public use for schools, bike paths, parks, historic sites, scenic areas or other necessary public purposes as determined by the town board of trustees.
- (b) If the town board of trustees finds that land dedication or reservation is not appropriate, the subdivider shall make a cash contribution to the town calculated at ten percent of the fair market value of the land as zoned for development, which funds will be used for the purchase of land for use of schools, parks and historic sites.
- (c) If the town board of trustees finds it appropriate, the subdivider shall be required both to dedicate or remove land within the subdivision and to make a cash contribution. In such case, the amounts shall be calculated so that the total percentage of the land dedicated and the cash contributed does not exceed ten percent.

(Ord. No. 2008-005(01), § 3.7, 1-12-2009)

ARTICLE 5. IMPROVEMENTS

Sec. 16-5-10. Plan preparation.

Plans for the public improvements herein required shall be prepared by a qualified engineer,

registered in the state. Two sets of prints of the plans and specifications for all public improvements shall be filed with the county clerk and recorder at the time of submission of the final plat. One set of as-built plans and specifications, certified and signed by an engineer registered in the state, shall be filed with the county clerk and recorder prior to the acceptance by the town board of trustees of any public improvement installed by the subdivider.

(Ord. No. 2008-005(01), § 4.1, 1-12-2009)

Sec. 16-5-20. Guarantee of completion of public improvement.

- (a) No final plat shall be recorded until the subdivider has submitted and the town board of trustees has approved one or a combination of the following:
 - (1) A subdivision improvements agreement agreeing to construct any required public improvements shown in the final plat documents, together with collateral which is sufficient, in the judgment of the town board of trustees, to make reasonable provision for the completion of said improvements in accordance with design and time specifications. Such collateral may be, but is not limited to, escrow deposits, irrevocable letters of credit, or negotiable bonds.
 - (2) Other agreements or contracts setting forth the plan, method and parties responsible for the construction of any required public improvements shown in the final plat documents which, in the judgment of the town board of trustees, will make reasonable provision for completion of said improvements and in accordance with time specifications.

(b) As improvements are completed, the subdivider may apply to the town board of trustees for a release of part or all of the collateral deposited with the town board of trustees. Upon inspection and approval, the town board of trustees shall release said collateral. If the town board of trustees determines that any such improvements are not constructed in substantial compliance with specifications, it shall furnish to the subdivider a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the town board of trustees determines that the subdivider will not construct any or all of the improvements in accordance with all of the specifications, the town board of trustees may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with the specifications.

(Ord. No. 2008-005(01), § 4.2, 1-12-2009)

Sec. 16-5-30. Monuments.

Affixed securely to the top of each monument shall be the state registration number of the land surveyor responsible for the establishment of said monument. Permanent external boundary survey monuments shall be set at locations approved by the town board of trustees, provided that such monuments shall be set not more than 1,400 feet apart along any straight boundary line at all angle points, and at the beginning, end and points of change of direction or change of radius of any curved boundary. In addition, one-half-inch diameter steel pins (or larger) shall be set at all lot corners.

(Ord. No. 2008-005(01), § 4.3, 1-12-2009)

Sec. 16-5-40. Street improvements.

(a) All unpaved streets must be constructed and graded to town standards. The town may

require any street to be paved, at the discretion of the planning commission, to ensure passability by ordinary traffic under all weather conditions.

- (b) Curbs, gutters and sidewalks shall be required.
- (c) All sidewalks shall be made of concrete material (or other smooth surface) and shall be at least 48 inches in width and a minimum of four inches thick.
- (d) Where bridges and culverts are necessary as part of the improvements in a subdivision, the subdivider shall be responsible for their construction.
- (e) Approved street name signs shall be installed at all intersections in the subdivision according to the street names approved by the town board of trustees.
- (f) Sidewalks, bike paths, pedestrian and wildlife corridors, riparian and acequias must be considered in development.

(Ord. No. 2008-005(01), § 4.4, 1-12-2009)

Sec. 16-5-50. Utilities.

- (a) *Water system.*
 - (1) A public water distribution system shall be required in all subdivisions. The subdivider shall make the necessary arrangements, including any construction or installation charges, to extend public water service to any building site in the proposed subdivision. In particular, the subdivider shall bear the cost of extending the main line of the municipal water system to the proposed subdivision, the cost of connecting the municipal water system and the distribution system of

- the proposed subdivision, and the cost of extending the water distribution system to each lot within the proposed subdivision.
- (2) Water lines shall be designed to connect each lot with mains in accordance with applicable engineering standards.
 - (3) Fire hydrants shall be required in all subdivisions. Hydrants shall be spaced not more than 1,000 feet apart and provided with adequate water pressure for firefighting purposes.
- (b) *Sanitary sewer system.*
- (1) A public sanitary sewer collection system shall be required in all subdivisions. The subdivider shall make the necessary arrangements, including any construction or installation charges, to extend public sanitary sewer service to any building site in the proposed subdivision. In particular, the subdivider shall bear the cost of extending the main line of the municipal sewer system to the proposed subdivision, the cost of connecting the municipal sewer system and the collection system of the proposed subdivision, and the cost of extending the sewage collection system to each lot within the proposed subdivision.
 - (2) Sewer lines shall be designed to connect each lot with mains in accordance with applicable engineering standards.
- (c) *Storm drainage.* Complete drainage systems for the entire subdivision area shall be designed by a professional engineer licensed in the state and qualified to perform such work and shall be shown graphically. All existing drainage features which are to be incorporated in the design shall also be identified. If the final plat is to be presented in stages, a general drainage plan for the entire area shall be presented with the first section, and appropriate development stages for the drainage system for each section shall be indicated. The drainage and floodplain systems shall be designed to permit the unimpeded flow of natural watercourses and to ensure adequate drainage of all low points.
- (d) *Electric, gas and telephone service.*
- (1) The subdivider shall meet with appropriate utility companies prior to submitting the preliminary plan in order to resolve problems of servicing the proposed subdivision with electric, gas and telephone utilities.
 - (2) The subdivider shall make the necessary arrangements, including any construction or installation charges, to extend electrical, gas and telephone service to the building site in the proposed subdivision. In particular, the subdivider shall bear the cost of extending public utility facilities to the proposed subdivision, the cost of connecting public utility facilities and the distribution lines within the proposed subdivision, and the cost of extending the public utility services to each lot within the proposed subdivision. The installation of all utilities shall be subject to all other applicable town and state regulations. Such facilities shall be placed within easements or public streets, as herein provided, or upon private easements or rights-of-way provided for particular facilities.

(3) In the event that the location of utility easements adjacent to property lines is unsuitable for use by utility companies due to drainage, irrigation ditches, timbered areas or other obstructions, suitable easements will be provided adjacent to said areas or obstructions. Modification of the easement width requirement may be granted only when approved by both the planning commission and the public utility concerned.

(4) All public utility facilities normally shall be located in rear or side lot easement, except crossings thereof, to accomplish a continuous connection of the utility company system, and except upon proof that the same cannot be accomplished by reasonable available means with the exception of street lighting facilities and gas facilities.

(5) All electric and communication utility lines and services, and all street lighting circuits, except as hereinafter provided, shall be installed underground, and street lighting shall be provided by means of the utility's standard ornamental facilities.

a. Excepted from the requirements of the foregoing and this section shall be the following:

1. Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground and street lighting facilities may be placed above ground within the utility ease-

ment provided therefor, or within the street or other public place as approved.

2. All facilities reasonably necessary to connect underground facilities to existing or permitted overhead or aboveground facilities.

3. It shall not be necessary for the servicing utility to remove or replace existing utility facilities used or useful in servicing the subdivision.

b. The subdivider shall be responsible for complying with the requirements of this section, and he shall present evidence, prior to final approval of any plat, that necessary arrangements have been made with each of the serving utilities, including payment for any construction or installation charges for the installation of facilities in compliance herewith.

(Ord. No. 2008-005(01), § 4.5, 1-12-2009)

Sec. 16-5-60. Other improvements.

Other improvements not specifically mentioned herein but found necessary due to conditions peculiar to the site shall be required by the town planning commission.

(Ord. No. 2008-005(01), § 4.6, 1-12-2009)

Sec. 16-5-70. Street trees.

(a) Two street trees shall be provided in residential subdivisions for each lot of 100 feet frontage or less and at least three trees for every lot

in excess of 100 feet frontage. For corner lots, at least two trees shall be required for each street.

- (b) The subdivider shall ensure that trees are located so as not to interfere with sight distance at driveways. The type, size and location of trees required to be installed shall be determined by the town planning commission.
 - (c) Installation of trees on a lot shall take place within one year following the improvement of the adjacent street. The subdivider shall guarantee the placement of any tree which dies within one year following installation.
- (Ord. No. 2008-005(01), § 4.7, 1-12-2009)

**ARTICLE 6. SHORT PROCEDURE
SUBDIVISIONS, MINOR SUBDIVISIONS
AND BOUNDARY LINE ADJUSTMENTS**

Sec. 16-6-10. Short procedure subdivisions.

When certain conditions exist on tracts or parcels of land, the land may be subdivided by the procedure outlined in this section. This section is intended to provide for boundary line adjustments, conveyances of a portion of one lot to a neighboring property owner, and similar minor property adjustments which do not merit section 16-2-20 subdivision requirements.

- (1) The conditions which must exist are:
 - a. It is a resubdivision of an already existing lot within a recorded subdivision which has already fulfilled standard submission requirements. The resubdivision parcel must contain no less than the minimum lot size required in the appropriate zoning district.

- b. The subdivided lots will conform to the existing zoning. If rezoning of an area is pending, the subdivision may receive conditional approval.
 - c. The subject lots are not a portion of a parcel previously divided under this section.
 - d. All lots shall have access to a public road.
 - e. Adequate water can be provided.
 - f. Adequate sewage disposal facilities can be provided.
- (2) Application requirements. The application must be accompanied by:
 - a. A sketch plan of the property showing how the property would be divided, the location of existing structures (if any) and the location of existing and proposed roads. All dimensions will be shown on the sketch plan.
 - b. A survey of the property (plat) for which the subdivision is sought showing the corners and boundaries of the land to be divided and the subdivided parcels, easements, rights-of-way (if any) and access roads, certified by a licensed or registered land surveyor (this may be submitted after the meeting before the planning commission if desired).
 - (3) The planning commission shall review the plan and deliver its comments and recommendations regarding the plat to the town board of trustees and to the subdivider (applicant).

- (4) After receiving a recommendation by the planning commission, the town board of trustees may hold a public hearing, after which the decision to approve, modify with conditions, or deny shall be made. In case of modification, the matter shall be referred back to the planning commission.
- (5) A filing fee in the amount provided in the consolidated fee schedule, attached as appendix 2-F, shall be submitted with the application.
- (6) Any conditions as described in this section shall be recorded with the title to all resubdivided lots.

(Ord. No. 2008-005(01), § 5.1, 1-12-2009)

Sec. 16-6-20. Minor subdivisions.

- (a) *Definition.* A minor subdivision shall consist of no more than five building lots, not to exceed five acres, which do not require improvements at the town's expense (sewer, water works, roads, etc.).
- (b) *Purpose.* The purpose is to provide a relatively simple procedure for dividing small tracts of land for development where such development and use have only to relate to other lands in the vicinity.
- (c) *Application.* The applicant will make application to the town clerk on a form provided by the town. The application will be accompanied by:
 - (1) A nonrefundable processing fee in the amount set by the town board of trustees and on file in the town hall.
 - (2) A preliminary plat of the property, showing proposed property division

lines, size of resulting parcels, and location of existing structures (if any), and including existing and proposed roads.

- (3) A brief summary of the proposal, to include information that will aid in clarifying the various facets of the proposal and that are not included on the application form.

(d) *Processing of application.*

- (1) The application will be referred to the planning commission, which shall:
 - a. Review the proposal to determine its conformance with subsection (b) of this section, as well as to identify any other desirable and undesirable effects of the proposal.
 - b. Suggest changes that are determined to be desirable additional information needed to make a recommendation.
 - c. Make recommendation for or against approval of the application to the town board of trustees, stating conditions (if any) upon which the recommendation is based. The recommendation will also be made available to the applicant.
- (2) After receiving a recommendation from the planning commission, the town board of trustees shall review the proposal to determine if it is sufficiently controversial or complicated to warrant a public hearing. If it is decided to hold a public hearing, the public hearing will be preceded by the following:
 - a. A notice of said meeting shall be published in a newspaper of gen-

- eral circulation within the area of the town affected by the proposal at least ten days prior to the meeting.
- b. A written notice of said meeting shall be sent by certified mail, at least ten days prior to the meeting, to property owners within 300 feet of the boundary of the subject property.
 - c. The town board of trustees shall make a decision to approve, modify, or deny the application within 30 days after a recommendation has been received from the planning commission, unless further time is mutually agreed to by the applicant and the board of trustees or after the public hearing.
- (3) Upon approval by the town board of trustees, the applicant shall have a final plat prepared, to include:
- a. Appropriate heading, to include title, date, scale, designation of north and names of the subdivider and registered surveyor.
 - b. Outside boundary of the whole area proposed for subdivision, showing ties to the local land survey, and including a legal metes and bounds description of the land.
 - c. Exact location of the proposed property division (tract) lines, including length and bearings of such lines and acreages of resulting tracts.
 - d. Tract or lot designations by name, number or letter.
 - e. Location of roads, easements, and existing structures.
 - f. Location of ditches and streams.
- (4) A copy of an approved final plat prepared according to the regulations in section 16-2-70, together with a copy of covenants and/or deed restrictions describing the landowners' responsibility for construction of roads and other public improvements, will be recorded.
- (e) *Requirements for approval of minor subdivision.*
- (1) The minor subdivision does not seriously conflict with the current comprehensive plan for the town.
 - (2) Adequate, suitable water must be available for the use intended.
 - (3) The site must be suitable and plans adequate to ensure proper disposal of sewage and other wastes.
 - (4) All lots must have legal access to a public road.
 - (5) The proposed size and use of the lots must conform with the zoning regulations for the zone district in which the minor subdivision is located.
 - (6) A determination has been made of whether the area should be included with adjacent lands to form a properly planned larger subdivision to prevent piecemeal area planning.
 - (7) The area or land has no other significant physical limitations affecting the use proposed.

- (8) Adequate erosion control measures are provided.
- (9) Adequate storm drainage control measures are provided.
- (10) Adequate roads of all-weather construction are provided.
- (11) Adequate fire lanes and rights-of-way are provided.
- (12) Adequate fire hydrants are provided.
- (13) The use and development plan must not conflict with adjacent uses and development plans.
- (14) An irrevocable letter of credit may be required.
- (15) The proposed division of land shall not be created for the purpose of evading the provisions of these regulations, nor any provisions relating to setbacks and/or lot size contained therein. If the proposed division of land is only a boundary line adjustment or "split off" of property between neighboring property owners which conveys a portion of a lot to an adjacent existing lot in conformity with these regulations, it shall be presumed, absent a finding by the planning commission to the contrary, that the division was not created for such evasive purpose.

(Ord. No. 2008-005(01), § 5.2, 1-12-2009)

Sec. 16-6-30. Boundary line adjustments.

- (a) A boundary line adjustment is an adjustment of property boundaries between two or more pre-existing legal parcels of land that

results in the same number, or less, of parcels as the pre-boundary line adjustment condition.

- (b) The boundary line adjustment application must be submitted complete and in compliance with these regulations. The applicant shall submit three printed sets of all required materials, along with a completed application form and fee, to the planning commission. Applications must be packaged in a bound or file form with each set containing all required information. Applications must be submitted at least ten days prior to the regularly scheduled planning commission meeting. Applications will be reviewed for completeness by town staff and for compliance to the submittal requirements. Incomplete applications will be returned to the applicants with a staff report and will not be included on the planning commission agenda.

(c) Boundary line adjustment criteria.

- (1) Boundary line adjustments must conform to the town's master street plan. Any area defined as a proposed street right-of-way must be dedicated as a condition of approval of the boundary line adjustment.
- (2) Boundary line adjustments must conform to any approved town plan for a designated development or create a condition in greater conformance with chapter 15 and the master plan than the preexisting condition.
- (3) If any parcels being adjusted are nonconforming in area or shape, as set forth in these regulations, the adjustment shall not increase the nonconformity. No new nonconformity shall be created through

the boundary line adjustment, and the application will not be considered until such nonconforming uses are abandoned, removed or resolved.

- (4) The application shall include a copy of the original subdivision plat and covenants if it is within a subdivision. Boundary line adjustments within an existing subdivision may require the consent of the subdivision homeowners' association or each subdivision lot owner if plat adjustments are restricted by the subdivision covenants or plat notes.
- (5) If the original plat has building envelopes defined for the lots or parcels being adjusted, proposed new building envelopes must be shown. If the area of the parcels is in or near a floodplain, the floodplain must be shown on the proposed boundary line plat.
- (6) Boundary line adjustments may be approved by resolution of the planning commission.

ARTICLE 7. DEVELOPMENT POLICY FOR CONSTRUCTION IN SINGLE FAMILY SUBDIVISIONS

Sec. 16-7-10. Purpose.

- (a) The purpose of this article is to provide guidelines for developers of single-family residences in the town. These guidelines have been prepared for the protection of prospective homeowners in the subdivisions, the town and the developer. This article is intended to elaborate on the subdivision regulations.
- (b) This article is designed to encourage development at minimum up-front cost to the

developer, while at the same time providing the necessary protection to all concerned. All development work performed after the date set forth on the cover of the policy from which this article is derived, shall adhere to the provisions herein described. Only the town clerk, with the approval of the town board of trustees, may change any of the following provisions.

- (c) The term "single-family residences," for the purpose of this article, means a single house constructed on one lot and shall include duplexes.
- (Ord. No. 2008-005(01), § 6.1, 1-12-2009)

Sec. 16-7-20. Subdivisions.

All subdivisions shall be presented to, and approved by, the planning commission.

(Ord. No. 2008-005(01), § 6.2, 1-12-2009)

Sec. 16-7-30. Engineering.

Prior to any development in an approved subdivision, the following must be presented to and approved by the town clerk and planning commission:

- (1) The subdivision plat.
- (2) Street design drawings showing:
 - a. Typical street cross-sections.
 - b. Right-of-way and street widths.
 - c. Street plan information indicating curb, gutter and sidewalk locations, driveway locations, and curve data on all curved roadways and intersections.
 - d. Street profile information.
- (3) Utility design drawings showing:
 - a. All utility rights-of-way.

- b. Utility plan indicating the location of gas, electric, telephone, water, sewer, stormwater lines, and fire hydrants.
 - c. Profiles of proposed sewer and stormwater lines.
 - d. Notes regarding typical depths and crossing conflicts of all utility lines.
- (4) Grading and site drainage plan, which may be superimposed, on street or utility drawings showing the proposed drainage plan. All plans submitted must show as much information on existing surface and underground features in adjoining streets and rights-of-way as is necessary to provide adequate designs. The minimum scales of drawings submitted shall be one inch equals 50 feet, horizontal, and one inch equals five feet, vertical.
- (5) At least two blue line prints of all drawings shall be submitted to the town clerk and planning commission. Costs associated with preparation of engineering plans shall be borne by the developer. Plans will be reviewed by the town clerk and planning commission at no cost to the developer. The developer shall accept full responsibility for all engineering work, even though approved by the town. Specifications for construction of streets, water, sewer and stormwater drains shall be provided to the developer by the town and represent the town's minimum requirements.

(Ord. No. 2008-005(01), § 6.3, 1-12-2009)

Sec. 16-7-40. Street standards.

- (a) An all-weather road shall be constructed of the proper compacted rock base so that it

withstands the changes that occur with seasonal weather, as well as withstanding the expansion pressures of frost.

- (b) Collector streets in established town neighborhoods and all streets, other than local traffic noncollector streets, shall have mountable curb and gutter with depressed sections for entrance ways or shall have the same curb and gutter treatment as adjacent streets, whichever is determined more appropriate by the town clerk and planning commission.
- (c) Local traffic noncollector streets may be constructed with the mountable curb and gutter at the request of the developer and with the approval of the town clerk and planning commission.
- (d) Arterial streets shall be totally designed by the town as required to meet present and future demands.
- (e) Street widths and right-of-way widths in new subdivisions shall be as follows:

STREET AND RIGHT-OF-WAY WIDTHS

	<i>Street Width</i>	<i>ROW Width</i>
Collector streets	55 feet	80 feet
Local traffic noncollector streets	45 feet	60 feet

- (f) Sidewalks shall be required on both sides of collector and arterial streets. However, upon request of the developer and approval of the town clerk and planning commission, the sidewalk may be eliminated on one side only of noncollector streets. Sidewalks shall generally be four feet wide and be constructed next to the back of curbs unless otherwise

required by the town clerk and planning commission. All sidewalks shall be handicap-accessible at intersections.

- (g) The minimum horizontal radius of curvature for residential streets shall be 100 feet measured on the centerline. Collector streets shall have a minimum 300-foot radius.
- (h) The minimum vertical grade on all streets shall be one-half of one percent, except at vertical curves. Street intersections must be spaced no closer than 200 feet apart measured from centerline to centerline. Curb radii at intersection shall be a minimum of 15 feet.
- (i) Curb, gutter and sidewalk details and typical street cross-sections for various width streets are available at town hall upon request of the developer. All aspects of these standard drawings shall be adhered to as a minimum requirement for development in the town.
- (j) Only competent and qualified contractors approved by the town board of trustees shall be permitted to perform curb, gutter, sidewalk and street construction.

(Ord. No. 2008-005(01), § 6.4, 1-12-2009)

Sec. 16-7-50. Streetlights.

- (a) Streetlights in newly developing areas shall generally consist of 150-watt, high pressure sodium vapor lights spaced at intervals of approximately 200 feet on alternating sides of the street on fiberglass or wooden poles. The installation of the poles and lights will be performed by the contractor in accordance with public utility standards. All lights will be directed downward and the light source shall be equipped with cutoff devices so that it will not be visible from any adjacent prop-

erty and to ensure that ambient skyward light is eliminated. The operation and maintenance of the streetlights will be performed at the town's expense once the lights have been placed into service.

- (b) Decorative poles may be utilized upon approval of the planning commission, but extra costs associated therewith must be borne by the developer.

(Ord. No. 2008-005(01), § 6.5, 1-12-2009)

Sec. 16-7-60. Utilities.

- (a) All utilities in all streets and rights-of-way adjacent to developing lots shall be installed to the property line. Generally, lots shall be served by the utilities which have been installed in the street or right-of-way to the lot. Storm drains must be adequate to serve the developing area and must discharge to a positive outfall.
- (b) Water and sewer mains and service connections to the property line must be installed prior to the issuance of any building permits. If services are to be installed in paved streets, the developer shall be responsible for such installation and street cuts in accordance with town standards and specifications, and upon prior approval of the planning commission.
- (c) All water, sewer and stormwater construction shall be performed in accordance with the town's standard specifications and details available from the town clerk. Only competent and qualified contractors, approved by the town board of trustees, shall be permitted to perform water, sewer and stormwater construction.
- (d) Storm drains shall be designed for a five-year storm, and all receiving drains shall be capa-

ble of handling this water plus existing loads, or they may not be utilized by a new development. If they cannot be utilized, the developer may be responsible for construction of a new line to a positive outfall. Other innovative methods of accommodating the five-year storm, such as detention or retention, may also be utilized.

(Ord. No. 2008-005(01), § 6.6, 1-12-2009)

Sec. 16-7-70. Cost sharing of development.

- (a) It shall be the developer's responsibility to construct all improvements within his subdivision and pay all costs associated therewith.
- (b) Any cost sharing, as an exception to the above requirements, must be approved in writing by the town clerk, with board of trustees' approval, prior to development activities. It would be a grave mistake for a developer to assume that the town will share in the cost of any improvement. The town may not be in a financial position to share costs and may offer other alternatives to the developer. All cost-sharing proposals must be presented to the planning commission for review.

(Ord. No. 2008-005(01), § 6.7, 1-12-2009)

Sec. 16-7-80. Development process.

The following is an outline to be followed during the development process:

- (1) Submit the plat to the planning commission.
- (2) After approval of the plat, all streets and rights-of-way shall be dedicated by deed to the town.
- (3) The plat and deeds shall be filed with the planning commission.

(4) After meetings with the planning commission, the developer shall send a letter of intent to develop for the town board's review and comment or concurrence. This letter shall contain:

- a. The developer's proposed schedule for development.
- b. The developer's understanding of the costs of public facilities, with the engineer's estimate of the various costs.
- c. A list of proposed contractors to be utilized on the construction of the various public facilities.
- d. An itemization of facilities to be constructed at the town's expense and their approximate costs.
- e. Development and, therefore, development costs may be phased and the developer should indicate his intent to phase development in his letter.
- f. Proposed methods of financing public facilities.

(5) After the board of trustees has reviewed and approved the letter of intent to develop, a written response will be issued approving the area for development and agreeing to and/or modifying the various items in the letter of intent.

(6) In order to receive a building permit for any lot in the subdivision, the following must be in place:

- a. Water and sewer mains with services to the property line.
- b. Stormwater drains for the area.

- c. Non-town television lines, which must be installed so as not to require excavation in roadway areas at a future date.
 - d. Curb, gutter and sidewalk where required.
 - e. Road base to within one inch of finished grade.
 - f. Lot filled and graded to proposed elevations, plus or minus three inches.
 - g. In lieu of subsections (6)a through g of this section, the developer will be required to guarantee that the same will be in place at the time that the certificate of occupancy is issued. The guarantee shall be in the form of a certified letter of credit to the town in an amount equal to 150 percent of the estimated cost of the items not completed at the time the building permit is issued. This letter of credit shall be forfeited to the town if the work is not performed on time.
- (7) Paving of streets shall be required when 50 percent of the lots in the subdivision are sold or within 18 months of issuance of the first building permit in the subdivision, whichever occurs first. In order to guarantee the street paving, the developer shall provide an irrevocable letter of credit to the town, good for two years, for the estimated cost of the paving. The bond shall be forfeited if paving is not completed in accordance with the above.
- (8) During all phases of construction of public facilities, the developer shall no-

tify the town clerk of the completion of various major items of construction so that inspections of the facilities can be performed and approvals issued. Use of these public facilities shall not be permitted unless approvals for their use have been issued by the town clerk.

- (9) At the time of the building permit application, the new property owner shall also make application for water and sewer service and pay the appropriate fees.
 - (10) Should the developer not perform one or all of these requirements within a two-year period, then the approval of said development shall become null and void and said developer shall be required to resubmit his development for approval to the planning commission.
- (Ord. No. 2008-005(01), § 6.8, 1-12-2009)

ARTICLE 8. ADMINISTRATIVE PROVISIONS

Sec. 16-8-10. Variance.

- (a) Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of these subdivision regulations would result in extraordinary hardships to the subdivider because of unusual topography, or other such non-self-inflicted condition, or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the board of adjustments may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured, provided that any such variance,

modification or waiver will not have the effect of nullifying the intent and purpose of these subdivision regulations.

- (b) In no case shall any variation, modification or waiver be more than a minimum easing of the requirements, and in no instance shall it be in conflict with any existing zoning ordinance.
- (c) Such variances, modifications and waivers may be granted only by the affirmative vote of two-thirds of the members of the board of adjustment and only when the board of adjustment has received and duly considered the recommendation of the planning commission concerning such variance.
- (d) In granting variances, modifications and waivers, the board of adjustment may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so affected. The subdivider requesting a variance shall be notified by the board of adjustment of its decision within 90 days of receipt of written request for said variance.

(Ord. No. 2008-005(01), § 7.1, 1-12-2009)

Sec. 16-8-20. Repeal of regulations.

All subdivision regulations of the town, if any, effective prior to the date of adoption of the ordinance from which this chapter is derived, are hereby repealed.

- (1) The repeal of any of the above-mentioned regulations does not revive any other regulations or portion thereof repealed by said regulations.
- (2) Such repeals shall not affect or prevent the prosecution or punishment of any

person for the violation of any regulations repealed hereby for an offense committed prior to the repeal.

(Ord. No. 2008-005(01), § 7.2, 1-12-2009)

Sec. 16-8-30. Severability clause.

It is hereby declared to be the legislative intent that the provisions of these regulations shall be severable in accordance with the following provisions set forth below:

- (1) If any provision of these regulations is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that:
 - a. The effect of such decision shall be limited to the provisions which are expressly stated in the decision to be invalid; and
 - b. Such decisions shall not affect, impair or nullify these regulations as a whole, or any other part thereof, but the rest of these regulations shall continue in full force and effect.
- (2) If the application of any provision of these regulations to any tract of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that:
 - a. The effect of such decision shall be limited to that tract of land immediately involved in the controversy, action or proceeding in which the judgment or decree of invalidity, as rendered; and

- b. Such decision shall not affect, impair or nullify these regulations as a whole, or the application of any provision thereof, to any other tract of land.

(Ord. No. 2008-005(01), § 7.3, 1-12-2009)

Sec. 16-8-40. Amendments or additions.

After study and recommendation by the planning commission, these regulations may be amended and sections added thereto by ordinance of the town board of trustees.

(Ord. No. 2008-005(01), § 7.4, 1-12-2009)

Sec. 16-8-50. Effective date.

These regulations shall be in effect from the date of adoption of the ordinance from which this chapter is derived by the planning commission, and the town board of trustees may adopt these regulations by ordinance and for codification into this Code, pursuant to legal provisions and procedures as required by the statutes of the state.

(Ord. No. 2008-005(01), § 7.5, 1-12-2009)

Chapter 17

BUILDING REGULATIONS

Article 1. Dangerous Building Code

- Sec. 17-1-10. Title.
- Sec. 17-1-20. Purpose.
- Sec. 17-1-30. Alterations, additions and repairs.
- Sec. 17-1-40. Enforcement generally.
- Sec. 17-1-50. Definitions.
- Sec. 17-1-60. Designation of dangerous buildings.
- Sec. 17-1-70. Notice and orders of authorized official generally.
- Sec. 17-1-80. Recordation of notice and order.
- Sec. 17-1-90. Repair, vacation and demolition.
- Sec. 17-1-100. Notice to vacate.
- Sec. 17-1-110. Appeal.
- Sec. 17-1-120. Enforcement of order.
- Sec. 17-1-130. Performance of work of repair or demolition.
- Sec. 17-1-140. Recovery of cost of repair or demolition.

**ARTICLE 1. DANGEROUS BUILDING
CODE**

Sec. 17-1-10. Title.

This article shall be known as the "Code for the Abatement of Dangerous Buildings," may be cited as such and may be referred to herein or for the purpose of enforcement as the "dangerous building code."

Sec. 17-1-20. Purpose.

- (a) It is the purpose of this article to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by the Nuisance Code (chapter 12, article 1) or otherwise available by law, whereby buildings or structures which, from any cause, endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants and may be required to be repaired, vacated or demolished.
- (b) It is not the purpose of this article to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this article.
- (c) The provisions of this article shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in the town.

Sec. 17-1-30. Alterations, additions and repairs.

All buildings or structures which are required to be repaired under the provisions of this article shall be subject to the provisions herein set forth.

Sec. 17-1-40. Enforcement generally.

- (a) *Administration.* The concurrence of two of the following "authorized officials," town clerk, code or law enforcement officer, and building inspector, shall be necessary in order to enforce the provisions of this article.
- (b) *Inspections.* The authorized officials are hereby empowered to make such inspections and take such actions as may be required to enforce the provisions of this article.
- (c) *Right of entry.* When it is necessary to make an inspection to enforce the provisions of this article, or when an authorized official has reasonable cause to believe that there exists, in a building or upon a premises, a condition which is contrary to or in violation of this article which makes the building or premises unsafe, dangerous or hazardous, the authorized official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this article, provided that, if such building or premises is occupied, credentials shall be presented to the occupant and entry requested. If such building or premises is unoccupied, the authorized official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry, absent a bona fide emergency. If entry is refused, the authorized official shall have recourse to the remedies provided by law to secure entry. Such officials may force entry into the premises where an emergency is reasonably observed to exist or where exigent circumstances dictate. The term "authorized official" shall include the officers above-named and their authorized inspection personnel.

- (d) *Abatement of dangerous buildings.* All buildings or portions thereof which are determined, after inspection by the authorized official, to be dangerous, as defined in this article, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in sections 17-1-70 through 17-1-140.
- (e) *Inspection of work.* All buildings or structures within the scope of this article, and all construction or work for which a permit is required, shall be subject to inspection by the authorized official in accordance with and in the manner provided by this article.
- (f) *Appeals.* The board of adjustment is hereby authorized to hear and decide appeals of orders, decisions or determinations made by the authorized official relative to the application and interpretations of this article and in accordance with procedures established for the board of adjustment. The decision of the board of adjustment shall be final, subject to review by the District Court of the Twelfth Judicial District and in accordance with the provisions of this Code and Rule 106 of the Colorado Rules of Civil Procedure.
- (g) *Violations and penalty.* It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure or cause to permit the same to be done in violation of this article. Any person violating any provision of this article shall be punished as provided in section 1-4-10.

Sec. 17-1-50. Definitions.

For the purpose of this article, certain words, terms, phrases, and their derivatives shall be con-

strued as specified in either this section or as specified in this Code as adopted. Where terms are not defined, they shall have their ordinary accepted meanings within the context in which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1986, shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

Dangerous building means any building or structure deemed to be dangerous as hereinafter provided.

Sec. 17-1-60. Designation of dangerous buildings.

- (a) For the purpose of this article, any building or structure which has any or all of the conditions or defects described below shall be deemed to be a "dangerous building," provided that such conditions or defects exist to the extent that the peace, life, health, safety or property of the public or the building's occupants are endangered:
 - (1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
 - (2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
 - (3) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than 1½

- times the working stress or stresses for new buildings of similar structure, purpose or location.
- (4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe.
 - (5) Whenever any portion, member or appurtenance thereof is likely to fail to become detached or dislodged or to collapse and thereby injure persons or damage property.
 - (6) Whenever any portion of a building, any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in this article for such buildings.
 - (7) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
 - (8) Whenever the building or structure, or any portion thereof, because of:
 - a. Dilapidation, deterioration or decay;
 - b. Faulty construction;
 - c. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
 - d. The deterioration, decay or inadequacy of its foundation; or
 - e. Any other cause;
 is likely to partially or completely collapse.
 - (9) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
 - (10) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
 - (11) Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.
 - (12) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated as to:
 - a. Become an attractive nuisance to children;
 - b. Become a harbor for vagrants, criminals; or
 - c. Enable persons to resort thereto for the purpose of committing unlawful acts.
 - (13) Whenever any building or structure has been construed, exists or is maintained

in violation of any specific requirement or prohibition applicable to such building or structure provided by the Colorado State Plumbing and/or Electric Codes, or of any law or ordinance of the state or town relating to the condition, location or structure of buildings.

(14) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50 percent or in any supporting part, member or portion, less than 66 percent of the strength; fire-resisting qualities or characteristics; or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

(15) Whenever a building or structure used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities or otherwise, is determined by the code enforcement officer or county health or safety to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

(b) Any structure within the town shall have active utility services in place, including water, sewer, heat and electricity prior to and during occupancy.

Sec. 17-1-70. Notice and orders of authorized official generally.

(a) *Commencement of proceedings.* When the authorized official has inspected or caused to

be inspected any building and has found and determined that such building is a dangerous building, the authorized official shall commence proceedings to cause the repair, vacation or demolition of the building.

(b) *Notice and order.* The authorized official shall issue a notice and order directed to the record owner of the building and/or the person in possession if the record owner cannot be reasonably ascertained or located. The notice and order shall contain:

(1) The street address and a legal description sufficient for identification of the premises upon which the building is located.

(2) A statement that the authorized official has found the building to be dangerous, with a brief and concise description of the conditions found to render the building dangerous under the provisions of section 17-1-60.

(3) A statement of the action required to be taken as determined by the authorized official. If the authorized official has determined that the building or structure must be repaired, the order shall require that all permits be secured therefor and the work be physically commenced no later than 30 days from the date of service of the notice and order. If an appeal of the notice and order is timely filed in accordance with section 17-1-110, no action need be taken until such time as the appeal process is completed. All permits must be secured and work must be commenced within 60 days of the date when no further appeal is permitted by law.

- (4) Statements advising that, if required repair or demolition work (without vacation also being required) is not commenced within the time specified, the authorized official:
 - a. Will order the building vacated and posted to prevent further occupancy until the work is completed; and
 - b. May proceed to cause the work to be done and charge the costs thereof against the property of its owner.
- (5) Statements advising that:
 - a. Any person having any record title or legal interest in the building may appeal from the notice and order or any action of the authorized official to the board of adjustment, provided that the appeal is made in writing as provided in this article and filed with the board of adjustment within 30 days from the date of service of such notice and order; and
 - b. Failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.
- (c) *Service of notice and order.* The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and/or the person in possession if the record owner cannot be reasonably ascertained or located. If the property has been abandoned, posting of notice upon the property for ten days continuously shall serve as constructive notice. The failure of

the authorized official to serve any person required herein to be served shall not invalidate any proceedings hereunder or relieve any such person from any duty or obligation imposed by the provisions of this article.

- (d) *Method of service.* Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his last-known address. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective upon the date of mailing.

Sec. 17-1-80. Recordation of notice and order.

- (a) If compliance is not had with the order within the time specified therein and no appeal has been properly and timely filed, the authorized official shall file in the office of the town clerk a certificate describing the property and certifying that:
 - (1) The building is a dangerous building; and
 - (2) The owner has been so notified.
- (b) Whenever the corrections ordered have thereafter been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the authorized official shall file a new certificate with the town clerk certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

Sec. 17-1-90. Repair, vacation and demolition.

The following standards shall be followed by the authorized official (and by the board of adjustment if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:

- (1) Any building declared a dangerous building under this article shall be made to comply with one of the following within 120 days following such declaration or determination:
 - a. The building shall be repaired to correct the deficiencies set forth in this article in accordance with the current building code or current code applicable to the type of standard conditions requiring repair;
 - b. The building shall be demolished at the option of the building owner; or
 - c. In the interim, if the building does not constitute an immediate danger to the life, limb, property or safety of the public, it shall be vacated, secured and maintained against entry. Thereafter, if repair or demolition and removal is not performed by the owner in accordance with subsections (1)a and b of this section, the town shall cause the repair or demolition and removal of the building at the expense of the owner.

- (2) If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public, it shall be ordered vacated. If the building or structure is

occupied on a full-time basis at the time it is ordered vacated, ten days shall be allowed for the occupants thereof to file an appeal in accordance with section 17-1-110. If no appeal is filed, the occupants may be forcibly removed at the expiration of the ten-day period. If an appeal is timely filed, an expedited hearing will be set by the board of adjustment to consider whether the conditions of the building are so immediately dangerous to the occupants' health and safety as to warrant their immediate expulsion. The board of adjustment may set a reasonable time for the occupants to vacate the building or may set such terms and conditions as it may deem necessary for continued occupancy of the building. In making its determination, the board of adjustment may take into consideration such factors as, without limitation, the weather conditions, the ability of the occupants to find other shelter, the age and health of the occupant, and the income level of the occupants.

Sec. 17-1-100. Notice to vacate.

- (a) *Posting.* Every notice to vacate shall, in addition to being served as provided in section 17-1-70, be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY

It is an Ordinance violation to occupy this building or to remove or deface this Notice.

Authorized Official of the Town of Crestone,
Colorado.

- (b) *Compliance.* Whenever such notice is posted, the authorized official shall include a notification thereof in the notice and order issued under section 17-1-70(b) reciting the emergency and specifying the condition which necessitated the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under a permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal has been completed and a certificate of occupancy has been issued.

Sec. 17-1-110. Appeal.

- (a) *Form of appeal.* Any person entitled to service under section 17-1-70(c) may appeal from any notice and order or any action of the authorized official under this article by filing at the office of the town clerk a written appeal containing:

- (1) A heading in the words: "Before the Board of Adjustment of the Town of Crestone, Colorado."
- (2) A caption reading: "Appeal of _____," giving the names of all appellants participating in the appeal.

- (3) A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
- (4) A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
- (5) A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed that the protested order or action should be reversed, modified or otherwise set aside.
- (6) The signatures of all parties named as appellants and their official mailing addresses.
- (7) The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

The appeal shall be filed within 30 days from the date of the service of such order or action of the authorized official; provided, however, that, if the building or structure is declared by the authorized official to be in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with section 17-1-100(a), such appeal shall be filed within ten days from the date of the service of the notice and order of the authorized official.

- (b) *Processing of appeal.* Upon receipt of any appeal filed pursuant to this section, the au-

thorized official shall present it at the regular or special meeting of the board of adjustment.

- (c) *Scheduling and noticing appeal for hearing.* As soon as practicable after receiving the written appeal, the board of adjustment shall establish a date, time and place for the hearing of the appeal by the board of adjustment. Such date shall not be less than ten days nor more than 60 days from the date the appeal was filed with the town clerk. Written notice of the date, time and place of the hearing shall be given to each appellant by the town clerk at least ten days prior to the date of the hearing, either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.
- (d) *Effect of failure to appeal.* Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.
- (e) *Scope of hearing on appeal.* Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.
- (f) *Staying of order under appeal.* Enforcement of any notice and order of the authorized official issued under this article shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

Sec. 17-1-120. Enforcement of order.

- (a) *Compliance.* After any order of the authorized official or the board of adjustment made

pursuant to this article has become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of violation of this Code.

- (b) *Failure to obey order.* If, after any order of the authorized official or board of appeals made pursuant to this article has become final, the person to whom such order is directed fails, neglects or refuses to obey such order, the authorized official may cause such person to be prosecuted under subsection (a) of this section; and/or institute any appropriate action to abate such building as a public nuisance under this article.

- (1) The authorized official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

**DANGEROUS BUILDING
DO NOT OCCUPY**

It is an Ordinance violation to occupy
this building or to remove or
deface this Notice.

Authorized Official of the Town
of Crestone, Colorado.

- (2) No person shall occupy any building which has been posted as specified in this subsection (b). No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the authorized official have been completed and a certificate of occupancy has been issued.

- (3) The authorized official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this article. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person lawfully entitled thereto.
- a. Extension of time to perform work. Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the authorized official may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the authorized official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The authorized official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.
- b. Interference with repair or demolition work prohibited. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the town, with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this article, or with any person to whom such building has been lawfully sold pursuant to the provisions of this article, whenever such officer, employee, contractor or authorized representative of the town, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing or demolishing any such building pursuant to the provisions of this article, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this article.

Sec. 17-1-130. Performance of work of repair or demolition.

- (a) *Procedure.* When any work of repair or demolition is to be done pursuant to this article, the authorized official shall issue an order therefor to the director of public works, and the work shall be accomplished by personnel of the town or by private contract under the direction of the director. Plans and

specifications therefor may be prepared by said director, or the director may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

- (b) *Costs.* The cost of such work shall be paid from the repair and demolition fund, and may be made a special assessment against the property involved or may be made a personal obligation of the property owner, whichever the legislative body of the town shall determine is appropriate.

Sec. 17-1-140. Recovery of cost of repair or demolition.

- (a) *Account of expense, filing of report.* The director of public works shall keep an itemized account of the expense incurred by the town in the repair or demolition of any building done pursuant to the provisions of section 17-1-120(b)(3). Upon the completion of the work of repair or demolition, the director shall prepare and file with the town clerk a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to section 17-1-70(c).
- (b) *Protests and objections.* Any person interested in or affected by the proposed charge may file written protests or objections with the town clerk within ten days from service of the notice. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the

grounds of such protest or objection. The town clerk shall endorse on every such protest or objection the date of receipt. The town clerk shall present such protests or objections to the board of adjustment, and no other protests or objections shall be considered.

- (c) *Hearing of protests.* The board of adjustment shall conduct a hearing within 30 days from the receipt of the protest and may make such revision, correction or modification in the report or the charge as it may deem just. When the board of adjustment is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified), together with the charge, shall be confirmed or rejected. The decision of the board of adjustment on the report and the charge and on all protests or objections shall be final and conclusive, subject to district court review.
- (d) *Personal obligation or special assessment.*
 - (1) *General.* The board of adjustment may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.
 - (2) *Personal obligation.* If the board of adjustment orders that the charge be made a personal obligation of the property owner, it shall direct the town attorney to collect the same on behalf of the town by use of all appropriate legal remedies.
 - (3) *Special assessment.* If the board of adjustment orders that the charge be assessed against the property, it shall confirm the assessment and cause the same

to be recorded on the assessment roll; and thereafter, said assessment shall constitute a special assessment against and a lien upon the property.

(e) *Contest.* The validity of any assessment made under the provisions of this article shall not be contested in any action or proceeding unless the same is commenced within 30 days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within 30 days after the entry of such judgment.

(f) *Authority for installment payment of assessments with interest.* The board of adjustment, in its discretion, may determine that assessments in amounts of \$500.00 or more shall be payable in up to, but not to exceed, five equal annual installments. The board of adjustment's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

(g) *Lien of assessment.*

(1) *Priority.* Immediately upon its being placed on the assessment roll, the assessment shall be deemed to be complete, the several amounts assessed shall be payable and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state, county and property taxes with which it shall

be upon parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

(2) *Interest.* All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of seven percent per annum from and after said date.

(3) *Report to county assessor and town treasurer/finance director; addition of assessment to tax bill.* After confirmation of the report, certified copies of the assessment shall be given to the county assessor and the town treasurer/finance director, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

(4) *Collection of assessment; penalties for foreclosure.* The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties, procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment. If the board of adjustment has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary property taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedures for sale as provided for ordinary property taxes.

- (5) *Repayment of repair and demolition fund.*
All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the finance director, who shall credit the same to the repair and demolition fund.

CODE COMPARATIVE TABLE

LEGISLATION

This is a chronological listing of the ordinances and other legislation of the town used in this Code. Repealed or superseded laws at the time of the Codification and any omitted materials are not reflected in the table.

Legislation	Date	Section	Section this Code
Ord. of 1-3-1977	1-3-1977	—	2-6-20
Ord. of 8-2-1978	8-2-1978	—	13-3-30
Ord. No. 1992-1	4-8-1992	1	2-7-20
		2	2-7-30
Ord. No. 1993-3	8-11-1993	1	4-3-10
		2	4-3-70, 4-3-80
		3	4-3-60
		4	4-3-20
		6	4-3-100
		7	4-3-110
		Ord. No. 2000-1	3-2-2000
		2	4-3-100
Ord. No. 2002-2	2-12-2002	1	7-3-10
		2	7-3-20
		3	7-3-30
		4	7-3-40
		5	7-3-60
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		7	7-3-70
Res. No. 2002-001	4-2-2002	—	2-1-50
Ord. No. 2002-3	5-14-2002	—	2-1-50
Ord. No. 2002-5	8-20-2002	1-1	13-1-10
		1-2	13-1-20
		1-3	13-1-30
		1-4	13-1-40
		1-5	13-1-50
		1-6	13-1-60
		1-7	13-2-30
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		1-9	13-2-30
		1-10	13-2-30
		1-11	13-2-30
		1-12	13-2-90
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		1-19	13-4-80
		1-20	13-4-10

CRESTONE MUNICIPAL CODE

Legislation	Date	Section	Section this Code
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		1-23	13-4-120
		1-24	13-4-130
		1-25	13-3-10
		1-26	13-3-20
		1-27	13-3-20
		1-28	13-3-60
		1-29	13-5-180
		1-30	13-5-30
		1-31	13-5-100
		1-32	13-5-110
		1-33	13-5-180
		1-34	13-5-90
		1-35	13-12-20
		1-36	13-5-170
		1-37	13-5-10
		1-38	13-5-20
		1-39	13-5-150
		1-40	13-5-70
		1-41	13-10-40
		1-42	13-8-10
		1-43	13-5-10
		1-44	13-8-80
		1-45	13-8-20
		1-46	13-8-50
		1-47	13-8-60
		1-48	13-8-30
Ord. No. 2003-002	5-12-2003	—	13-4-140
Ord. No. 2003-6	8-11-2003	—	7-3-50
Ord. No. 2005-003	5-9-2005	—	2-6-20
Ord. No. 2006-002	2-13-2006	—	2-6-10
		—	15-7-20
		—	15-7-50—15-7-70
Ord. No. 2006-005	2-13-2006	—	13-12-60
Ord. No. 2006-011	4-17-2006	—	13-4-140
Ord. No. 2006-015	7-10-2006	—	2-6-10
Ord. No. 2006-013	8-14-2006	att.(I-1)	15-1-10
		att.(I-51)	15-1-110
		att.(I-52)	15-1-120
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		att.(I-54)	15-1-140
		att.(I-55)	15-1-150
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		att.(II-7)	15-2-70

CODE COMPARATIVE TABLE

Legislation	Date	Section	Section this Code
		att.(II-8)	15-2-80
		att.(II-9)	15-2-90
		att.(II-10)	15-2-100
		att.(II-11)	15-2-110
		att.(II-12)	15-2-120
		att.(II-13)	15-2-130
		att.(II-15)	15-2-140
		att.(II-16)	15-2-150
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		att.(III-4)	15-3-40
		att.(III-5)	15-3-50
		att.(III-6)	15-3-60
		att.(III-7)	15-3-70
		att.(III-8)	15-3-80
		att.(III-9)	15-3-90
		att.(III-10)	15-3-100
		att.(III-11)	15-3-110
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		att.(IV-51)	15-4-110
		att.(IV-52)	15-4-120
		att.(IV-53)	15-4-130
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		att.(IV-55)	15-4-150
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		att.(IV-102)	15-4-220
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		att.(IV-105)	15-4-250
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		att.(IV-107)	15-4-270
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		att.(IV-152)	15-4-320
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		att.(IV-156)	15-4-360
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		att.(IV-201)	15-4-410
		att.(IV-202)	15-4-420
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		att.(IV-204)	15-4-440
		att.(IV-205)	15-4-450

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Legislation	Date	Section	Section this Code
		att.(IV-206)	15-4-460
		att.(IV-207)	15-4-470
		att.(IV-251)	15-4-510
		att.(IV-252)	15-4-520
		att.(IV-253)	15-4-530
		att.(IV-254)	15-4-540
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		att.(IV-353)	15-4-730
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		att.(V-3)	15-5-30
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