



AMENDED AGENDA  
HAYDEN TOWN COUNCIL MEETING  
HAYDEN TOWN HALL – 178 WEST JEFFERSON AVENUE  
THURSDAY, MAY 19, 2022  
7:30 P.M.

ATTENDEES/COUNCIL MAY PARTICIPATE VIRTUALLY VIA ZOOM WITH THE INFORMATION BELOW:

Join Zoom Meeting

<https://us02web.zoom.us/j/83200931559>

Meeting ID: 832 0093 1559

One tap mobile

+12532158782,,83200931559# US (Tacoma)

+13462487799,,83200931559# US (Houston)

THE TOWN WILL ALSO BROADCAST MEETINGS ON FACEBOOK LIVE AT THE TOWN'S FACEBOOK PAGE AT

<https://www.facebook.com/coloradohayden/>

\*OFFICIAL RECORDINGS AND RECORDS OF MEETINGS WILL BE THE ZOOM RECORDING AND NOT FACEBOOK LIVE. FACEBOOK LIVE IS MERELY A TOOL TO INCREASE COMMUNITY INVOLVEMENT AND IS NOT THE OFFICIAL RECORD.\*

WORK SESSION 6:30 P.M. – 7:30 P.M.

1. EMPLOYEE COMPENSATION PACKAGE DISCUSSION
2. STAFF REPORTS

REGULAR MEETING – 7:30 P.M.

- 1a. CALL TO ORDER
- 1b. OPENING PRAYER
- 1c. PLEDGE OF ALLEGIANCE
- 1d. ROLL CALL

2. CONSIDERATION OF MINUTES

- A. Special Meeting May 4, 2022

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3. PUBLIC COMMENTS

Citizens are invited to speak to the Council on items that are not on the agenda. There is a 3-minute time limit per person, unless otherwise noted by the Mayor. Please note that no formal action will be taken on these items during this time due to the open meeting law provision; however, they may be placed on a future posted agenda if action is required.

4. PROCLAMATIONS/PRESENTATIONS

5. CONSENT ITEMS

Consent agenda items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a Councilmember, member of the audience or Town staff requests the Council to remove an item from the consent agenda.

*NOTICE: Agenda is subject to change. If you require special assistance in order to attend any of the Town's public meetings or events, please notify the Town of Hayden at (970) 276-3741 at least 48 hours in advance of the scheduled event so the necessary arrangements can be made.*

- |   |        |
|---|--------|
| A. Consideration to ratify payment bill vouchers dated May 4, 2022 in the amount of \$1,723.63      | Page 6 |
| B. Consideration to ratify payment bill vouchers dated May 10-12, 2022 in the amount of \$42,857.00 | Page 7 |
| C. Consideration to approve payment bill vouchers dated May 13, 2022 in the amount of \$311,205.96  | Page 8 |

## 6. OLD BUSINESS

- |  |         |
|--|---------|
| A. ORDINANCE 717 MUNICIPAL CODE  | Page 15 |
| i. <u>Public Hearing</u> : Ordinance 717 An Ordinance Adopting by Reference and enacting a Revised Town Code For the Town of Hayden, Colorado; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing for the Adoption of Secondary Codes by Reference; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and Ordinance Becomes Effective                                  |         |
| ii. Review and Consider for Approval 2 <sup>nd</sup> Reading Ordinance 717 An Ordinance Adopting by Reference and Enacting a Revised Town Code for the Town of Hayden, Colorado; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing for the Adoption of Secondary Codes by Reference; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and Ordinance Become Effective |         |

## 7. NEW BUSINESS

- |   |          |
|---|----------|
| A. RESOLUTION 2022-06 – NORTHWEST COLORADO BUSINESS PARK ANNEXATION PETITION  | Page 461 |
| i. Review and consideration for approval and authorization to sign Resolution 2022-06, A Resolution Finding that a Petition for Annexation is in Substantial Compliance with CRS §31-12-107(1) and Setting a Hearing Date for the Annexation Petition for the Northwest Colorado Business Park Annexation to the Town of Hayden |          |
| B. RESOLUTION 2022-07 - HWY 40 PROJECT FUNDING  | Page 469 |
| i. Review and consideration for approval Resolution 2022-07 A Resolution of the Town of Hayden, Colorado Adopting a Financial Commitment to the HWY 40 Multi-Model Improvement Project  |          |
| C. LETTER OF SUPPORT - CDOT US40 PROJECT  | Page 471 |
| i. Review and consideration for approval Submission a Letter of Support for the CDOT FY2022 MPDG Rural Surface Transportation Grant Proposal for US40 Safety and Mobility Improvements  |          |
| D. POPLAR STREET BRIDGE RENOVATION AND PEDESTRIAN IMPROVEMENT PROJECT   | Page 473 |
| i. Review and consideration for approval the Poplar Street Bridge Renovation and Pedestrian Improvement Project Design Contract with Sunrise Engineering Incorporated   |          |
| E. EMPLOYEE COMPENSATION  | Page 492 |
| i. Review and consideration for approval employee compensation  |          |
| F. RESOLUTION 2022-08 - WATER CONSERVATION PROGRAM  | Page 496 |
| i. Review and consideration for approval Resolution 2022-08 A Resolution Authorizing the Reinstatement of the Town of Hayden, Colorado Water Conservation Program   |          |

## 8. PULLED CONSENT ITEMS

## 9. STAFF AND COUNCILMEMBER REPORTS (CONTINUED, IF NECESSARY)

## 10. EXECUTIVE SESSION (IF NECESSARY)

## 11. ADJOURNMENT

Work Session**135 S WALNUT STREET FAÇADE AND FLOOR PLAN**

Mathew Mendisco, Town Manager, presented the façade proposal and discussed the various materials and number of windows on the front/east side of the building.

**HOUSING INCENTIVE POLICY**

Years ago, the council asked to look at housing incentives. The time is now to look at housing incentives. Tegan Ebbert, Community Development Manager, shared some ideas for incentives.

**EMPLOYEE COMPENSATION PACKAGE DISCUSSION**

Mathew Mendisco, Town Manager, reviewed the Routt County and Steamboat Springs salary and benefits as a comparison to Hayden salary and benefits. He discussed the Hayden budget and salary increase projections and considerations.

Staff & Councilmember Reports

Staff reports will continue at the end of the meeting.

**Mayor Wuestewald** called the regular meeting of the Hayden Town Council to order at 7:40 p.m. Mayor Pro Tem Reese and Councilmembers Banks, Bowman, Corriveau, Gann, and Hollifield present. Also present were Town Manager, Mathew Mendisco, Town Clerk, Sharon Johnson, Police Chief, Greg Tuliszewski, Public Works Director, Bryan Richards, Community Development Director, Tegan Ebbert, Recreation Director, Josh Jones, Arts and Events Director, Rachel Wattles, and Finance Manager, Andrea Salazar.

OPENING PRAYER	Mayor Wuestewald offered the opening prayer.
PLEDGE OF ALLEGIANCE	Mayor Wuestewald led the Pledge of Allegiance.
MINUTES – April 21, 2022	Councilmember Banks moved to approve the minutes of the Regular Town Council Meeting held on April 21, 2022. Councilmember Bowman seconded. Roll call vote. Councilmember Corriveau – abstain. Councilmember Bowman – aye. Councilmember Gann – aye. Councilmember Banks – aye. Councilmember Hollifield – abstain. Mayor Pro Tem Reese – abstain. Mayor Wuestewald – aye. Motion carried.
PUBLIC COMMENTS	Tammie Delaney, Wild Goose Coffey @ Granary, Spring Soiree is this Saturday. Community Awareness – Fentanyl at Hayden School Gym May 10 <sup>th</sup> at 6:30 pm.
PROCLAMATIONS/ PRESENTATIONS	Mayor Wuestewald read and proclaimed Clerk's Week, Public Works Week and Police Week. Proclamation of Clerk's Week May 1-7, 2022 Proclamation of Public Works Week May 15- 21, 2022 Proclamation of Police Week May 15-21, 2022
CONSENT ITEMS  Consideration of bill payment voucher – April 28, 2022 in the amount of \$155,501.60	Councilmember Gann moved to approve the consent items. Mayor seconded. Roll call vote. Councilmember Hollifield – aye. Councilmember Gann – aye. Councilmember Bowman – aye. Councilmember Banks – aye. Councilmember Corriveau – aye. Mayor Pro Tem Reese – aye. Mayor Wuestewald – aye. Motion carried.

*Draft minutes subject to editing and approval prior to becoming official record.*

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## OLD BUSINESS

None.

## NEW BUSINESS

Review and Consider for Approval 1<sup>st</sup> Reading Ordinance 717 An Ordinance Adopting by Reference and Enacting a Revised Town Code for the Town of Hayden, Colorado; Providing for the Repeal of Certain Ordinances Not Included Therein, Providing for the Adoption of Secondary Codes by Reference, Providing a Penalty for the Violation Thereof, Providing for the Manner of Amending Such Code, and Providing When Such Code and Ordinance Become Effective and Setting Public Hearing May 19, 2022

Sharon Johnson, Town Clerk, presented the revisions of the Town Code and indicating it was a long overdue clean up of the code to ensure we were not in contradiction of Colorado State Revised Statutes, Hayden Home Rule Charter and to clean up language, penalties, duplication and general outdated code. The next step will be to review specific codes needing revision and updating.

Councilmember Gann moved to approve Ordinance 717 An Ordinance Adopting by Reference and Enacting a Revised Town Code for the Town of Hayden, Colorado; Providing for the Repeal of Certain Ordinances Not Included Therein, Providing for the Adoption of Secondary Codes by Reference, Providing a Penalty for the Violation Thereof, Providing for the Manner of Amending Such Code, and Providing When Such Code and Ordinance Become Effective and Setting a Public Hearing May 19, 2022. Councilmember Corriveau seconded. Roll call vote. Councilmember Banks – aye. Councilmember Gann – aye. Councilmember Bowman – aye. Councilmember Corriveau – aye. Councilmember Hollifield – aye. Mayor Pro Tem Reese – aye. Mayor Wuestewald – aye. Motion carried.

Review and Consider Approval of Donation Requests

Councilmember Banks moved to approve donations of \$2,000 to Lions Club and \$500 to Bear River Young Life. Mayor Pro Tem Reese seconded. Roll call vote. Councilmember Bowman – aye. Councilmember Corriveau – aye. Councilmember Banks – aye. Councilmember Gann – aye. Councilmember Hollifield – aye. Mayor Pro Tem Reese – aye. Mayor Wuestewald – aye. Motion carried.

## PULLED CONSENT ITEMS

STAFF AND  
COUNCILMEMBER  
REPORTS CONTINUED

HAYDEN CENTER

Rachel Wattles, Director Arts and Events: The regular request for using space is up and steady; lots of opportunities. Cog Run this Saturday.

PUBLIC WORKS

Bryan Richards, Public Works Director: Temporary tank going up next week. Everyone working hard.

PLANNING

Tegan Ebbert, Community Development Director:

*Draft minutes subject to editing and approval prior to becoming official record.*

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**ADMINISTRATION**

**Mathew Mendisco, Town Manager:** Excited to have Tegan Ebbert, Community Development Director, on board. Staff working at optimum hours. Town was able to hire seasonal employees and Public Works open position. We are working on grants for sidewalk project on Hwy40. Finalizing what we need to finish at the Hayden Center.

**Sharon Johnson, Town Clerk:** Hayden Clean Up Day and history on the first Hayden Clean Up Week. It started 99 years ago. Council wanted to celebrate the 100-year anniversary. Election coming upon us quickly and decisions on ballot issues. Councilmember Gann suggested a panel discussion for candidates.

**COUNCILMEMBERS**

**Councilmember :** Mayor Wuestewald indicated he had questions on semi-trucks parking overnight in the Industrial Park. Staff will look into specifics of zoning.

**EXECUTIVE SESSION**

For discussion of a personnel matter under C.R.S. Section 24-6-402(4)(f)(I)(II) and not involving; any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees; specifically, to discuss the contract of the Town Manager.  
Executive Session opened at 8:32 p.m.  
Executive Session closed at 8:49 p.m.

**ADJOURNMENT**

Mayor Wuestewald opened the public meeting at 8:50 p.m.  
Mayor Wuestewald adjourned the meeting at 8:50 p.m.

Recorded by:

\_\_\_\_\_  
Sharon Johnson, Town Clerk

APPROVED THIS 19<sup>th</sup> DAY OF May 2022

\_\_\_\_\_  
Zachary Wuestewald, Mayor

## Report Criteria:

Detail report.

Invoices with totals above \$0 included.

Paid and unpaid invoices included.

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Date Paid	Voided
12696	AT&T Mobility	287293429932	Sewer - Cell Phone	04/20/2022	103.46		
12696	AT&T Mobility	287293429932	Streets - Cell Phone	04/20/2022	198.80		
12696	AT&T Mobility	287293429932	Water - Cell Phone	04/20/2022	108.44		
12696	AT&T Mobility	287293429932	Admin - Cell Phone	04/20/2022	209.68		
12696	AT&T Mobility	287293429932	HC Cell Phones	04/20/2022	73.34		
12696	AT&T Mobility	287293429932	Rec - Cell Phone	04/20/2022	24.44		
12696	AT&T Mobility	287293441320	PD - Cell Phone	04/20/2022	311.93		
Total 12696:					1,030.09		
2440	Atmos Energy	3116APR2022	Airport Lift Gas 30126203116	04/26/2022	41.01		
Total 2440:					41.01		
12828	Luminate Fiber LLC	1201MAY2022	3001061201 HPD Broadband	05/02/2022	138.90		
12828	Luminate Fiber LLC	4701MAY2022	Loadout Utilities 3001154701	05/02/2022	73.85		
12828	Luminate Fiber LLC	6301MAY2022	HC - 3001106301 Broadband	05/02/2022	258.90		
Total 12828:					471.65		
12167	WEX Bank	80630982	PD - Fuel	04/30/2022	2.88		
Total 12167:					2.88		
4245	Zirkel Wireless, LLC	185072	Acct 4377 internet	05/01/2022	79.00		
4245	Zirkel Wireless, LLC	185073	Acct 4378 internet	05/01/2022	99.00		
Total 4245:					178.00		
Grand Totals:					1,723.63		

## Report Criteria:

Detail report.

Invoices with totals above \$0 included.

Paid and unpaid invoices included.

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Date Paid	Voided
1410	CASH	50122022	Float Money - Pet Vaccine Clinic	05/12/2022	100.00	05/12/2022	
Total 1410:					100.00		
8775	Steamboat Motors, LLC	NRD35332	2022 Ford Bronco	05/10/2022	42,857.00	05/10/2022	
Total 8775:					42,857.00		
Grand Totals:					42,957.00		

## Report Criteria:

Detail report.

Invoices with totals above \$0 included.

Paid and unpaid invoices included.

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Date Paid	Voided
6645	Action Services, Inc.	22-4362C	Lincoln St - Camera	04/11/2022	1,950.00		
Total 6645:					1,950.00		
12253	Airgas USA, LLC	9988304445	CO 2 Bottle	04/30/2022	44.26		
Total 12253:					44.26		
12859	AP Mountain States, LLC	PAY APP # 9	HC Construction Pay App 9	04/30/2022	147,214.00		
12859	AP Mountain States, LLC	PAY APP # 9	Retainage -HC Construction Pay	04/30/2022	7,360.70-		
Total 12859:					139,853.30		
12834	Baseline Engineering Corporation	24413	US 40 Sidewalks Design	05/05/2022	13,476.35		
Total 12834:					13,476.35		
1200	Bear River Valley Co-Op	04262022	Admin Fuel	04/26/2022	162.63		
1200	Bear River Valley Co-Op	04262022	Streets Vehicle Expense	04/26/2022	451.69		
1200	Bear River Valley Co-Op	04262022	Streets Maintenance	04/26/2022	798.88		
1200	Bear River Valley Co-Op	04262022	Parks - Field & Turf - Fuel	04/26/2022	453.72		
1200	Bear River Valley Co-Op	04262022	Parks - Trails	04/26/2022	43.48		
1200	Bear River Valley Co-Op	04262022	Water vehicle exp - fuel	04/26/2022	306.53		
1200	Bear River Valley Co-Op	04262022	Sewer Vehicle Expense	04/26/2022	127.90		
1200	Bear River Valley Co-Op	04262022	PD Vehicle Expense	04/26/2022	1,308.77		
Total 1200:					3,653.60		
1310	Boyko Supply Co	192594-1	Janitorial Supplies	04/20/2022	254.70		
Total 1310:					254.70		
7900	Browns Hill Engineering &	679	SCADA Lease	05/01/2022	2,338.00		
Total 7900:					2,338.00		
13083	Capelli Consulting	1121	Housing Needs Assessment	04/20/2022	5,075.00		
Total 13083:					5,075.00		
3770	CenturyLink	2535MAY2022	PD Phone 970-276-2535 341B	05/04/2022	314.87		
Total 3770:					314.87		
12657	Colorado Barricade Co.	65152793-001	HC - No Parking Fire Lane Signs	04/22/2022	250.00		
12657	Colorado Barricade Co.	65152793-001	Street Signs	04/22/2022	964.93		
Total 12657:					1,214.93		
12423	Colorado Mountain News Media	IN20632	Ord 711 Adoption Notice	02/28/2022	23.38		
12423	Colorado Mountain News Media	IN20633	Ord 712 Public Hearing	02/28/2022	24.20		
12423	Colorado Mountain News Media	IN20634	YVRA Car Wash QTA	02/28/2022	22.55		

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Date Paid	Voided
12423	Colorado Mountain News Media	IN20635	Peace Park Prelim Plat	02/28/2022	28.33		
12423	Colorado Mountain News Media	IN25419	200 Walnut Granary Easement	03/31/2022	21.73		
12423	Colorado Mountain News Media	IN25420	Ord 714 Public Hearing	03/31/2022	24.20		
12423	Colorado Mountain News Media	IN25421	Meadow Final Plat	03/31/2022	22.55		
12423	Colorado Mountain News Media	IN30263	PW Ad	04/30/2022	880.64		
12423	Colorado Mountain News Media	IN30383	Ord 713 Adoption	04/30/2022	24.20		
12423	Colorado Mountain News Media	IN30384	Ord 715 Adoption	04/30/2022	23.38		
12423	Colorado Mountain News Media	IN30385	Ord 714 Adoption Notice	04/30/2022	22.55		
Total 12423:					1,117.71		
13066	Community Planning Strategies, L	2022-0064	Planning Services	04/11/2022	748.75		
Total 13066:					748.75		
1870	Consolidated Electrical Dist	1534-1012102	Street Lights	04/28/2022	295.47		
1870	Consolidated Electrical Dist	1534-1012244	Shop electrical materials	04/28/2022	280.64		
1870	Consolidated Electrical Dist	1534-1012244	electrical materials	04/28/2022	140.31		
1870	Consolidated Electrical Dist	1534-1012244	HC - Electrical Material	04/28/2022	140.31		
Total 1870:					856.73		
7745	Craig Steel	INV7290	WTP Desk	05/04/2022	74.40		
Total 7745:					74.40		
12889	Demorat, Minnie	APR2022	Fitness Instructor 4/1-4/30/22	04/30/2022	280.00		
Total 12889:					280.00		
3220	Denver Industrial Sales&Servic	180076	Crack Sealer	04/22/2022	5,095.73		
Total 3220:					5,095.73		
12895	Dynamic Program Management, L	1264	Hayden Center Owners Rep	04/29/2022	1,229.42		
12895	Dynamic Program Management, L	1265	135 Walnut Owners Rep	04/29/2022	1,549.71		
Total 12895:					2,779.13		
12767	Emily Becker CPA PC	22-0434	Accounting Service	04/30/2022	37.50		
12767	Emily Becker CPA PC	22-0434	Accounting Service	04/30/2022	18.75		
12767	Emily Becker CPA PC	22-0434	Accounting Service	04/30/2022	18.75		
Total 12767:					75.00		
2230	Faris Machinery Company	G32103	Sweeper Brooms	04/20/2022	1,335.00		
2230	Faris Machinery Company	G32104	Sweeper R&R	04/28/2022	113.16		
2230	Faris Machinery Company	G32112	Return Sweeper Brooms	04/28/2022	890.00-		
Total 2230:					558.16		
4890	FedEx	7-739-15226	Water Sample Shipping	04/28/2022	4.53		
Total 4890:					4.53		
12773	Freedom Mailing Services	42781	Utility Billing - Apr	04/29/2022	177.60		
12773	Freedom Mailing Services	42781	Utility Billing - Apr	04/29/2022	177.59		

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Date Paid	Voided
Total 12773:					355.19		
13058	Friends of the Chief Foundation In	1668	Arts - Contract Wages Apr	04/29/2022	3,200.00		
Total 13058:					3,200.00		
2330	Galls LLC	020876407	PD - Uniforms	04/08/2022	95.48		
Total 2330:					95.48		
12109	Haskins Cleaning	APR2022	Town Hall Cleaning - April	04/30/2022	200.00		
Total 12109:					200.00		
2580	Hayden Merc	01-01438714	Dewalt Batteries 2 Pack	04/20/2022	221.97		
2580	Hayden Merc	01-1428346	Chainsaw	03/31/2022	179.00		
2580	Hayden Merc	01-1428894	HC Plumbing	04/01/2022	32.36		
2580	Hayden Merc	01-1430443	HC Tools	04/04/2022	17.58		
2580	Hayden Merc	01-1430445	HC Tools	04/04/2022	7.58		
2580	Hayden Merc	01-1430805	Parks - Water Wagon	04/05/2022	25.67		
2580	Hayden Merc	01-1431376	Parks - Water Wagon	04/06/2022	3.19		
2580	Hayden Merc	01-1431525	Parks - Lights	04/06/2022	39.98		
2580	Hayden Merc	01-1431567	Parks - Water Wagon	04/06/2022	13.13		
2580	Hayden Merc	01-1432039	Interviews	04/07/2022	74.82		
2580	Hayden Merc	01-1432550	Wrestling Podiums	04/08/2022	74.13		
2580	Hayden Merc	01-1433026	HC - Can Opener	04/09/2022	7.99		
2580	Hayden Merc	01-1434694	HC - Bleacher Repair	04/12/2022	9.56		
2580	Hayden Merc	01-1434787	HC - Door Sweep Repair	04/12/2022	7.57		
2580	Hayden Merc	01-1435166	HC - Bleacher Repair	04/13/2022	75.58		
2580	Hayden Merc	01-1435652	Town Hall Counter Repair	04/14/2022	7.59		
2580	Hayden Merc	01-1435667	Parks - Clipboards	04/14/2022	11.18		
2580	Hayden Merc	01-1435721	PW Shop Sink	04/14/2022	24.77		
2580	Hayden Merc	01-1435780	PW - Shop Bathroom Sink	04/14/2022	21.75		
2580	Hayden Merc	01-1435805	PW - Shop Bathroom Sink	04/14/2022	5.38		
2580	Hayden Merc	01-1435842	Banner Clips	04/14/2022	32.89		
2580	Hayden Merc	01-1436256	HC - Drain Snake	04/15/2022	26.99		
2580	Hayden Merc	01-1437406	HC - Exterior Door Repair	04/18/2022	55.76		
2580	Hayden Merc	01-1438085	PW Shop Sink	04/19/2022	3.99		
2580	Hayden Merc	01-1438752	Parks	04/20/2022	78.95		
2580	Hayden Merc	01-1438869	HC - Misc	04/20/2022	2.99		
2580	Hayden Merc	01-1439292	HC - Hose	04/21/2022	12.99		
2580	Hayden Merc	01-1439310	HC - HOSE, PLUMBING SUPPLI	04/21/2022	.02-		
2580	Hayden Merc	01-1439743	HC - Engraving Tool	04/22/2022	139.96		
2580	Hayden Merc	01-1439858	PW - Shop Bathroom Sink	04/22/2022	20.76		
2580	Hayden Merc	01-1442288	HC - Grass Seed	04/27/2022	49.98		
2580	Hayden Merc	01-1442334	HC - Cleaning Supplies	04/27/2022	54.46		
2580	Hayden Merc	01-1442764	PW - Impact Drill	04/28/2022	230.55		
2580	Hayden Merc	02+1456200	Parks - Water Wagon	04/07/2022	19.76		
2580	Hayden Merc	02-1452723	HC Bday Lunch	03/31/2022	32.76		
2580	Hayden Merc	02-1453275	HC Trash Can & Plumbing Parts	04/01/2022	46.37		
2580	Hayden Merc	02-1455207	PW Shop Supplies	04/05/2022	109.25		
2580	Hayden Merc	02-1456341	135 S Walnut Public Hearing	04/07/2022	25.43		
2580	Hayden Merc	02-1456416	Wrestling Tournament	04/07/2022	101.96		
2580	Hayden Merc	02-1456923	PW - Shop Bathroom Sink	04/08/2022	86.18		
2580	Hayden Merc	02-1457265	HC - Kitchen Supplies	04/09/2022	31.38		
2580	Hayden Merc	02-1458658	HC - Art Studio Primer	04/12/2022	25.36		

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Date Paid	Voided
2580	Hayden Merc	02-1459344	PW Shop Sink	04/13/2022	45.99		
2580	Hayden Merc	02-1461925	PW - Dewalt Batteries	04/18/2022	282.99		
2580	Hayden Merc	02-1463360	Hose Fittings	04/21/2022	18.58		
2580	Hayden Merc	02-1465534	HC - Gutter R&M	04/25/2022	15.99		
2580	Hayden Merc	02-1467133	HC - Utility Knife Blade	04/28/2022	4.59		
2580	Hayden Merc	02-1467155	PD - Training	04/28/2022	51.66		
2580	Hayden Merc	02-1467610	HC - Head Lamp	04/29/2022	31.99		
2580	Hayden Merc	03-1406874	Wrestling Podiums	04/07/2022	18.58		
2580	Hayden Merc	03-1407242	Wrestling Tournament	04/08/2022	104.15		
2580	Hayden Merc	03-1407355	Wrestling Podiums	04/08/2022	29.56		
2580	Hayden Merc	03-1407434	Wrestling Tournament	04/08/2022	29.76		
2580	Hayden Merc	03-1409328	Wrestling Tournament	04/12/2022	10.98		
2580	Hayden Merc	03-1409737	HC - Art Supplies	04/13/2022	27.48		
2580	Hayden Merc	03-1410579	HC - Plumbing Repair	04/15/2022	8.58		
2580	Hayden Merc	03-1410618	Plumbing Supplies	04/15/2022	2.76		
2580	Hayden Merc	03-1412795	HC - Drill Bits	04/19/2022	7.99		
2580	Hayden Merc	03-1413249	Parks - 3 pt Sprayer	04/20/2022	6.49		
2580	Hayden Merc	03-1416111	HC - Return Engraving Tool	04/26/2022	54.99-		
Total 2580:					2,692.61		
12768	Hayden Rental & Repair	1893	Boom Lift - Banner Change	04/28/2022	210.00		
12768	Hayden Rental & Repair	1893	Boom Rental - Sails & DCP	04/28/2022	210.00		
Total 12768:					420.00		
12893	Hielkje Kouwenhoven-Nijsten	APR2022	Fitness Instructor 4/1-4/30/22	04/30/2022	80.00		
Total 12893:					80.00		
1360	Hinton Burdick CPAs & Advisors	265576	Progress billing 2021 audit	04/30/2022	14,100.00		
Total 1360:					14,100.00		
12909	Ingols, Kris	APR2022	Fitness Instructor 4/1-4/30/22	04/30/2022	500.00		
Total 12909:					500.00		
2730	Jackson's Office Supply	10452828	HC - Arts Advertising	05/06/2022	23.70		
Total 2730:					23.70		
12463	Kissinger & Fellman, PC	2479	Legal services	04/30/2022	1,096.50		
Total 12463:					1,096.50		
11637	Kleckler, Kevin	04302022	Reimb - Colorado Welding Institut	04/30/2022	19,933.91		
Total 11637:					19,933.91		
12910	Kreitzman, Kaitlyn	APR2022	Fitness Instructor 4/1-4/30/22	04/30/2022	120.00		
Total 12910:					120.00		
12779	Meeker Sand & Gravel	27770	Commerce Street Repair	04/06/2022	1,435.35		

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Date Paid	Voided
Total 12779:					1,435.35		
9060	Mid-American Research Chemical	0760406-IN	HC - Cleaning Supplies	04/22/2022	440.00		
Total 9060:					440.00		
2960	MJK Sales & Feed Inc	335110	Wrestling Tournament Podium	04/07/2022	85.42		
2960	MJK Sales & Feed Inc	335458	Parks - Waste Receptacle	04/15/2022	159.98		
2960	MJK Sales & Feed Inc	335860	HC - Gutter	04/25/2022	15.99		
Total 2960:					261.39		
13045	Movement with Melissa LLC	APR2022	Fitness Instructor 4/1-4/30/22	04/30/2022	280.00		
Total 13045:					280.00		
8920	Murdoch's Ranch & Home Craig	155726/R	HH Leak Re Sead	04/21/2022	99.99		
Total 8920:					99.99		
8200	Nalco Company	6601160959	Water Plant Chemicals	04/25/2022	2,656.18		
Total 8200:					2,656.18		
12749	Powder Horn Electric	285	HC - Circulation Pump Wire	04/28/2022	150.00		
Total 12749:					150.00		
12699	Power Systems West, Colorado	SI2266001492	WWTP Generator Maint	04/22/2022	84.12		
Total 12699:					84.12		
12870	RMITL LLC	0060	Website Design 4/3-5/3/22	05/04/2022	329.99		
Total 12870:					329.99		
3340	Roto-Rooter of Craig Inc.	10548	PD - Mens Restroom	05/03/2022	390.00		
Total 3340:					390.00		
12248	SGS North America, Inc.	52160136101	Sewer testing	04/27/2022	1,395.56		
12248	SGS North America, Inc.	52160136158	Water testing	04/29/2022	476.16		
12248	SGS North America, Inc.	52160136348	Total Organic Carbon Testing	05/05/2022	103.06		
Total 12248:					1,974.78		
13087	Shuker, Sheryl	642.16	Utility Deposit Refund	05/11/2022	30.84		
Total 13087:					30.84		
5540	Snyder & Counts Feed & Supply	274027	WTP - Salt	05/04/2022	367.50		
Total 5540:					367.50		
12494	Steamboat Springs Auto Parts, In	414391	Engine Oil Filters	04/04/2022	127.95		
12494	Steamboat Springs Auto Parts, In	414425	Paint Marker	04/05/2022	13.18		



Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Date Paid	Voided
12494	Steamboat Springs Auto Parts, In	414428	Parks - Water Wagon	04/05/2022	182.41		
12494	Steamboat Springs Auto Parts, In	414448	Wagon Wheel	04/05/2022	153.98		
12494	Steamboat Springs Auto Parts, In	414471	Water Wagon	04/06/2022	25.26		
12494	Steamboat Springs Auto Parts, In	414475	Water Wagon	04/06/2022	25.44		
12494	Steamboat Springs Auto Parts, In	414516	Brake Caliper Tool	04/07/2022	93.98		
12494	Steamboat Springs Auto Parts, In	414739	Plow Truck Plow Parts	04/13/2022	38.10		
12494	Steamboat Springs Auto Parts, In	415005	3pt Implements	04/21/2022	36.35		
12494	Steamboat Springs Auto Parts, In	415131	Streets	04/25/2022	14.99		
12494	Steamboat Springs Auto Parts, In	415334	Streets	04/29/2022	35.99		
Total 12494:					747.63		
12867	Steelhead LLC	APR2022	REDI Business Reimbursement	04/30/2022	5,760.27		
Total 12867:					5,760.27		
13048	Stuart Stamp & Engraving, LLC	INV-52803	Nameplates	05/05/2022	34.27		
Total 13048:					34.27		
12775	TAB Associates, Inc.	8480	Hayden Center Renovation	05/01/2022	245.50		
Total 12775:					245.50		
12445	Target Specialty Products	INVP50079202	Infield Turf - Maintenance	05/06/2022	3,657.54		
12445	Target Specialty Products	INVP50079205	Infield Turf - Maintenance	05/06/2022	637.60		
Total 12445:					4,295.14		
12888	Townsend, Michelle	APR2022	Fitness Instructor 4/1-4/30/22	04/30/2022	375.00		
Total 12888:					375.00		
12864	UNCC	222040778	811 Utility Locates	04/30/2022	34.45		
12864	UNCC	222040778	811 Utility Locates	04/30/2022	34.45		
Total 12864:					68.90		
7070	USA BlueBook	949378	Sewer - Chemicals	04/18/2022	322.88		
7070	USA BlueBook	952761	Sewer - Chemicals	04/20/2022	26.05		
7070	USA BlueBook	955816	Sewer - Chemicals	04/22/2022	43.35		
Total 7070:					392.28		
12842	Vectra Bank	81491MAY202	Motor Grader 0001130000081491	05/03/2022	22,972.23		
12842	Vectra Bank	97265MAY202	1130000097265 Sales Tax Series	05/03/2022	11,071.65		
12842	Vectra Bank	97281MAY202	0001130000097281 Sales Tax Ser	05/03/2022	6,387.53		
Total 12842:					40,431.41		
12915	Waldron, Emily	APR2022	Fitness Instructor 4/1-4/30/22	04/30/2022	40.00		
Total 12915:					40.00		
10600	Waste Management-SBS #001-85	APR2022	Residential Trash Service	04/30/2022	24,980.65		

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Date Paid	Voided
Total 10600:					24,980.65		
13032	WinSupply Commerical Charge	063720-01	Distribution Repair	04/20/2022	1,263.18		
13032	WinSupply Commerical Charge	063874-01	Distribution Repair - Return	04/22/2022	74.20-		
Total 13032:					1,188.98		
12918	Yampa Valley Metal Works LLC	1271	Parks Signage	05/09/2022	1,338.17		
12918	Yampa Valley Metal Works LLC	1272	Cog Run Medals	05/09/2022	190.08		
Total 12918:					1,528.25		
12621	Yampa Valley UC Health Medical	274612	PW Pre-Employment Screen	02/22/2022	35.00		
Total 12621:					35.00		
Grand Totals:					311,205.96		

## Report Criteria:

Detail report.

Invoices with totals above \$0 included.

Paid and unpaid invoices included.



## Town of Hayden

### Town Council Agenda Item

**MEETING DATE:** May 19, 2022

**AGENDA ITEM TITLE:** Public Hearing and Review and Consider for Approval 2<sup>nd</sup> Reading Ordinance 717 AN ORDINANCE ADOPTING BY REFERENCE AND ENACTING THE REVISED MUNICIPAL CODE FOR THE TOWN OF HAYDEN, COLORADO; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE ADOPTION OF SECONDARY CODES BY REFERENCE; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY

**AGENDA SECTION:** Old Business

**PRESENTED BY:** Sharon Johnson

**CAN THIS ITEM BE RESCHEDULED:** Not preferred

**BACKGROUND REVIEW:** The Hayden Municipal Code has been in need of review to identify inconsistencies, conflicts, and obsolete provision in connection with the Colorado State statutes; identify conflicting or obsolete provision and identification of certain potentially unconstitutional provisions.

The source materials included in the legal review by Mary Margaret Bielby, Code Attorney, Municode, were the 1999 code as updated through ordinance No. 691 adopted April 18, 2020. A proposed table of contents, outlines any recommended reorganization of the materials. The legal manuscript was first presented as a draft copy and used during conference to convey the legal analysis and recommended organization of the new Code. The draft was worded in terms of solutions to identified problems. The analysis attorney, in the interest of thoroughness and to provide the Town Attorney with as much information as possible and took positions with which the Town Attorney may have agreed or disagreed. The ultimate determination regarding whether a problem exists and what should be done to resolve it lies with the Town Attorney, Town Council and Town Clerk.

The analysis attorney recommended the following changes should be made throughout the entire Code:

1. Penalty provisions that duplicate the general penalty that appears in the General Provision chapter should be either removed entirely throughout the Code, allowing the general penalty in the Chapter 1 to control, or duplicative language should be struck and should be replaced with generic language such as "...shall be punished in accordance with the provision of



Chapter 1.08 or this code.” The Town should heavily consider removing penalty language throughout a s to help shorten the adopting ordinance, which will have to list out in full every penalty clause.

2. Text referring to specific fee amounts should be replaced with generic fee establishment language, in order to prevent the Code from becoming outdated with the amounts of those fees are later changed (e.g., “the fee shall be in an amount established by Council from time to time.”)
3. Language reserving specific sections that appear at the end of articles should be removed.
4. Striking any definitions that appear in the General Provisions chapter of the Code (most commonly this includes “town,” “clerk,” “state,” and “person.”)
5. Inserting this specific language throughout the Code as an intro to any definitions section:  
The following words, term, and phrases, when used in this chapter shall have the meanings ascribed to them in this section, except where the context indicates a different meaning.

Specific issues resulting from the legal analysis are footnotes in the accompanying legal manuscript. The recommendations are summarized and reproduced in language describing the text at issue, the language recommended to replace the text at issue, and the legal or codification reason that necessitates making the proposed textual change.

The draft copy was reviewed by the Town Clerk, Town Attorney, Planning and Zoning Director and Chief of Police. Recommendation to identified problems were reviewed and discussed in detail and resolution is in the final draft presented.

A Public Hearing will be held at the May 19, 2022 Town Council Meeting prior to discussion and action on Ordinance 717.

**RECOMMENDATION:** Recommend motion to approve 2<sup>nd</sup> Reading Ordinance 717 AN ORDINANCE ADOPTING BY REFERENCE AND ENACTION A NEW TOWN CODE FOR THE TOWN OF HAYDEN, COLORADO; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE ADOPTION OF SECONDARY CODES BY REFERENCE; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY

**MANAGER’S RECOMMENDATION/COMMENTS:**

## ORDINANCE NO. 717

AN ORDINANCE ADOPTING BY REFERENCE AND ENACTING THE REVISED MUNICIPAL TOWN CODE FOR THE TOWN OF HAYDEN, COLORADO; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE ADOPTION OF SECONDARY CODES BY REFERENCE; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND ORDINANCE BECOME EFFECTIVE

### RECITALS

**WHEREAS**, the Town Council of the Town of Hayden, Colorado, has determined that it is necessary and expedient that ordinances of the Town of a general and permanent nature be recodified, and pursuant to such determination, has caused a recodification of such ordinances to be prepared which recodification is designated as the Hayden Municipal Code; and

**WHEREAS**, the statutes of the State of Colorado provide for adoption of such a recodification by reference; and

**WHEREAS**, the Town Council believes that the Hayden Municipal Code revisions herein and this adopting ordinance is in the best interest of the citizens of Hayden, Colorado; and

**WHEREAS**, the revisions provide a concise, clear and updated rules and regulations established through legal analysis in which the ordinances have been researched for the following purposes: 1. Identification of conflicts, inconsistencies and obsolete provisions in connection with the Colorado State statutes, as amended through the most recent legislative session. 2. Identification of conflicting or obsolete provisions. 3. Identification of certain potentially unconstitutional provisions.; and

**WHEREAS**, the Article 3, Section 3-1 of the Hayden Home Rule Charter requires that action must be taken by ordinance when repealing a prior ordinance and when establishing any rule or regulation for the violation of which a penalty is imposed.

**WHEREAS**, the Hayden Town Council (the "Council") held a public hearing on the recodification of the Hayden Municipal Code on May 19, 2022.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, THE FOLLOWING:**

Section 1. Authorization to Adopt the Ordinance and Revised Municipal Code of The Town of Hayden, Colorado. The Town of Hayden, hereby adopts the Ordinance and revised Municipal Code of The Town of Hayden, Colorado effective May 19, 2022

**Section 2. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

**Section 3. Effective Date.** This Ordinance, immediately on final passing and adoption, shall be published in accordance with Section 3-3h of the Home Rule Charter. This Ordinance shall be in full force and effect immediately in accordance with Section 3-3h of the Hayden Home Rule Charter.

**Section 4. Public Hearing.** A public hearing on this Ordinance will be held on the 19<sup>th</sup> day of May, 2022, at the regular meeting of the Hayden Town Council beginning at 7:30 p.m. at the Hayden Town Hall, 178 West Jefferson Ave, Hayden, Colorado.

INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO SUBSECTION 3-3(d) OF THE HAYDEN HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF HAYDEN, ON THE 4<sup>TH</sup> DAY OF MAY, 2022.

---

Zachary Wuestewald, Mayor

ATTEST

---

Sharon Johnson, Town Clerk

FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SUBSECTIONS 3-3 (e) through (h) OF THE HAYDEN HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF HAYDEN, ON THE 19<sup>TH</sup> DAY OF MAY, 2022.

---

Zachary Wuestewald, Mayor

ATTEST

---

Sharon Johnson, Town Clerk

# CODE OF ORDINANCES

TOWN OF

**HAYDEN, COLORADO**

Published in 2021 by Order of the Town Council

# **municode**



Municipal Code Corporation P.O. Box 2235 Tallahassee, FL 32316  
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PROOFS



OFFICIALS  
OF THE  
TOWN OF  
HAYDEN, COLORADO  
AT THE TIME OF THIS RECODIFICATION

---

Zach Wuestewald  
*Mayor*

---

Trevor Gann  
Ed Corriveau  
Janet Hollifield  
Bob Reese  
Ryan Banks  
*Town Council*

---

[Name of Town Manager]  
*Town Manager*

---

Michael Holloran  
*Town Attorney*

---

Sharon Johnson  
*Town Clerk*

PROOFS

## PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the Town of Hayden, Colorado.

Source materials used in the preparation of the Code were the 1999 Code, as supplemented through June 3, 2021, and ordinances subsequently adopted by the Town Council. 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 1999 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and 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 period. The first two parts of the number refer to the chapter, and the last figure refers to the section within the chapter. Thus, the second section of chapter 1.04 is numbered 1.04.020, and the first section of chapter 12.04 is 12.04.010. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 3.16.050 and 3.16.060 is desired to be added, such new section would be numbered 3.16.055. New chapters, articles, and divisions may be included in the same way or, in the case of chapters, may be placed at the end of the title embracing the subject, and, in the case of articles, may be placed at the end of the chapter embracing the subject. The next successive number shall be assigned to the new chapter, article, or division. New titles or chapters may be included by using a reserved title or chapter number.

### *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:

CHARTER	CHT:1
RELATED LAWS	RL:1
SPECIAL ACTS	SA:1
CHARTER COMPARATIVE TABLE	CHTCT: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
CHARTER INDEX	CHTi: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 Mary Margaret Bielby, Code Attorney, and Amanda Heath, 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 Michael Holloran and Sharon Johnson for their cooperation and assistance during the progress of the work on this publication. It is hoped that their 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.

### *Copyright*

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Title 1  
**GENERAL PROVISIONS**  
**CHAPTER 1.04 IN GENERAL**

**Sec. 1.04.010. How Code designated and cited.**

The general ordinances embraced in the following chapters and sections shall constitute and be designated "Code of Ordinances, Town of Hayden, Colorado" and may also be cited. This Code may also be cited as "Hayden Town Code" or "Hayden Municipal Code."

**Sec. 1.04.020. Definitions.**

In the construction of this Code and of all ordinances and resolutions, the following definitions and rules of construction shall be observed, unless the context requires otherwise:<sup>1</sup>

~~The following words and phrases, whenever used in the ordinances of the town of Hayden, Colorado, shall be construed as defined in this section unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:~~

~~A. "Board" means the Board of Trustees of the town of Hayden. "All its members" and "all board members" means the total number of board members holding office.~~<sup>2</sup>

*Charter.* The term "Charter" means the Home Rule Charter of the town of Hayden, Colorado.

*Code.* The term "Code" means this Code of Ordinances, Town of Hayden, Colorado, as designated in section 1.04.010.<sup>3</sup>

*County.* The term "county," "the county" or "this county" means the County of Routt.

*Delegation of authority.* Whenever a provision requires the head of a department or an official of the town to do some act or perform some function, it shall be construed to authorize the head of such department or the official to designate, delegate and authorize subordinates to do the required act or perform the required function, unless the terms of the provisions designate otherwise.

*Gender.* Words of gender include all genders.

*Interpretation.* In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

*Law.* The term "law" denotes applicable federal law, the constitution and statutes of the state, the ordinances of the town of Hayden, 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.

<sup>1</sup> We recommend modifying this intro language to show that these definitions apply to the code as a whole. **Accepted by town.**

<sup>2</sup> As the town charter phases out the board to a council, we recommend deleting this definition as no longer applicable. Our editorial team will change any references to the board of trustees to council throughout during the Proofs phase of this project. **Accepted by town.**

<sup>3</sup> Note: this citation will change once our editorial team rennumbers this title. **Accepted by town.**

*Must and shall.* The terms "must" and "shall" are each mandatory.

*Names of officers, departments.* The name or title of any officer or department shall be read as though the words "of the Town of Hayden" were added thereto.

*Nontechnical and technical words.* The ordinary significance shall be applied to all words, except words of art, or words connected with a particular trade or subject matter, in which case they shall have the significance attached to them by experts in such trade, or with reference to such subject matter.

*Number.* The singular or plural number shall each include the other, unless expressly excluded.

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

*Or, and.* "Or" may be read "and," and "and" may be read "or" if the sense requires it.

*Owner.* The term "owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, or tenant by the entirety, of the whole or a part of such building or land.

*Person.* The term "person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, and any other group acting as a unit, or the manager, lessee, agent, servant, officer or employee of any of them.<sup>4</sup>

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

*Preceding and following.* The term "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, may.* The word "shall" is mandatory; the word "may" is permissive.

*Sidewalk.* The term "sidewalk" means that portion of a street between the curb line 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 this 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 the state.

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

*Tense.* The present or past tense shall include the future.

~~B. "City" and Town or municipality.~~ The term "town" or "municipality" means ~~each mean~~ the town of Hayden, Colorado, or the area within the territorial limits of the town of Hayden, Colorado, and such territory outside of the town over which the town has jurisdiction or control by virtue of any constitutional or statutory provision.<sup>5</sup>

*Town Council or Council or governing body.* The term "Town Council" or "Council" or "governing body" means six councilmembers (or such fewer number as may be in office at the time) and the mayor, whether such officers are appointed or elected.<sup>6</sup>

<sup>4</sup> We recommend modifying this definition to be more specific. **Accepted by town.**

<sup>5</sup> We recommend having our editorial team go through the Code as a whole and striking through any reference to "city" and replacing it with "town". That way we can delete any unnecessary language. **Accepted by town.**

<sup>6</sup> We recommend adding this definition, which we copied from the charter (we added "governing body"). If the town wants a different definition let us know. **Accepted by town.**

*Written.* The term "written" includes printed, typewritten, mimeographed, multi-graphed, or otherwise reproduced in permanent visible form.

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

(Code 1999, § 1.04.010; Ord. No. 216, 1976)

#### **Sec. 1.04.030. Altering Code.**<sup>7</sup>

It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever, except by ordinance or resolution or other official act of the Council.

#### **Sec. 1.04.040. Rates, charges, and fees established.**<sup>8</sup>

(a) Unless otherwise provided for, all rates, charges, or fees necessary for the administration and enforcement of the provisions of this Code shall be as currently established or as hereafter adopted by motion, resolution or ordinance of the city council, from time to time. Any rates, charges, or fees established by the town pursuant to the regulations or requirements established herein may be changed from time to time by the Town Council, and such changes shall both be considered an amendment to this Code.

(b) Whenever any provision of this Code provides that a rate, charge, or fee shall be established by the Town Council, from time to time, and the amount of such rate, charge, or fee is not expressed in this Code in any dollar amount, then the amount of such rate, charge, or fee shall be the most recent and latest amount established, set or fixed by the Town Council by ordinance, resolution or motion.

#### **Sec. 1.04.050. Catchlines of sections; history notes; references.**

(a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor, unless expressly so provided, shall they be so deemed when any such section, including the catchline, is amended or reenacted.

(b) The history or source notes appearing in parenthesis after sections in this Code have no legal effect and only indicate legislative history. Editor's notes and state law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

#### **Sec. 1.04.060. Amendments to Code; effect of new ordinances; amendatory language.**

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from reprinted pages affected thereby.

(b) Amendments to provisions of this Code may be made with the following language: "Section (chapter, article, division or subdivision, as appropriate) of the Hayden Town Code is hereby amended to read as follows: . . ."

(c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following

<sup>7</sup> We recommend adding this provision as standard Municode chapter 1 language. **Accepted by town.**

<sup>8</sup> We recommend adding this provision, if the town decides to add the generic language suggested throughout whenever a fee is established ("...as established by the council from time to time"). If the town decides to keep specific fees in the published code, we will remove this provision. **Town elected to insert generic language "as established by the Town Council from time to time."**

language may be used: "Section (chapter, article, division or subdivision, as appropriate) of the Hayden Town Code is hereby created to read as follows: . . ."

(d) All provisions desired to be repealed should be repealed specifically by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

## **CHAPTER 1.08 CODE ADOPTION TITLE AND SCOPE**

### **1.01.010. Code adopted.<sup>9</sup>**

~~The Hayden Municipal Code, as promulgated by the town of Hayden, Colorado, is adopted and enacted by reference. The purpose of this code is to codify the ordinances of the town which are of a general and permanent nature. The subject matter of this code includes provisions concerning the application and interpretation of the code, the administration and organization of the town, animals, buildings, abandoned automobiles, peddlers, finances, streets, libraries, nuisances, traffic, offenses, elections and zoning.~~

~~(Code 1999, § 1.01.010; Ord. 437 § 1, 1995)~~

### **1.01.020. Repeal of prior ordinances.**

~~All ordinances of the town of Hayden, of a general and permanent nature which were finally adopted on or before December 7, 1985, whether or not in legal effect at that date, are repealed, except the following numbered ordinances: 74, 87, 103, 166, 178, 180, 234, 247, 262, 272 and 352, and except as hereinafter provided.~~

~~(Code 1999, § 1.01.020; Ord. 437 § 2, 1995)~~

### **Sec. 1.08.010. Matters not affected by repeal.**

~~The repeal of ordinances and parts of ordinances of a permanent or general nature by Section 1.01.020 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 when such ordinances and parts of ordinances are repealed.~~

(a) The repeal of a Code section or ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued or any offense committed, any penalty or punishment incurred, or any proceeding commenced before the repeal took effect or the ordinance expired.

(b) When any ordinance repealing a former Code section, ordinance, clause, or provision, shall be itself repealed, which repeals shall not be construed to revive such former Code section, ordinance, clause, or provision, unless it shall be expressly so provided.

(c) An ordinance which is in conflict in its entirety with a subsequent ordinance shall be deemed to be repealed in its entirety, even if no specific repealer is stated. If an ordinance is only partially in conflict with a subsequent ordinance, only the portion of the previous ordinance in conflict with the subsequent ordinance shall be deemed to have been repealed, even if a specific repealer is not stated.

~~(Code 1999, § 1.01.030; Ord. No. 437, § 3, 1995)~~

### **Sec. 1.08.020. Certain ordinances not affected by Code saved from repeal.<sup>10</sup>**

(a) Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following: The repeal of ordinances of a general and permanent nature by Section 1.01.020 shall not repeal any ordinance or part thereof saved from repeal specifically by the Hayden Municipal Code, nor shall such repeal affect any ordinance:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

<sup>9</sup> We recommend deleting this provision as no longer needed. When this project is completed the town will adopt the code by ordinance, and that will include all of this information and be included in the preliminary material to the code. **Accepted by town.**

<sup>10</sup> We recommend modifying this provision to comply with Municode's style. **Accepted by town.**

- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the town or authorizing the issuance of any bonds of the town or any evidence to the town's indebtedness.
- (3) Any contract or obligation assumed by the town.
- (4) Any ordinance fixing the salary of any town officer or employee, unless superseded.
- (5) Any ordinance or resolution establishing and/or prescribing employment, benefits, and/or personnel policies and procedures for any town officer or town employee.
- (6) Any right or franchise granted by the town.
- (7) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the town.
- (8) Any appropriation ordinance.
- (9) Any ordinance or resolution which, by its own terms, is effective for a stated or limited term.
- (10) Any ordinance or resolution providing for local improvements and assessing taxes therefor.
- (11) Any zoning/development ordinance or amendments thereto, and any ordinance establishing a planning commission, including joint commissions.
- (12) Any ordinance or resolution dedicating or accepting any subdivision plat or providing for subdivision regulations.
- (13) Any ordinance or resolution describing or altering the boundaries of the town.
- (14) The administrative ordinances or resolutions of the town not in conflict or inconsistent with the provisions of this Code.
- (15) Any ordinance levying or imposing taxes not included herein.
- (16) Any ordinance or resolution establishing or prescribing street grades in the town.
- (17) Any ordinance or regulation prescribing traffic regulations for specific locations concerning through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones, not in conflict or inconsistent with this Code.
- (18) Any ordinance or resolution of agreement with another political subdivision.
- (19) Any other ordinance or resolution, or part thereof, which is not of a general and permanent nature; or which is referred to elsewhere in this Code as continuing in effect.

(b) No such ordinance shall be construed to revive any ordinance, or part thereof, that has been repealed by a subsequent ordinance which is repealed by this chapter; and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

- ~~— Promising, guaranteeing or authorizing the payment of money by or for the town;~~
- ~~— Authorizing or relating to specific issuances of bonds or other evidences of indebtedness;~~
- ~~— Granting a franchise;~~
- ~~— Establishing the compensation of Town officers or employees;~~
- ~~— Levying taxes, making appropriations or adopting a budget;~~
- ~~— Creating specific local improvement districts;~~
- ~~— Making special assessments for local improvements;~~
- ~~— Vacating, accepting, establishing, locating, relocating or opening any street or public way;~~
- ~~— Affecting the corporate limits of the town;~~
- ~~— Which is of a special or temporary nature;~~
- ~~— Dedicating or accepting any plat or subdivision.~~

(Code 1999, § 1.01.040; Ord. No. 437, § 4, 1995)

**Sec. 1.08.030. Provisions considered as continuations of existing ordinances.**

The provisions appearing in this Code, insofar as they are the same as those of ordinances and resolutions existing at the time of adoption of this Code, shall be considered as continuations thereof and not as new enactments.

**Sec. 1.08.040. Prior offenses, penalties, contracts, or rights not affected by adoption of Code.**

(a) Nothing in this Code, or the ordinance adopting this Code, shall affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance or resolution in effect on the date of adoption of this Code.

**Sec. 1.08.050. Supplementation of Code.**

(a) By contract or by town personnel, supplements to this Code shall be prepared at least on an annual basis. A supplement to the Code shall include all substantive, permanent and general parts of ordinances passed by the town council during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which 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 included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions.
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code).
- (5) Make other nonsubstantive changes necessary to preserve the original meanings of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**1.01.050. Severability of ordinance provisions.<sup>11</sup>**

~~Each section of the ordinance codified in this chapter is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.~~

(Code 1999, § 1.01.050; Ord. No. 437 § 5, 1995)

**Sec. 1.08.060. Severability of code provisions.**

If any section, subsection or provision of this Code of ordinances, or the application thereof to any person or

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<sup>11</sup> We recommend deleting this provision and allowing the provision below it to control.

circumstances, is declared unconstitutional or otherwise invalid by any competent court, such invalidity shall not affect the other sections, subsections, provisions or applications of this Code if they can be given effect without the invalid section, subsection, provision or application.

(Code 1999, § 1.01.060; Ord. No. 437, § 6, 1995)

#### **Sec. 1.08.070. Codes kept on file.<sup>12</sup>**

(a) At least ~~one three~~ copies of this Code, and of each secondary code adopted therein, all certified by the mayor and town clerk to be true copies of such codes as they were adopted by this chapter, shall be kept on file in the office of the town clerk available for public inspection. One copy of each such code may be kept in the office of the chief of police for the town rather than in the office of the clerk.

(b) The town clerk shall prepare and publish revised sheets of every loose-leaf page in need of revision by reason of amendment, addition or repeal. The town clerk shall distribute such revised loose-leaf sheets for such fee as the Town Council ~~board of Trustees~~ may direct.

(c) In addition to those copies of this Code, specified in subsection (a) of this section, a copy of this Code shall be kept on file in the office of the town clerk in which it shall be the express duty of the town clerk to insert in their designated places all amendments or ordinances which are intended to become a part of this Code when the same have been printed or reprinted in page form, and to extract from such code all provisions which may from time to time be repealed. This copy of the Code shall be available to all persons desiring to examine it and shall be considered the official Code of the town.

(Code 1999, § 1.01.070; Ord. No. 437, § 7, 1995)

#### **Sec. 1.08.080. Sale of Code copies.<sup>13</sup>**

The town clerk shall maintain a reasonable supply of copies of this Code to be available ~~for purchase~~ by the public online at a moderate price.

(Code 1999, § 1.01.080; Ord. No. 437, § 8, 1995)

#### **~~1.01.090. Violation.~~<sup>14</sup>**

~~Conviction of a violation of any provision of this code may be punished by a fine of not more than three hundred dollars or imprisonment not to exceed ninety days, or by both such fine and imprisonment.~~

~~(Code 1999, § 1.01.090; Ord. No. 437, § 9, 1995)~~

### **CHAPTER 1.12. GENERAL PENALTY**

#### **Sec. 1.12.010. Violation of ordinances; general penalty.<sup>15</sup>**

No person shall violate any of the provisions of the ordinances of the town. Any person who violates any of the provisions of the ordinances of the town shall be punished by a fine of not more than two thousand six hundred fifty dollars \$2,650.00, ~~one thousand dollars (\$1,000.00)~~ or by imprisonment for not more than one year, or by both

<sup>12</sup> Does this section reflect current practices? **Per town clerk via email 10/28:** "This does reflect current practices. 4 copies 1. town manager 2. town clerk 3. chief of police 4. Public Inspection/Review. We will add a 5th copy for Planning and Zoning" **edited to show that clerk only has 1 copy.**

<sup>13</sup> Is this provision necessary now that the Code is available online? **Per town clerk email 10/28: "This currently is not in practice. It is available on line or sections requested are printed and a fee is charged." Updated language to reflect current practice.**

<sup>14</sup> We recommend deleting this provision as no longer needed, this subject matter is covered in the general penalty section. **Accepted by town.**

<sup>15</sup> Does the town want to increase the maximum penalty to match state law? **Via email 10/28: yes, but remove jail time.**



~~such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code or the ordinances of the town, is committed, continued or permitted by any such person, and he shall be punished accordingly.~~

- (1) ~~The imposition of a penalty does not prevent the revocation or suspension of a license, permit or franchise or any other administrative sanctions authorized by law.~~
- (2) ~~In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any such ordinance, resolution, rules, regulation or order shall be deemed a public nuisance and may be abated by the town through injunctive or other equitable relief and by such other means as provided by law. The imposition of a penalty does not prevent equitable relief.~~
- (3) ~~The violation of any section of this Code by a person not having attained the age of 18 years at the time of the commission of the violation, shall be a misdemeanor. However, such conviction shall be punishable by a fine only, not exceeding \$300.00 or useful public service or such other penalty, excluding imprisonment, as may be appropriate. Any confinement of a child for contempt of municipal court shall not exceed forty-eight hours, and such confinement shall only be in a facility authorized under C.R.S. § 13-10-113(4).~~

(Code 1999, § 1.08.010; Ord. No. 618 § 1, 2009)

#### **~~1.08.020. Separate offense.~~<sup>16</sup>**

~~Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of the Ordinances of the town is committed, continued or permitted by any such person, and he shall be punished accordingly.~~

~~(Code 1999, § 1.08.020; Ord. No. 217 § 2, 1976)~~

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<sup>16</sup> We recommend deleting this provision and having similar language appear within the provision prior. **Accepted by town.**

## Title 2

## ADMINISTRATION AND PERSONNEL

## CHAPTER 2.04. IN GENERAL (RESERVED)

## CHAPTER 2.08. ELECTIONS

**Sec. 2.08.010. Write-in votes.**

No write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the 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.

(Code 1999, § 2.40.010; Ord. No. 488, § 1, 2000; Ord. No. 689, § 1, 9-20-2018)

**Sec. 2.08.020. Cancellation of election.**

If the only matter 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 governing body 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 published, if possible, in order to inform the electors of the municipality, and notice of such cancellation shall be posted at each polling place and in not less than one other public place.

(Code 1999, § 2.40.020; Ord. No. 488, § 2, 2000; Ord. No. 689, § 2, 9-20-2018)

**CHAPTER 2.12. EMERGENCY POLICY AND PROCEDURES<sup>17</sup>****Sec. 2.12.010. Enumeration of emergency powers.**

In the event of the declaration of a local emergency, as provided in ~~this~~ this chapter, the town manager is empowered, to the extent lawfully permissible, to do the following, as specified in this chapter. ÷

(Ord. No. 696, § 1, 3-19-2020)

**Sec. 2.12.020. Request state assistance.**

The town manager may request the governor, in coordination with the county, to proclaim a state of emergency when the locally available resources are inadequate to cope with the emergency.

(Ord. No. 696, § 1(1), 3-19-2020)

**Sec. 2.12.030. Direction and control.**

The town manager may direct and control the effort of the emergency organization of the town for the accomplishment of the purposes of this chapter.

(Ord. No. 696, § 1(2), 3-19-2020)

**Sec. 2.12.040. Incident command.**

The town manager may appoint or replace an incident commander pursuant to the protocols of the National Incident Management System. Authorize a declaration of authority for transfer of incident command to a state

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<sup>17</sup> Note: this language comes from ord. no. 696. Per our normal procedure, we did not include any of the "whereas" statements and only included the main portion of the ordinance. If this was in error, or if the Town would like this language to appear elsewhere, please let us know.

incident management team as necessary.

(Ord. No. 696, § 1(3), 3-19-2020)

**Sec. 2.12.050. Interagency coordination.**

The town manager may direct cooperation between, and coordination of services and staff of, the emergency organization of the Town and resolve questions of authority and responsibility that may arise between them.

(Ord. No. 696, § 1(4), 3-19-2020)

**Sec. 2.12.060. Public spokesman.**

The town manager may represent the town in all dealings with public or private agencies on matters pertaining to emergencies as defined in this chapter.

(Ord. No. 696, § 1(5), 3-19-2020)

**Sec. 2.12.070. Rules and regulations.**

The town manager may make and issue rules and regulations on matters reasonably related to the protection of life and property affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the town council. Such rules and regulations may govern matters, including, but not limited to, the following:

- (1) Establishing a curfew may be established for the area designated as an emergency area which fixes the hours during which all persons, other than public officers and officials, are prohibited from being upon the public streets or in other specified places;
- (2) Streets and areas may be barricaded and vehicular and pedestrian traffic prohibited or regulated on streets leading to the area designated as an emergency area for such distance as may be deemed necessary under the circumstances;
- (3) Directing persons to be evacuated from the emergency area, instructed to shelter in place, or given instruction for other protective actions;
- (4) Prohibiting or restricting the sale of alcoholic beverages and the sale of gasoline or other flammable liquids;
- (5) Declaring other measures as are imminently necessary under the circumstances for the protection of life or property or to prevent or minimize danger to lives or property.

(Ord. No. 696, § 1(6), 3-19-2020)

**Sec. 2.12.080. Emergency procurement.**

The town manager may obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the town for the fair value thereof and, if required immediately, to commandeer the same for public use.

(Ord. No. 696, § 2, 3-19-2020)

**Sec. 2.12.090. Town employees and volunteers.**

The town manager may require emergency services of any town officer or employee and, in the event of the declaration of an emergency and with the assistance of the chief of police and fire chief and police and fire departments to command the aid of as many citizens of this community as he deems necessary in the execution of his duties.

(Ord. No. 696, § 3, 3-19-2020)

**Sec. 2.12.100. Allocation of resources.**

The town manager may requisition necessary personnel or material of any town department or agency.

(Ord. No. 696, § 4, 3-19-2020)

**Sec. 2.12.110. Personnel rules and regulations.**

The town manager may suspend, alter, or amend the town manager's determinations with regard to work and employee schedules, health leave, and office protocols.

(Ord. No. 696, § 5, 3-19-2020)

**Sec. 2.12.120. Other powers.**

The town manager may execute all of his ordinary power as town manager, all of the special powers conferred upon him by this chapter or by ordinance or emergency plan pursuant hereto adopted by the town council, all powers conferred upon him by any agreement approved by the town council, and by any other lawful authority.

(Ord. No. 696, § 6, 3-19-2020)

**Sec. 2.12.130. 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:

*Local emergency* means any manmade or natural event or circumstances causing or threatening loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, spills or releases of hazardous material, contamination, utility or transportation emergencies, disease, infestation, civil disturbance, riot, sabotage, terrorist acts, and disruption of normal town operations.

(Ord. No. 696, § 7, 3-19-2020)

**CHAPTER 2.16. TOWN COUNCIL BOARD OF TRUSTEES****2.04.010. Regular meetings.<sup>18</sup>**

~~The regular meetings of the town Board shall be held on the first and third Thursday of each month at 8:00 p.m.~~

- ~~— When the fixed day for any regular meeting of the town Board falls on a day designated by law as a legal holiday, the meeting shall be held at a date designated by the Board at a previous meeting, unless otherwise provided by a motion which is adopted by majority consent.~~
- ~~— If the day and/or hour of a regular meeting is changed by the town Board, all members not in attendance when the motion was adopted shall be notified by written and/or verbal notice no later than 24 hours preceding the meeting.~~

(Code 1999, § 2.04.010; Ord. 304, 1982)

**2.04.020. Special meetings.**

~~The Mayor or any three Town Board Trustees may call a special meeting of the town Board to consider business that must be transacted before the next regular meeting.~~

- ~~— Written and/or verbal notice of a special meeting shall be given by the town clerk to each member of the town Board. Said notice shall be left at the member's usual place of residence not less than 24 hours preceding the special meeting.~~
- ~~— Business considered or transacted at a special meeting of the town Board shall be limited to those items specified in the notice.~~

(Code 1999, § 2.04.020; Ord. 304, 1982)

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<sup>18</sup> We recommend deleting this provision and 2.04.020 as covered by charter section 2-10.

**Accepted by town.**

**2.04.030. Adjourned meetings.<sup>19</sup>**

~~Any regular or special meeting of the town Board may be continued or adjourned from day to day, or for more than one day provided that the day to which the regular or special meeting is adjourned falls before the next regular meeting.~~

~~Business at an adjourned meeting of the town Board shall continue from the point where it was interrupted in the preceding regular or special meeting.~~

~~(Code 1999, § 2.04.030; Ord. 304, 1982)~~

**2.04.040. Executive sessions.<sup>20</sup>**

~~By the affirmative vote of two thirds of the quorum present, the town Board may go into Executive Session during a regular or special meeting. The Executive Session may only be called for the consideration of the following items:~~

- ~~— Purchase, acquisition, lease, transfer or sale of any real, personal or other property interest;~~
- ~~— Conferences with an attorney for the local public body for the purpose of receiving legal advice on specific legal questions;~~
- ~~— Matters required to be kept confidential by Federal or State laws or rules and regulations;~~
- ~~— Specialized details of security arrangements or investigations;~~
- ~~— Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators;~~
- ~~— Personnel Matters, except if an open meeting has been requested by the employee or employees who are the subject of the session;~~
- ~~— Consideration of any documents protected by the Mandatory Non-Disclosure Provisions of Part 2 of Article 72 of Title 24, C.R.S., commonly known as the "Open Records Act".~~

~~(Code 1999, § 2.04.040; Ord. 381, 1991)~~

**2.04.050. Study sessions.**

~~By majority consent of those present, the town Board may hold or schedule a study session.~~

- ~~— No formal or official action may be taken by the town Board at a study session.~~

~~(Code 1999, § 2.04.050; Ord. 381, 1991)~~

**2.04.060. Special hearings.<sup>21</sup>**

~~In addition to those public hearings which are required by state and/or local law, the town Board may, by majority consent, hold a special hearing.~~

~~(Code 1999, § 2.04.060; Ord. 304, 1982)~~

**2.04.070. Open to the public.**

~~Except as otherwise provided in Section 2.04.040, all meetings of the town Board shall be open to the public at all times.~~

~~(Code 1999, § 2.04.070; Ord. 304, 1982)~~

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<sup>19</sup> This subject is not covered in the charter. Does the town still follow this practice? If not, we recommend deleting it. **Town clerk recommended deleting it via email 10/28.**

<sup>20</sup> We recommend deleting this provision and 2.04.050 as adequately covered by section 2-10 of the charter. **Accepted by town.**

<sup>21</sup> Does the town want to delete this provision as well? **Clerk said yes via email on 10/28.**

**2.04.080. Location.**<sup>22</sup>

~~All meetings of the town Board shall be located in the Hayden Town Hall, 178 West Jefferson or an alternate site to be determined as needed, provided advance notice is given to the public no less than 24 hours prior to the holding of the meeting.~~

~~(Code 1999, § 2.04.080; Ord. 422, 1995)~~

**2.04.090. Meeting announcements.**

~~The manager or clerk shall issue advance notice of all meetings of the town Board to the general public by the news media and posting notice at such locations as designated by the Hayden Town Board at the first regular meeting of each calendar year, no less than 24 hours prior to the holding of the meeting.~~

~~(Code 1999, § 2.04.090; Ord. 381, 1991)~~

**Sec. 2.16.010. Agenda preparation.**<sup>23</sup>

(a) All items of business that are to come before the Town ~~Board~~ Council must be submitted to the manager or clerk by 9:00 a.m. on Tuesday preceding each regular meeting. The manager or clerk shall arrange an agenda of such matters according to the order of business prescribed in section 2.16.120.

(b) Any item of business which is not submitted to the manager or clerk in accordance with the procedure prescribed in subsection (a) of this section shall be held over and included in the agenda for the next succeeding regular meeting, unless it is considered an item of importance ~~an emergency~~ by majority consent of the Town ~~Board~~ Council and will be added the agenda by amendment ~~is to be considered under the public comment section of the agenda.~~

(Code 1999, § 2.04.100; Ord. No. 304, 1982)

**Sec. 2.16.020. Agenda distribution.**<sup>24</sup>

(a) The manager, or person designated by the manager, shall furnish each member of the Town ~~Board~~ Council and all municipal officials having an item of business coming before the Town ~~Board~~ Council, with a copy of the agenda and any supporting documents, 48 hours preceding the regular meeting.

(b) Copies of the agenda ~~also shall be kept in the Clerk's office and the Public Library and~~ shall be made available to any member of the public who so requests.

(Code 1999, § 2.04.110; Ord. No. 304, 1982)

**Sec. 2.16.030. Order of business.**<sup>25</sup>

The Town ~~Board~~ Council shall consider and dispose of items of business in the following order, not including the exception noted in subsection (3) of this section, unless otherwise decided by a motion which is adopted by a two-thirds vote:

- (1) Call to order;

<sup>22</sup> We recommend deleting this provision and 2.04.090 as covered by section 2-10 of the charter.

<sup>23</sup> We recommend reviewing this provision and confirming it reflects current practices.

<sup>24</sup> Is this provision current? Colorado's Open Meeting Law has been amended to allow posting on websites. **Clerk confirmed via email on 10/28 that this is not current. Current practice is:** Copies of the agenda are electronic and we print at no cost if a copy is requested. We do not have printed hard copies available. It is not stated in the Charter and prefer it be deleted from the code or amended to Colorado Open Records Act

<sup>25</sup> We've amended this provision to comply with posted agendas on the town website, if the town would prefer to keep the original language let us know. **Attorney approved via email on 10/28. Clerk approved changes in language on 10/28 and noted: The order of business is different. Language updated to reflect current practice.**

- (2) Roll call;
- (3) Public/special hearings (this specific item of business is set prior to the decision item in the agenda);
- (4) ~~Approval~~ Consideration of the minutes;
- (5) ~~Approval~~ Consideration of the bills;
- (6) Public comments;
- (7) Old/unfinished business;
- (8) New business;
- (9) Staff reports;
- (10) Correspondence; and
- (11) Adjournment.

(Code 1999, § 2.04.120; Ord. No. 381, 1991)

#### **2.04.130. The mayor.**<sup>26</sup>

The Mayor shall preside at all meetings of the town Board and shall take the chair at the appointed hour and, after ascertaining that a quorum is present, shall call the town Board to order.

~~— The Mayor Pro Tem shall be selected from the members of the town Board at the first meeting following a regular municipal election, or immediately following a resignation to fill a vacancy.~~

(Code 1999, § 2.04.130; Ord. 304, 1982)

#### **2.04.140. Quorum.**

~~A quorum is a majority of all members elected to the town Board and is necessary to consider or transact business. Any meeting lacking a quorum dies automatically.~~

(Code 1999, § 2.04.140; Ord. 304, 1982)

#### **2.04.150. Mayor pro tem.**

~~In the absence of the Mayor, the Mayor Pro Tem shall preside at the meeting of the town Board.~~

(Code 1999, § 2.04.150; Ord. 304 (part), 1982)

#### **Sec. 2.16.040. Temporary chairperson.**<sup>27</sup>

In the absence of both the mayor and the mayor pro tem, the Town ~~board~~ Council, after ascertaining that a quorum is present, shall elect from their own number a temporary chairperson who shall preside until the mayor or the mayor pro tem arrives.

(Code 1999, § 2.04.160; Ord. No. 304 (part), 1982)

#### **2.04.170. Privileges of presiding officer.**<sup>28</sup>

~~The presiding officer may move, second and debate from the chair subject only to such limitations as imposed by these rules. The Mayor shall also have no vote upon any question except in the case of a tie vote, when he shall be allowed to cast a vote and that he shall be required to vote to complete a quorum when one is lacking.~~

(Code 1999, § 2.04.170; Ord. 467 § 1 (part), 1998)

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<sup>26</sup> We recommend deleting this provision and 2.04.140 and 2.04.150 as covered in the charter.

**Accepted by town.**

<sup>27</sup> Is this provision still followed? If not, we recommend deleting it. **Agreed to leave as is during conference.**

<sup>28</sup> We recommend deleting this provision as is contradicts the charter. **Agreed via email 10/28**

**2.04.180. Decorum and order.**<sup>29</sup>

~~The presiding officer shall preserve decorum at all times during meetings and shall decide all questions of order, subject to appeal by the town Board.~~

- ~~— Town Board members shall be under the direction and control of the presiding officer and shall not refuse to obey the order of the presiding officer or the rules of the town Board.~~
- ~~— Town Board members shall preserve order and decorum at all times and shall refrain from rude and derogatory remarks, or statements as to the personalities or motives of other members.~~
- ~~— Town Board members shall accord the utmost courtesy to each other, municipal officials and members of the public attending the meetings of the town Board.~~
- ~~— Members of the administrative staff and other municipal employees attending Town Board meetings shall be under the direction and control of the presiding officer and shall observe the same rules applicable to members of the town Board.~~
- ~~— Members of the public attending Town Board meetings shall be under the direction and control of the presiding officer and shall observe the same rules applicable to members of the town Board.~~
- ~~— Any person who makes personal, slanderous or impertinent remarks or repeatedly fails to disobey direction of the presiding officer, may be removed from the town Board meeting by order of the presiding officer.~~

(Code 1999, § 2.04.180; Ord. 304 (part), 1982)

**2.04.190. Attendance.**<sup>30</sup>

~~All members of the town Board shall attend all meetings of the town Board, and shall not be excused from attending without due cause. After three consecutive unexcused absences, a Board member, or a member of any board or commission, will be notified by certified mail that the town Board will be considering his termination at the next regular Board Meeting.~~

~~No member of the town Board shall leave the meeting while the town Board meeting is in progress unless excused by the presiding officer.~~

(Code 1999, § 2.04.190; Ord. 304 (part), 1982)

**2.04.200. Privileges.**<sup>31</sup>

~~All members of the town Board may move, second and debate subject only to such limitations as imposed by these rules.~~

(Code 1999, § 2.04.200; Ord. 304 (part), 1982)

**2.04.210. Voting.**<sup>32</sup>

~~Every member of the town Board who is present shall vote either "aye" or "no" on every question put before the town Board unless excused for personal reasons. The Mayor Pro Tem shall also vote on every question. The Mayor shall have no vote upon any question except in the case of a tie vote, when he shall be allowed to cast a vote and that he shall be required to vote to complete a quorum when one is lacking.~~

(Code 1999, § 2.04.210; Ord. 467 § 1 (part), 1998)

<sup>29</sup> Does the town want to delete this provision? **Town agreed to ST at conference.**

<sup>30</sup> We recommend deleting this provision as covered by charter section 2-8. **Agreed via email 10/28**

<sup>31</sup> We recommend deleting this provision as unnecessary. **Agreed via email 10/28**

<sup>32</sup> We recommend deleting this provision as sufficiently covered in the charter. **Agreed via email 10/28**



**2.04.220. Personal privilege.<sup>33</sup>**

~~The right of any member to address the town Board on a question of personal privilege shall be limited to cases in which his integrity, character or motives are assailed, questioned or impugned.~~

~~(Code 1999, § 2.04.220; Ord. 304 (part), 1982)~~

**2.04.230. Appeal the ruling of the chair.<sup>34</sup>**

~~Any member may appeal to the town Board on a ruling made by the presiding officer.~~

~~If the appeal is seconded, the member making the motion shall state briefly the reason for the appeal, and the presiding officer shall explain his ruling. There shall be no debate by any other member of the town Board on the appeal.~~

~~(Code 1999, § 2.04.230; Ord. 304 (part), 1982)~~

**2.04.240. Dissent and protests.<sup>35</sup>**

~~Any member of the town Board shall have the right to express dissent, or to protest against any action taken by the town Board, and to have the reasons therefor entered into the record.~~

~~All dissent and protests from any member of the town Board shall be made in writing, couched in respectful language, and submitted to the town Board no later than the next succeeding regular meeting.~~

~~(Code 1999, § 2.04.240; Ord. 304 (part), 1982)~~

**2.04.260. Motion stated by the chair.**

~~A motion which has been made and seconded is not before the town Board for debate until it has been stated by the presiding officer.~~

~~A motion may be withdrawn by the maker at any time before the motion is stated by the presiding officer. Once stated, a motion may be withdrawn only by majority consent of the town Board.~~

~~(Code 1999, § 2.04.260; Ord. 304 (part), 1982)~~

**2.04.270. First in debate.**

~~The maker of a motion is entitled to speak first in debate, if the motion is debatable.~~

~~(Code 1999, § 2.04.270; Ord. 304 (part), 1982)~~

**2.04.280. Limitations on debate.**

~~No member of the town Board shall speak more than once on a question until every other member who so chooses has spoken.~~

~~(Code 1999, § 2.04.280; Ord. 304 (part), 1982)~~

**Sec. 2.16.050. Matters not covered by these rules.<sup>36</sup>**

~~Any matter which is not addressed specifically in these rules shall be governed by Robert's Rules of Order, Newly Revised, most recent edition 1970, wherever applicable and not in conflict with state or local laws.~~

~~(Code 1999, § 2.04.290; Ord. No. 304 (part), 1982)~~

<sup>33</sup> Is this provision necessary? Has it ever been invoked? If not, we recommend deleting it. **Town elected to ST via email 10/28.**

<sup>34</sup> Is this provision currently needed or used? If not we recommend deleting it. **Town elected to ST via email 10/28.**

<sup>35</sup> We don't believe that this provision through section 2.04.280 are necessary to codify and recommend deleting them. **Town elected to ST via email 10/28.**

<sup>36</sup> We recommend adopting a newer version of Robert's Rules, perhaps the 11<sup>th</sup> edition?

**Sec. 2.16.060. Amendment to rules.**

Any rules which do not have a basis in state or local law may be amended, or new rules may be adopted, by majority consent of the Town ~~Board~~ Council.

(Code 1999, § 2.04.300; Ord. No. 304 (part), 1982)

**Sec. 2.16.070. Suspension of rules.**

Any rule which does not have a basis in state or local law may be suspended for the duration of the meeting by a two-thirds vote of the Town ~~Board~~ Council.

(Code 1999, § 2.04.310; Ord. No. 304 (part), 1982)

**Sec. 2.16.080. Attendance of meetings by clerk.<sup>37</sup>**

The clerk/deputy clerk shall attend meetings of the Town Council ~~Board~~ and shall keep the proceedings and perform such other duties as set forth by these rules or requested by the mayor or the Town ~~board~~ Council.

(Code 1999, § 2.04.320; Ord. No. 304 (part), 1982)

**~~2.06.330. Attendance of meetings by town manager.<sup>38</sup>~~**

~~The town manager shall attend all meetings of the town Board and may enter Board debate.~~

~~(Code 1999, § 2.04.330; Ord. 304 (part), 1982)~~

**Sec. 2.16.090. Attendance of meetings by administrative official and employees.**

When requested by the Town ~~Board~~ Council, the head of any administrative department or any officer or employee of the town, shall attend any meeting of the Town Council ~~Board~~.

(Code 1999, § 2.04.340; Ord. No. 304 (part), 1982)

**~~2.06.350. Adoption of ordinance at meetings and publication.<sup>39</sup>~~**

~~Ordinances may be introduced and read by title only. Ordinances may be approved by voice vote, but the way each Trustee votes must be recorded. A majority of the Board must vote for approval to adopt an ordinance. Emergency ordinances can only be adopted by an affirmative vote of three fourths of the governing body. All ordinances must be published in a newspaper, either within the municipality, or if none, in a newspaper of general circulation within the municipality.~~

~~(Code 1999, § 2.04.350; Ord. 304 (part), 1982)~~

**Sec. 2.16.100. Appointment to boards and/or commissions.<sup>40</sup>**

Appointments to boards and/or commissions shall be made after advertising a vacancy, ~~in a newspaper~~, and those ~~appointed~~ interested have been ~~approved~~ interviewed by the town ~~Board~~.

(Code 1999, § 2.04.360; Ord. No. 304 (part), 1982)

**CHAPTER 2.08 TOWN ADMINISTRATOR<sup>41</sup>**

~~For statutory provisions on the office of Town Administrator, see C.R.S. 1973 § 31-4-304 (1975 Supp.).~~

<sup>37</sup> Is the clerk required to attend meetings? **Per email on 10/28 yes.**

<sup>38</sup> We recommend deleting this provision as covered by charter section 4-1. **Town agreed via email 10/28**

<sup>39</sup> We recommend deleting this provision as covered by charter section 3-3. **Town agreed via email 10/28**

<sup>40</sup> Is this provision reflect current practices? **Town elected to edit during conference.**

<sup>41</sup> We recommend striking this chapter as the town no longer has an administrator. **Town agreed via email 10/28**

**2.08.010. Creation of office.**

~~The Board of Trustees creates the office and position of Town Administrator. The administrator shall be the chief administrating officer of the town, and shall be responsible for the coordination and administration of the town functions and for recommendations to the Board with regard to the efficient administration of the affairs of the town. He shall be chosen by the Board of Trustees solely on the basis of his executive and administrative abilities. The choice need not be limited to the residents of the town or State. The Town Administrator shall devote his entire time and business to the administration of the town's affairs, and shall not perform any executive duty for any other person, firm, corporation, or institution other than the town. His salary shall be fixed by the Board of Trustees, in such amount as the Board may determine. He shall be appointed for an indefinite period, and may be removed by the Board at their discretion.~~

~~If removed at any time after six months of service, he may demand written charges and a public hearing on the same, before the Board and the same shall be given him prior to the date on which his final removal shall take effect. Pending such hearing, the Board may suspend him from office and during the suspension, or in case of his absence or disability for any cause, the Board shall designate some qualified person, other than a member of the Board, to perform the duties of the office.~~

~~(Code 1999, § 2.08.010; Ord. 221 § 1, 1976)~~

**2.08.020. Responsibilities and duties.**

~~The Town Administrator shall perform such duties and be responsible for such functions as may be prescribed by law or required of him by the Board of Trustees.~~

~~(Code 1999, § 2.08.020; Ord. 221 § 1, 1976)~~

**CHAPTER 2.12 BOARD OF HEALTH**

~~Repealed by Ordinance #520, 2003.~~

**CHAPTER 2.16 PLANNING COMMISSION<sup>42</sup>**

~~For statutory provisions on Municipal planning commissions, see C.R.S. 1973 § 31-23-201, et seq. (1975 Supp.)~~

**2.16.010. Creation.**

~~Upon the ordinance codified in this chapter becoming effective in accordance with law, there is created and designated the town planning commission (Commission) pursuant to the authority and empowerment granted by Colorado Revised Statutes 1973 Section 32-23-201, et seq.~~

~~(Code 1999, § 2.16.010; Ord. 186 § 1, 1972)~~

**2.16.020. Membership.**

~~The Commission shall be appointed by the Board of Trustees and consist of seven members of which:~~

- ~~— Five shall be regular members who are residents of Hayden, Colorado who shall hold no other municipal office of Hayden, Colorado, except that one such regular member may be a member of the zoning Board of Adjustment.~~
- ~~— Two alternates shall also be appointed and be residents of Hayden, Colorado who shall hold no other municipal office of Hayden, Colorado. The alternates will be allowed to sit with the planning commission and participate in the discussion at all times. If any regular member of the planning commission is absent from a meeting, an alternate shall be allowed to vote as a regular member. In this case Alternate 1, if he is present, shall vote as a regular member; if Alternate 1 is absent, then Alternate 2 may vote as a regular~~

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<sup>42</sup> We believe this chapter has been superseded by the new development code. If so, we recommend striking this chapter and allowing the new language to control. **Town agreed via email 10/28**

member, if present. In the case that there are two or more regular members absent or ineligible, then both alternates, if they are present, shall vote as regular members. If a regular member arrives after the meeting commences, he joins the discussion and vote starting with the next item on the agenda following his arrival. Any sitting alternate must give up their seat immediately following completion of the agenda item in the order of appointment (Alternate 2 first, Alternate 1 second) until five members are again seated.

(Code 1999, § 2.16.020; Ord. 609 § 1, 2008)

#### **2.16.030. Terms of office.**

— The terms of each member shall correspond to their respective appointed tenures.

— The term of each appointed member shall be three consecutive years, with terms expiring in the month of January or until the member is removed by the Board of Trustees or the member chooses to resign.

— Five of the member terms shall each begin in a different year than any other of the terms of these five member terms. The other two member terms shall begin on any year so determined by the Board of Trustees.

— Any replacement appointees, of terms not completed by earlier appointees, shall carry out the remaining portion of the term that they are selected to fill.

(Code 1999, § 2.16.030; Ord. 592 §1, 2007; Ord. 454, Amended, January 2, 1997; Ord. 446, Amended, 08/15/96; Ord. 317, 1983)

#### **2.16.040. Organization, powers and purposes.**

The authority and responsibility of the Commission are set forth in Colorado Revised Statutes 1973 Section 31-23-201 et seq.; which is incorporated herein by reference and made a part hereof as if set forth herein in full.

(Code 1999, § 2.16.040; Ord. 186 § 4, 1972)

### **CHAPTER 2.20 TERMS OF OFFICE<sup>43</sup>**

For statutory provisions on terms of office for the Mayor and Board of Trustees, see C.R.S. 1973 § 31-4-301 (1975 Supp.).

#### **2.20.010. Four-year terms for trustees.**

At the April 4, 1972 election, six trustees shall be elected. The three candidates for trustees receiving the highest number of votes shall be elected for four-year terms, and the three candidates for trustee receiving the next highest number of votes shall be elected for two-year terms. At the next subsequent regular election and at each regular election thereafter, three trustees shall be elected to serve four-year terms.

(Code 1999, § 2.20.010; Ord. 176 § 1, 1972)

#### **2.20.020. Two-year terms for mayor.**

At the April 4, 1972 election, and at the regular election every two years thereafter, a mayor shall be elected to serve a two-year term.

(Code 1999, § 2.20.020; Ord. 176 § 2, 1972)

#### **2.20.030. Vacancies.**

The Board of Trustees shall have power, by appointment, to fill all vacancies in the board or in any other elected office, and the person so appointed shall hold office until the next regular election and until his successor is elected and qualified. If the term of the person creating the vacancy was to extend beyond the next regular election, the person elected to fill the vacancy shall be elected for the unexpired term. Where a vacancy or vacancies exist in the office of trustee and a successor or successors are to be elected at the next election to fill the unexpired term or terms, the three candidates for trustee receiving the highest number of votes shall be elected to four-year terms and

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<sup>43</sup> This subject matter is covered in the charter. **Town agreed via email 10/28**

the candidate or candidates receiving the next highest number of votes, in descending order, shall be elected to fill the unexpired term or terms.

(Code 1999, § 2.20.030; Ord. 176 § 3, 1972)

## **CHAPTER 2.24 OLD AGE AND SURVIVORS' INSURANCE SYSTEM<sup>44</sup>**

For statutory provisions on public employees social security, see C.R.S. 1973 § 24-51-701 et seq.

### **2.24.010. Findings.**

It is the considered opinion of the Town Council that the extension of the social security system to employees and officers of the town will be of great benefit, not only to the employees of the town by providing that the employees and officers may participate in the provisions of the Old Age and Survivors' Insurance System, and will also be of great benefit to the town by enabling it to attract and retain in employment the best of personnel and thus increase the efficiency of its government.

(Code 1999, § 2.24.010; Ord. 102 (part), 1952)

### **2.24.020. Authority of town to execute agreement.**

The 38th General Assembly of the State of Colorado, in regular session, enacted a statute, known as House Bill No. 2912 (Colorado Revised Statutes 1973, Section 24-51-701 et seq.), which is the enabling Act provided for in Section 218 of Public Law 734, 81st Congress, which designated the Department of Employment Security, State of Colorado, to act as the department to implement the coverage of employees and officers under the Old Age and Survivors' Insurance System. The Town is authorized to execute and deliver to the Department of Employment Security, State of Colorado, a plan, or plans, and agreement, required under Section 5 of the enabling Act and the Social Security Act, to extend coverage to employees and officers of the town and do all other necessary things to effectuate coverage of employees and officers under the Old Age and Survivors' Insurance System.

(Code 1999, § 2.24.020; Ord. 102 (part), 1952)

### **2.24.030. Payroll deduction.**

The Clerk is authorized to establish a system of payroll deductions to be matched by payments by the town to be made into the Contribution Fund of the Social Security Act through the Department of Employment Security, and to make charges of this tax to the fund, or funds, from which wage or salary payments are issued to employees of the town. Such payments are to be made in accordance with the provisions of Section 1400 of the Federal Insurance Contribution Act on all services which constitute employment within the meaning of that Act. Payments made to the Department of Employment Security, State of Colorado, shall be due on or before the 18th day of the month immediately following the completed calendar quarter, and such payments which are delinquent shall bear interest at the rate of one half percent per month until such time as payments are made.

(Code 1999, § 2.24.030; Ord. 102 (part), 1952)

### **2.24.040. Appropriations.**

Appropriation is made from the proper fund, or funds, of the town in the necessary amount to pay into the contribution fund as provided in Section 3 (c) (1) of the enabling Act and in accordance with the plan or plans, and agreement. Authority is given to the Mayor and the clerk of the town to enter into agreement with the Department of Employment Security, State of Colorado, which agreement shall be in accordance with House Bill No. 2912 and with paragraph 218 of the Social Security Act. Such plan and agreement shall provide that participation of this Town shall be in effect as of January 1, 1952.

(Code 1999, § 2.24.040; Ord. 102 (part), 1952)

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<sup>44</sup> We recommend reviewing this chapter. Since it hasn't been amended since 1952, we suspect it is outdated language and might need to be deleted. **Town agreed via email 10/28**

## **CHAPTER 2.28 BOARD OF APPEALS<sup>45</sup>**

### **2.28.010. Members.**

The Board of Appeals for the town shall consist of five members appointed by the Board of Trustees.

(Code 1999, § 2.28.010; Ord. 236 § 1, 1978)

### **2.28.020. Chairperson.**

The chairman of the Board of Appeals shall be elected by a majority of the entire membership at the first meeting of each calendar year, to serve for a term of one calendar year. A vice chairman shall be elected in the same manner at the same time for a term of one calendar year.

(Code 1999, § 2.28.020; Ord. 236 § 2, 1978; Ord. 457, 1997)

### **2.28.030. Terms of office.**

The term of the members of the Board of Appeals shall be for two years, commencing on the first day of May during election years. Interim appointments shall expire on the last day in April during election years.

(Code 1999, § 2.28.030; Ord. 236 § 3, 1978)

### **2.28.040. Vacancies.**

A position may be declared vacant by a majority of the remaining members upon the resignation of any member, or when a member fails to attend two consecutive meetings of the board. The Town Board shall appoint new members for the unexpired term of office.

(Code 1999, § 2.28.040; Ord. 236 § 4, 1978)

### **2.28.050. Meetings.**

A meeting of the Board of Appeals may be requested by any member of the board, the town building inspector, or his designated representative. Such meetings shall be open to the public, but there shall be no specific requirement for notice of such meetings.

(Code 1999, § 2.28.050; Ord. 236 § 5, 1978)

### **2.28.060. Powers of the board.**

The Board of Appeals shall have all such powers of enforcement and interpretation as provided in the Uniform Building Code. The Board of Appeals shall have power to act on any other issues as delegated by the Board of Trustees, Town of Hayden.

(Code 1999, § 2.28.060; Ord. 236 § 6, 1978)

### **2.28.070. Bylaws.**

The Board of Appeals is hereby authorized to prepare a set of administrative bylaws that are in conformity with all local, state, and federal law. Bylaws and amendments thereto shall then be submitted to the Hayden Board of Trustees for their formal approval, adoption, and official use by the Board of Appeals.

(Code 1999, § 2.28.070; Ord. 457, 1997)

## **CHAPTER 2.32 EMPLOYEE GROUP HEALTH AND LIFE INSURANCE<sup>46</sup>**

### **2.32.010. Previous board actions approved.**

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<sup>45</sup> Is there currently a board of appeals as specified here? Or has it been superseded by the Board of Adjustment in the Development Code? **Town confirmed it has been superseded. OK to ST via email 10/28.**

<sup>46</sup> We recommend reviewing this chapter, as it has not been amended since 1979 and might be out of date and need to be deleted. **Town agreed via email 10/28**

~~All actions heretofore taken, not inconsistent with the provisions of this chapter, by the Board of Trustees of the town with respect to the establishment of a group life and health insurance program as authorized in this chapter, are ratified, confirmed and approved.~~

~~(Code 1999, § 2.32.010; Ord. 264 § 1, 1979)~~

#### **2.32.020. Employee defined.**

The term "employee" as used in this chapter means those persons employed by the town to whom the following are applicable:

- ~~— Such person is on the payroll of the town;~~
- ~~— Employment by the town is the main source of income for such person;~~
- ~~— Such person works for the town at least twenty hours per week.~~

~~(Ord. 264 § 2, 1979)~~

#### **2.32.030. Town authorized to contract with private corporation.**

~~The Town is authorized to enter into a contract for group life and health insurance for the benefit of the employees and any eligible dependent of any employee of the town with a private corporation.~~

~~(Code 1999, § 2.32.030; Ord. 264 § 3, 1979)~~

#### **2.32.040. Board to authorize execution and administration.**

~~The Board of Trustees may, by resolution, authorize the execution of a specific insurance plan or plans directed to it and direct the proper officers to administer the same on behalf of the town.~~

~~(Code 1999, § 2.32.040; Ord. 264 § 4, 1979)~~

#### **2.32.050. Employee consent required.**

~~The insurance plan shall require that each participating employee give his individual consent for such participation and enter into an agreement or contract with the private corporation underwriting the insurance plan specifically assenting to such participation.~~

~~(Code 1999, § 2.32.050; Ord. 264 § 5, 1979)~~

#### **2.32.060. Town contribution authorized.**

~~The Town is authorized to pay a share, as determined by the Board of Trustees, of the cost of the coverage of employees and eligible dependents of those employees under the group life and health insurance plan.~~

~~(Code 1999, § 2.32.060; Ord. 264 § 6, 1979)~~

#### **2.32.070. Employee contributions.**

~~The Town is authorized to deduct from the payroll of participating employees the amount necessary, when coupled with the town's contribution, to pay for that employee's and his eligible dependents' coverage under the group life and health insurance plan.~~

~~(Code 1999, § 2.32.070; Ord. 264 § 7, 1979)~~

### **CHAPTER 2.36 POLICE RETIREMENT AND PENSION PLAN<sup>47</sup>**

#### **2.36.010. Town authorization.**

The Town is authorized to establish and fund a policemen's pension plan pursuant to Section 31-30-301, C.R.S. 1973, as amended and the sections relating thereto

(Code 1999, § 2.36.010; Ord. 274 § 1, 1979)

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<sup>47</sup> C.R.S. 31-30-301 et seq. was repealed in 1996. **Town agreed via email 10/28**

**~~2.36.020. Board of trustees of policemen's pension plan.~~**

~~There is created a Board of Trustees to administer, pursuant to Section 31-30-303, C.R.S. 1973, as amended, the policemen's pension plan as established hereby.~~

~~(Code 1999, § 2.36.020; Ord. 274 § 2, 1979)~~

**~~2.36.030. Administration—funding—investment and disbursement.~~**

~~The Board of Trustees of the policemen's pension fund shall have full control of and administer same according to the rules it establishes pursuant to Section 31-30-305(3), C.R.S. 1973, as amended. The Town is authorized to contribute its share of the funding of the policemen's pension fund and to deduct from each participating policeman's payroll his contribution, all as determined by the State Auditor's Office. Such state moneys as to which the town is eligible and other private contributions for that purpose shall be credited to the policemen's pension fund. The Board of Trustees of the policemen's pension shall invest and disburse same in accordance with its rules and regulations and the state law pertaining thereto.~~

~~(Code 1999, § 2.36.030; Ord. 274 § 3, 1979)~~

PROOFS



Title 3  
**RESERVED**

PROOFS

Title 4  
ANIMALS\*

\*State law reference—For Statutory provisions authorizing municipalities to regulate and control animals and fowl, see C.R.S. § 31-15-401(1)(m)-(1975 Supp.); cruelty to animals a criminal offense, C.R.S. § 18-9-202; rabies control, C.R.S. § 25-4-601.

**CHAPTER 4.04. IN GENERAL (RESERVED)**

**CHAPTER 4.08. DEFINITION OF TERMS<sup>48</sup>**

**Sec. 4.08.010. ~~General 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:

~~The definitions and terms used in this title, unless the context otherwise indicates, are herewith defined as set forth in this chapter.~~

~~(Code 1999, § 6.04.010; Ord. 528 § 1 (part), 2003)~~

**6.04.080. ~~Animal.~~**

*Animal* means all reptiles and warm-blooded mammals, except *Homo sapiens*, both domesticated and undomesticated, male or female, spayed, neutered or unspayed or unneutered.

**6.04.120. ~~Animal bite.~~**

*Animal bite* means the opening or puncturing of the skin by the teeth or claws of an animal.

~~(Code 1999, § 6.04.120; Ord. 528 § 1 (part), 2003)~~

**6.04.030. ~~Animal control officer.~~**

*Animal control officer* means and includes all employees of the town police department.

~~(Code 1999, § 6.04.030; Ord. 528 § 1 (part), 2003)~~

*Cat* means any animal of the feline species.

*Dog* means any animal of the canine species.

**6.04.040. ~~Animal, female.~~**

*Female animal* means an animal of female gender whether or not surgery on the genital organs has been performed.

~~(Code 1999, § 6.04.040; Ord. 528 § 1 (part), 2003)~~

*Household pet* means and includes any breed of dog, cat, rabbit, guinea pig, gerbil, hamster, mice, rat, ferret, bird, poultry, fish, non-venomous reptiles, amphibians, invertebrates and any other animal commonly accepted as a pet, whether such animal is kept inside or outside, except livestock, as defined in this section, and except any animals prohibited by law or regulations as a household pet.

**6.04.140. ~~Kennel.~~**

*Kennel* means any commercial facility with indoor and/or outdoor facilities constructed for the purpose of boarding, breeding or training animals for profit by any person whether licensed or unlicensed.

**6.04.080. ~~License year.~~**

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<sup>48</sup> We recommend combining all these sections and having them appear in a new section named "definitions" similar to what appears in other titles. **Town accepted.**

*License year* is June 1 through May 31.

~~(Code 1999, § 6.04.080; Ord. 528 § 1 (part), 2003)~~

*Livestock* means and includes any farm animal not normally considered a household pet, including, but not limited to, any breed of horse, mule, burrow, goat, llama, cattle, swine (except Vietnamese potbellied pigs), sheep, bison, elk, and deer.

**~~6.04.060. Animal, male.~~**

*Male animal* means any animal of the masculine gendersex, either castrated or not castrated.

~~(Code 1999, § 6.04.060; Ord. 528 § 1 (part), 2003)~~

**~~6.04.070. Animal, male, neutered.~~**

*Neutered male animal* means any animal of the masculine gendersex which has been castrated.

~~(Code 1999, § 6.04.070; Ord. 528 § 1 (part), 2003)~~

**~~6.04.090. Owner.~~**

*Owner* means a person who owns, possesses, controls, maintains, keeps or harbors an animal or knowingly permits an animal to remain for a minimum of seven days on or about property or premises owned, controlled or occupied by such person.

~~(Code 1999, § 6.04.090; Ord. 528 § 1 (part), 2003)~~

*Poultry* means and includes any breed of chicken, turkey, duck, goose, peafowl or other feathered animal.

**~~6.04.110. Vaccination, rabies.~~**

*Rabies vaccination* means the inoculation by a licensed veterinarian of a dog, cat or other animal with a rabies vaccine approved by the state department of public health and environment.

~~(Code 1999, § 6.04.110; Ord. 528 § 1 (part), 2003)~~

**~~6.04.050. Animal, female, spayed.~~**

*Spayed female animal* means any female animal on which an ovariectomy or hysterectomy has been performed by a licensed veterinarian and for which a certificate asserting the operation has been performed has been issued.

~~(Code 1999, § 6.04.050; Ord. 528 § 1 (part), 2003)~~

**~~6.04.100. Stray.~~**

*Stray* means an animal which does not have or appear to have a license or rabies tag and does not appear to have an owner or whose owner is unknown.

~~(Code 1999, § 6.04.100; Ord. 528 § 1 (part), 2003)~~

**~~6.04.130. Vicious animal.~~**

*Vicious animal* means any animal that:

- (1) Inflicts unprovoked bites or scratches or other injuries on human beings or other animals;
- (2) Attacks human beings or other animals either on public or private property;
- (3) Approaches any person in a vicious or terrorizing manner or in an apparent attitude of attack upon the streets, sidewalks, or any public or private grounds or places or in any store, shopping center or other facility frequented by the public; or
- (4) Menaces or terrorizes or acts in a menacing or terrorizing manner from any vehicle, parked either upon public or private property, to those persons passing by the vehicle.

*Vietnamese potbellied pig* shall mean the dwarf swine breed developed from the "I" breed of Vietnam pig as a household pet.

~~(Code 1999, § 6.04.020; Ord. 528 § 1 (part), 2003)~~

(Code 1999, §§ 6.04.010--6.04.140; Ord. No. 528, § 1 (part), 2003)

~~(Code 1999, § 6.04.130; Ord. 528 § 1 (part), 2003)~~

## CHAPTER 4.12. GENERAL REGULATIONS

### Sec. 4.12.010. Animal disturbing the peace unlawful.

It is unlawful for any owner, possessor or keeper of any animal to permit such animal to disturb any person or neighborhood by loud and persistent or habitual barking, howling, yelping, squealing, snorting, grunting, squawking, screeching, caterwauling, wailing, crowing or other loud noise. Such animal may be impounded, at the owner, keeper or possessor's cost, or the owner or keeper of the animal may be fined as provided in chapter 4.16 of this title.

(Code 1999, § 6.20.010; Ord. No. 528, § 1 (part), 2003)

### Sec. 4.12.020. Interference with officials unlawful.

It is unlawful for any person to interfere with, molest, hinder or obstruct an animal control officer in the discharge of his official duties under this title.

(Code 1999, § 6.20.020; Ord. No. 528, § 1 (part), 2003)

### Sec. 4.12.030. Dogs disturbing garbage or trash; unlawful; nuisance.

It is unlawful for any owner, keeper or possessor of an animal to allow the animal to disturb or molest any trash or garbage. Such violation shall subject the owner, keeper or possessor of the animal to such additional costs as may be incurred by the disturbance or molestation of such trash or garbage.

(Code 1999, § 6.20.030; Ord. No. 528, § 1 (part), 2003)

### Sec. 4.12.040. Immediate destruction of vicious or other animal.

Nothing in this title shall be construed to prevent the immediate destruction of any vicious dog or other animal by the animal control officer or any other law enforcement personnel when deemed necessary in the interest of public safety.

(Code 1999, § 6.20.040; Ord. No. 528, § 1 (part), 2003)

### Sec. 4.12.050. Animal defecation unlawful.

(a) The owner, possessor or keeper of any animal shall be responsible for the immediate removal and lawful disposal of fecal matter deposited on any public property or private property of another, or in any waterway.

(b) Any owner, possessor or keeper of any animal shall be responsible for the removal and lawful disposal of fecal matter on the owner, possessor or keeper's private property in a timely manner so as not to cause an odor or health violation.

(Code 1999, § 6.20.050; Ord. No. 528, § 1 (part), 2003)

## CHAPTER 4.16. PENALTY<sup>49</sup>

### Sec. 4.16.010. ~~General~~ Penalty.

Any person convicted of violating any provisions of this title shall, upon conviction, be punished according to section 1.04.010 by a fine of not more than three hundred dollars or by imprisonment for not more than ninety days, or by both such fine and imprisonment, with the exception of a violation of Section 6.16.010, which shall be governed by Section 6.32.020.

(Code 1999, § 6.32.010; Ord. No. 528, § 1 (part), 2003)

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<sup>49</sup> We recommend moving all of these sections to appear within a new "In General" chapter to appear at the beginning of this title for purposes of organizational consistency. **Town approved.**

**~~6.32.020. Penalty assessment for an animal running at large.~~<sup>50</sup>**

~~The penalty assessment for animals running at large shall be:~~

~~\_\_\_ First Offense: \$25~~

~~\_\_\_ Second Offense: \$50~~

~~\_\_\_ Third and Subsequent Offenses: \$75~~

~~(Code 1999, § 6.32.020; Ord. No. 528, § 1 (part), 2003)~~

**~~6.32.030. Penalty assessment for an animal violating certain chapters.~~<sup>51</sup>**

~~The penalty assessment for violations of Sections 6.16.050, 6.20.010, 6.20.030 and 6.20.050 shall be the following:~~

~~\_\_\_ First Offense: \$50~~

~~\_\_\_ Second Offense: \$75~~

~~\_\_\_ Third and Subsequent Offenses: \$100~~

~~(Code 1999, § 6.32.030; Ord. 528 § 1 (part), 2003)~~

**~~6.32.040. Penalty assessment for an animal without a tag.~~**

~~The penalty assessment for an animal within the town limits without a current animal license shall be ten dollars for each offense.~~

~~(Code 1999, § 6.32.040; Ord. 528 § 1 (part), 2003)~~

**CHAPTER 4.20. VACCINATION<sup>52</sup>****Sec. 4.20.010. Required.**

Every person in possession of or having custody of a dog, cat or rabies-susceptible animal shall have such dog, cat or rabies-susceptible animal vaccinated for rabies and shall possess a certificate of such vaccination.

(Code 1999, § 6.08.010; Ord. No. 528, § 1 (part), 2003)

**Sec. 4.20.020. Certificate, contents.**

Upon vaccination, the veterinarian administering the vaccine shall execute and furnish to the owner of a dog, cat or rabies-susceptible animal as evidence thereof, a certificate upon a form furnished by the town.<sup>53</sup> Such owner shall retain a duplicate copy, and one copy thereof shall be filed with the town clerk. Such certificate shall contain the following information:

- (1) Name, address and telephone number of the owner or harbinger of the inoculated animal;
- (2) Date of inoculation;
- (3) Type of vaccine used;
- (4) Year and series number of the rabies tag; and

<sup>50</sup> We recommend confirming that these penalty amounts are up to date. **Elected to ST during conference call 7/13/2021.**

<sup>51</sup> We recommend confirming that these penalty amounts are up to date. **Elected to ST during conference call on 7/13/2021.**

<sup>52</sup> Is this chapter still applicable to the town? Has the board of health or county board of health ordered vaccinations per C.R.S. 25-4-607? If so, this chapter should be stricken. **Town still follows. Keep as is.**

<sup>53</sup> Does the town still furnish the rabies certificate?

(5) Breed, age, color and sex of the inoculated animal.

(Code 1999, § 6.08.020; Ord. No. 528, § 1 (part), 2003)

**Sec. 4.20.030. Authority.**

All veterinarians who are duly registered and licensed as such by the state are authorized to vaccinate a dog, cat or rabies-susceptible animal against rabies and to execute certificates of vaccination.

(Code 1999, § 6.08.030; Ord. No. 528, § 1 (part), 2003)

**Sec. 4.20.040. Animal bite; duty to report.<sup>54</sup>**

Any person ~~required to report under C.R.S. § 12-240-139 having knowledge of an animal biting another animal or human being~~ shall immediately report the incident to the town police department ~~to the town clerk~~, or to the public health veterinary section of the state department of public health.

(Code 1999, § 6.08.040; Ord. No. 528, § 1 (part), 2003)

**Sec. 4.20.050. Removal; animals quarantined.**

A dog, cat or rabies-susceptible animal impounded because of biting another animal or human being shall not be removed from the pound or veterinary hospital until after a ten-day observation period and a county public health department<sup>55</sup> ~~of Health~~ release is secured.

(Code 1999, § 6.08.060; Ord. No. 528, § 1 (part), 2003)

**Sec. 4.20.060. Quarantine; removal.**

It is unlawful for any person to remove from any place of isolation or quarantine any dog, cat or rabies-susceptible animal which has been isolated or quarantined without consent of the impounding agency.

(Code 1999, § 6.08.070; Ord. No. 528, § 1 (part), 2003)

## CHAPTER 4.24. LICENSES

**Sec. 4.24.010. Required fee.<sup>56</sup>**

Any person having custody of any dog or potbellied pig three months of age or older for a minimum of 30 days shall procure a license. License fees shall be paid annually to the town. License fees shall be in an amount to be determined by the Town Council from time to time ~~five dollars for all dogs and potbellied pigs except that the fee for unneutered male dogs shall be ten dollars and the fee for unspayed female dogs shall be ten dollars~~. All licenses issued under this chapter shall expire on May 31 of each year, and the full amount shall be paid for any fraction of the licensing year. Upon collection of the license fee by the town a dated receipt shall be issued stating the name and address of the owner, tag number and description, together with a town license tag stamped with a serial number, year and county and state of issuance. Such license shall not be issued for any dog without proof of vaccination of that animal.

(Code 1999, § 6.12.010; Ord. No. 528, § 1 (part), 2003)

**Sec. 4.24.020. Tag; exhibition of receipt and certificate.**

(a) Every owner of a dog shall attach the tag evidencing the licensing and inoculation with anti-rabies vaccine to the collar or harness of the inoculated and licensed dog. Such collar or harness shall be worn by the dog at all times. The original license receipt and rabies vaccination certificate shall be retained by the owner or harbinger of the animal. It is unlawful for any person who owns or harbors any dog to fail or refuse to exhibit his copy of the license receipt and certificate of vaccination upon demand to any person charged with the enforcement of this

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<sup>54</sup> Does the town enforce this duty to report? **Wants to change to mimic state law. 7/13/21**

<sup>55</sup> Please confirm that this is the correct department name.

<sup>56</sup> We recommend not including specific fee amounts in the published code. We recommend adding them to the town fee schedule. **Town accepted.**

~~chapter. Owners of dogs issued red tags for being vicious animals shall continue to be required to purchase and display the red license tags for the remaining life of these animals.~~

(b) Every owner of a potbellied pig shall attach the tag evidencing the licensing by the town to the harness of the licensed potbellied pig. Such license shall be clearly visible, and no owner, possessor or keeper of a potbellied pig shall refuse to exhibit his copy of the license receipt upon demand to any person charged with the enforcement of this chapter.

(Code 1999, § 6.12.020; Ord. No. 528, § 1 (part), 2003)

#### **Sec. 4.24.030. Exhibition of certificate for rabies-susceptible animals.**

Every owner or harbinger of any cat or rabies-susceptible animal shall have it vaccinated against rabies and retain the rabies vaccination certificate. It is unlawful for any person who owns or harbors a cat or rabies-susceptible animal to fail or refuse to exhibit his copy of the certificate of vaccination upon demand of any person charged with the enforcement of this title.

(Code 1999, § 6.12.030; Ord. No. 528, § 1 (part), 2003)

#### **Sec. 4.24.040. Tag; duplicate.**

In the event of loss or destruction of the original tag provided in section 4.24.020, the owner of the dog shall obtain a duplicate tag from the town clerk and the price of such duplicate tag shall be the actual cost of the tag.

(Code 1999, § 6.12.040; Ord. No. 528, § 1 (part), 2003)

### **CHAPTER 4.28. PROHIBITED ANIMALS**

#### **Sec. 4.28.010. Vicious animals prohibited.<sup>57</sup>**

(a) It is unlawful for any person to own, keep, harbor or possess any vicious animal anywhere in the town; provided, however, that an animal shall not be deemed a vicious animal by reason of having bitten or attacked the following:

- (1) Any person engaged in the unlawful entry into or upon the animal owner's property where such animal is kept;
- (2) Any person engaged in the unlawful entry in or upon the animal owner's automobile or other vehicle wherein such animal is confined, or which is parked in or upon the owner's property;
- (3) Any person engaged in attempting to stop an altercation between such animal and another animal.

(b) For the purpose of this chapter, a person is lawfully upon the private property of such owner when he is on the property in the performance of any duty imposed upon him by the laws of the state or town, or the laws or postal regulations of the United States, or when he is on such property upon the invitation, expressed or implied, of the owner thereof.

(Code 1999, § 6.13.010; Ord. No. 528, § 1 (part), 2003)

#### **Sec. 4.28.020. Keeping of livestock prohibited.**

It shall be unlawful for any person to own, keep, harbor or possess any livestock, as defined in this title, within the limits of the town, except where such use is permitted by the Development Code ~~applicable zoning ordinances~~ or as provided in this chapter.

(Code 1999, § 6.13.020; Ord. No. 528, § 1 (part), 2003)

#### **Sec. 4.28.030. Investigation of complaints; procedure.**

- (a) It shall be the duty of the animal control officer to investigate all complaints concerning vicious or

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<sup>57</sup> Section 6.12.020 allows vicious animals as long as the owner purchases a red tag. This provision reads that no vicious animals are allowed. **Town elected to strike tag requirement as does not reflect current practice.**

dangerous animals.

(b) If the animal control officer deems an animal to be vicious, it shall be his duty to issue a written warning to the owner of the animal stating such viciousness, if the owner is known, and/or he shall issue a summons against the owner to appear in municipal court to answer charges that such owner harbors or possesses a vicious dog.

(c) If the municipal court finds that the evidence presented substantiates such charge, the court shall order one of the following:

- (1) Confinement of the animal by the owner in such a manner ordered by the court;
- (2) Banning of the animal from within the limits of the town; or
- (3) Destruction of the animal.

(d) If the court has ordered destruction of the animal, the owner, in order to avoid the destruction order, may present evidence to the court that arrangement has been made to confine the animal outside of the town limits. If such evidence is satisfactory to the court, the court may order confinement of the animal in accordance with such evidence from the owner.

(e) If the animal is found within the town limits after it has been banned from the town, it shall be taken and impounded, and a summons issued to the owner.

(Code 1999, § 6.13.030; Ord. No. 528, § 1 (part), 2003)

## **CHAPTER 4.32. POTBELLIED PIGS**

### **Sec. 4.32.010. Requirements.**

Any person who owns, keeps, harbors or possess a potbellied pig in the town shall comply with the requirements set forth below:

- (1) No more than two potbellied pigs shall be kept on any property within the town.
- (2) Male potbellied pigs shall be castrated prior to the age of four months.
- (3) Female potbellied pigs shall be spayed prior to the age of four months.
- (4) All potbellied pigs shall be licensed with the town as provided in chapter 4.24 of this title.
- (5) All potbellied pigs must wear a harness except when inside the owner, possessor or keeper's dwelling.
- (6) No potbellied pig shall exceed the weight of 200 pounds.

(Code 1999, § 6.14.010; Ord. No. 528, § 1 (part), 2003)

## **CHAPTER 4.36. ANIMALS RUNNING AT LARGE**

### **Sec. 4.36.010. Prohibitions.**

It is unlawful for any owner, possessor or keeper of an animal in the town to permit the same to run at large within the town. An animal is deemed running at large when off or away from the premises of the owner, possessor or keeper thereof and not under the control of such owner, possessor or keeper and when such animal is more than ten feet away from such owner, possessor or keeper.

(Code 1999, § 6.16.010; Ord. No. 528, § 1 (part), 2003)

### **Sec. 4.36.020. Exception.**

An animal within the automobile or other vehicle of its owner, possessor or keeper or his agent or servant or a member of his immediate family is deemed to be upon the owner's, possessor's or keeper's premises.

(Code 1999, § 6.16.020; Ord. No. 528, § 1 (part), 2003)

### **Sec. 4.36.030. Violation; penalty.**

If any such animal is found running at large or off the premises of the owner or keeper in violation of this chapter, it may be taken and impounded and/or the owner or possessor of the animal may be fined as provided in



chapter 4.16 of this title.

(Code 1999, § 6.16.030; Ord. No. 528, § 1 (part), 2003)

**Sec. 4.36.040. Females in estrus; confinement.**

It is unlawful for the owner, possessor or keeper of any female animal to permit the same to run at large while the animal is in estrus (heat or season), or to permit the same to attract other animals to the premises of such owner, possessor or keeper. If, after notice by an animal control officer, the owner, possessor or keeper of the female animal in heat does not properly confine the female animal, the animal control officer may take and impound the female animal at the cost of the owner, and the female animal shall not be released from impoundment unless the owner, possessor or keeper establishes that he has proper facilities for caring for and confining the female animal. The owner or keeper of the animal may also be fined as provided in chapter 4.16 of this title. Neither the town nor any representative thereof shall be held responsible for any pregnancy occurring due to such impoundment.

(Code 1999, § 6.16.050; Ord. No. 528, § 1 (part), 2003)

## **CHAPTER 4.40. IMPOUNDMENT**

**Sec. 4.40.010. Animal shelter.**

An animal shelter shall be designated by the ~~Board of Trustees~~ Town Council and may include such temporary facilities as are feasible in the town or such other facilities outside of the town as may be selected by the animal control officer.

(Code 1999, § 6.24.010; Ord. No. 528, § 1 (part), 2003)

**Sec. 4.40.020. Notice of impoundment.<sup>58</sup>**

Immediately upon impounding any animal, the animal control officer shall make a reasonable effort to notify the animal's owner when possible ~~and a notice of impoundment and description of the animal shall be posted at the town Hall.~~

(Code 1999, § 6.24.020; Ord. No. 528, § 1 (part), 2003)

**Sec. 4.40.030. Release of impounded animals.**

Any animal impounded for a violation of any section of this title shall be released to their owner upon the payment of the cost of such penalty as is specified in chapter 4.16 of this title ~~impoundment costs and the daily care and feeding charge.~~ Any owner subsequently found innocent of any violation of this title shall not be required to pay any penalty, impoundment or daily care and feeding charge. No dog without a current town license and current rabies inoculation tag shall be released to its owner until the owner has purchased the license and made arrangements to have the dog inoculated against rabies.

(Code 1999, § 6.24.030; Ord. No. 528, § 1 (part), 2003)

**Sec. 4.40.040. Disposal of unclaimed animals.**

If an animal has not been redeemed from impoundment within three days, it shall be deemed abandoned and the animal control officer or such other person who has custody of the animal may humanely euthanize the animal.

(Code 1999, § 6.24.050; Ord. No. 528, § 1 (part), 2003)

**Sec. 4.40.050. Alternative to impoundment; notice of chapter violation.**

In addition to or in lieu of impounding an animal, the animal control officer may issue to the known owner, possessor or keeper of such animal a notice of violation or may attach such notice on the collar of the animal. Such notice shall impose upon the owner a penalty as specified in chapter 4.16 of this title.

(Code 1999, § 6.24.060; Ord. No. 528, § 1 (part), 2003)

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<sup>58</sup> Does the town still post notice of impoundment at town hall? **Town elected to strike outdated language.**

**Sec. 4.40.060. Immunity.**<sup>59</sup>

Neither the town, nor any representative thereof, nor the impoundment facility, nor any representative thereof, shall be held responsible for any injury or illness occurring during the apprehension or subsequent impoundment of any animal.

(Code 1999, § 6.24.070; Ord. No. 528, § 1 (part), 2003)

**CHAPTER 4.44. CRUELTY TO ANIMALS****Sec. 4.44.010. Poisoning of animals prohibited.**<sup>60</sup>

It is unlawful for any person to poison any animal or to distribute poison in any manner whatsoever with intent or for the purpose of poisoning any animal within the town limits, except rodents.

(Code 1999, § 6.28.010; Ord. No. 528, § 1 (part), 2003)

**Sec. 4.44.020. Cruelty to animals; abandonment of animals.**

No owner shall fail to provide his animal with sufficient, good and wholesome food, water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment. No person will beat, cruelly treat, torment, overload, overwork or otherwise abuse any animal, or cause or permit any dogfight, cockfight, bullfight or other conflict between animals and humans. No owner of any animal shall abandon any animal.

(Code 1999, § 6.28.020; Ord. No. 528, § 1 (part), 2003)

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<sup>59</sup> Was the intent to grant absolute immunity here? **Town elected to leave as is.**

<sup>60</sup> Does the town use this provision? Usually C.R.S. 18-9-202 would control in a poisoning case.

Title 5  
**RESERVED**

PROOFS

## Title 6

**BUILDINGS AND CONSTRUCTION****CHAPTER 6.04. IN GENERAL ~~FEE SCHEDULE~~****Sec. 6.04.010. Adoption of fee schedule.**<sup>61</sup>

(a) The fee schedule adopted by the town shall be kept on file with the clerk.

(b) Building permit fees; electrical permit fees; plumbing permit fees; mechanical permit fees; pool, spa and hot tub permit fees; grading plan review fees; grading permit fees; other fees; factory-built home, manufactured home, and mobile home permit fees; elevator permit fees; and fire suppression and detection permit fees are hereby repealed and a new ~~Table 3 A~~—fee schedule is adopted ~~as follows~~, and kept on file with the town clerk.

**CHAPTER 6.08. ADDRESSING PROPERTIES**<sup>62</sup>**Sec. 6.08.010. 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:

*Address* means that series of numbers, as defined below, used to identify the location of a building on the streets of the town, as such address and building are shown on the records of the town clerk.

*Building* means the principal residence, business or industrial structure on any lot within the town having a water or sewer tap.

*Numbers* (numerals) shall be defined as Arabic numerals (e.g., 1, 2, 3), which shall be not less than 2 1/4 inches high, and of a contrasting color to the background to which they are attached.

*Owner* means the owner of the lot and its agent, tenant, manager, lessee or the person having control of the lot or building.

(Code 1999, § 8.04.010; Ord. No. 665, § 2, 5-7-2015)

**Sec. 6.08.020. Assignment of addresses.**

All addresses shall be assigned by the town clerk and shall be reflected on records maintained by the town clerk.

(Code 1999, § 8.04.020; Ord. No. 665, § 2, 5-7-2015)

**Sec. 6.08.030. Requirements.**

(a) Each owner of a lot in the town shall cause to be displayed an address indicating the address of the building in a manner so that the numerals are visible from the adjacent street.

(b) If there is more than one building located on a lot, the town clerk shall assign an address together with a letter of the English alphabet to indicate the separate building, and the owner shall attach such addresses.

(c) Any buildings located in areas of the town having rural mail delivery shall display its address on the mail receptacle.

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<sup>61</sup> We recommend not including fees in your printed code, and instead keeping them on file with the clerk. We can insert generic language telling constituents where to find the fee schedule. **Town accepted.**

<sup>62</sup> We recommend that this chapter be moved to appear within the Buildings and Construction chapter for purposes of subject matter consistency. **Town accepted.**

(Code 1999, § 8.04.030; Ord. No. 665, § 2, 5-7-2015)

**Sec. 6.08.040. Posting unauthorized numbers.**

No address or street number shall be placed upon any house or building within the town unless such number has been furnished by the town clerk.

(Code 1999, § 8.04.040; Ord. No. 665, § 2, 5-7-2015)

**Sec. 6.08.050. Removing or damaging addresses.**

It is unlawful for any person to tear down, take off or in any way mutilate or injure any address, or part thereof, placed upon any building within the town in accordance with the provisions of this chapter.

(Code 1999, § 8.04.050; Ord. No. 665, § 2, 5-7-2015)

**Sec. 6.08.060. Violation, penalty.**

Any person, firm or corporation that violates any of the provisions of this section shall be punished in accordance with section 1.12.010. Each day's violation thereof shall constitute a separate offense.

(Code 1999, § 8.04.060; Ord. No. 665, § 2, 5-7-2015)

**CHAPTER 6.12. UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS**

**Sec. 6.12.010. Adoption.**

There is hereby adopted by the town, for the purpose of providing a just, equitable and practicable method, to be cumulative with and in addition to any other remedy available by law whereby buildings or structures in the town which from any cause endanger the life, limb, health, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished, that certain code known as the Uniform Code for the Abatement of Dangerous Buildings, 1997 edition, published by the International Conference of Building Officials. The code, and the whole thereof, is adopted by reference thereto the same as if set forth in length in this section.

(Code 1999, § 15.30.010; Ord. No. 660, § 1, 2014; Ord. No. 690, § 1, 2018; Ord. No. 693, § 1, 2019)

**CHAPTER 6.16. INTERNATIONAL BUILDING CODE**

**Sec. 6.16.010. Adoption.**

There is hereby adopted by the ~~county (or "County")~~ town, for the purpose of providing minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures within the county, that certain code known as the International Building Code, 2018 edition, including appendix chapters C and J, published by the International Code Council, Inc. The code, and the whole thereof, but with the amendments and deletions set forth below, is adopted by reference thereto the same as if set forth in length in this section.

(Code 1999, § 15.04.010; Ord. No. 582, § 1(part), 2007; Ord. No. 597, § 1, 2008; Ord. No. 639, § 1, 2011; Ord. No. 660, § 1, 2014; Ord. No. 690, § 1, 2018; Ord. No. 693, § 1, 2019; Ord. No. 697, § 1(A), 10-15-2020)

**Sec. 6.16.020. Amendments and deletions.**

The International Building Code, 2018 edition, is subject to the following amendments and deletions:

Section 101.1, Title. These regulations shall be known as the Building Code of Routt County, Colorado, hereinafter referred to as "this code."

Section 103.1, Creation of enforcement agency, is amended to read as follows: The building department is hereby created and the official in charge shall be known as the building official.

Section 105.2, Work exempt from permit, item 2, is amended to read as follows:

2. Fences not over 6 feet (2,134 mm).

Section 105.5, Expiration, is amended to read as follows:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced.

All building permits shall automatically expire three years from the date of issuance, and no further work on the project for which the permit was issued shall be done unless a renewal permit is requested in writing and approved prior to the expiration date of the original permit.

Renewal permit request shall be requested in writing and justifiable cause demonstrated. Upon review of the request, and after an on-site inspection is completed, the county regional building department may authorize or deny the renewal permit request.

Renewal permits shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Renewal permits shall automatically expire one year from the date of issuance and no further work on the project for which the permit was issued shall be done. Time extensions for a renewal permit shall be requested in writing and justifiable cause demonstrated, the county regional building department may authorize or deny the time extension request.

If approved a renewal permit for the originally permitted work shall be issued upon payment based upon the valuation of the remaining work, current codes and current fee schedules. A renewal permit may be obtained only if no changes have been made to the construction documents submitted with the original permit application.

Section 107, Submittal documents, [A] 107.1 general, is amended to read as follows:

Submittal documents; consisting of construction documents, statement of special inspections, geotechnical report and other data shall be submitted electronically with each permit application. The construction documents; shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

Section 109.3.1, Construction use tax valuation. Construction use tax may be collected by the building department at the time of building permit application submittal. A construction use tax valuation shall be provided by the permit applicant in accordance with the relevant jurisdiction's resolution or ordinance defining construction use tax valuation. The relevant jurisdiction may review the valuation and if it is determined that the valuation is underestimated on the application, the permit shall be denied unless the applicant can show detailed estimates to meet the approval of the relevant jurisdiction. Final construction use tax valuation shall be determined by the relevant jurisdiction.

Section 901.1, Scope, is amended to add a second paragraph as follows: The fire code official shall have the authority to adopt additional standards for fire protection systems subject to applicable provisions of state statutes and home rule charter. The fire code official shall be responsible for permitting and reviewing fire sprinkler systems and fire alarm systems, in lieu of no fire code official then applicants must work directly with the state department of fire prevention.

Section 903.2.8, Group R, is amended to add the following exception:

Exception: An automatic sprinkler system is not required in multi-use buildings, two stories or less with no more than two dwelling units, and an automatic and manual fire alarm system is installed in accordance with NFPA 72. Sprinkler systems required by other sections and other codes must still be provided.

Section 907.2.1, Group A, exception, is hereby deleted.

Section 907.2.2, Group B, exception, is hereby deleted.

Section 907.2.4, Group F, exception, is hereby deleted.

Section 907.2.7, Group M, exception 2, is hereby deleted.

Section 907.2.8.1, Manual fire alarm system, exception 2, is hereby deleted.

Section 907.2.9.1, Group R-2, exception 2, is hereby deleted.

Section 1011.2, Width and capacity, is amended to read as follows: The required capacity of stairways shall be determined as specified in section 1005.1, but the minimum width shall be not less than 48 inches (1,219 mm). See section 1009.3 for accessible means of egress stairways.

Section 1011.2, Width and capacity, exception 1, is amended to read as follows:

1. Stairways serving one individual dwelling unit in Group R, division 1 or 2, or serving Group U occupancies, may be 36 inches (914 mm) in width.

Section 1206.2, Airborne sound, the first sentence of this section is amended to read as follows: Walls, partitions and floor/ceiling assemblies separating dwelling units from each other or from public or service areas shall have a sound transmission class (STC) of not less than 49 (45 if field tested) for airborne noise when tested in accordance with ASTM E 90.

Section 3202, Encroachments above grade and below eight feet in height, is amended to read as follows: Encroachments into the public right-of-way above grade and below eight feet (2,438 mm) in height shall be prohibited except as provided for in section 3202.2.3. Doors and windows shall not open or project into the public right-of-way.

Section 3202.2.1, Steps, is hereby deleted.

Section 3202.2.2, Architectural features, is amended to read as follows: Columns, pilasters, moldings, bases, belt courses, lintels, sills, architraves, pediments and similar architectural features shall not project more than four inches (102 mm).

Section 3202.3.1, Awnings, canopies, marquees and signs, is amended to read as follows: Awnings, canopies, marquees and signs shall be supported entirely by the building and constructed of noncombustible materials or, when supported by a building of Type V construction, may be of one-hour fire-resistive construction. Awnings, canopies, marquees and signs shall not extend more than four feet (1,220 mm) from the building.

Section 3202.3.3, Encroachments 15 feet or more above grade, is hereby deleted.

Appendix Section J102, Definitions. Well is added to read as follows: Well. A water well.

Appendix J Section J103.1, Permits required, is amended to read as follows:

J103.1 Permits required. Except as exempted in section J103.2, no grading shall be performed without first having obtained a permit therefor from the building official or building official's designee. A grading permit does not include the construction of retaining walls or other structures.

Appendix J Section J103.2, Exemptions, is amended to read as follows:

J103.2 Exemptions. A grading permit shall not be required for the following activities unless the activity occurs within the waterbody setback as defined in the county zoning resolution. Except as noted below in paragraph 10, if the activity occurs within the waterbody setback, then the exemption does not apply, and a grading permit shall be required.

1. Excavation for construction of a structure permitted under this code.
2. Cemetery graves.
3. Refuse disposal sites controlled by other regulations.
4. Excavations for wells, or trenches for utilities.

5. Mining, quarrying, excavating, processing or stockpiling rock, sand, gravel, aggregate or clay controlled by other regulations, provided such operations do not affect the lateral support of, or significantly increase stresses in, soil on adjoining properties.

6. Exploratory excavations performed under the direction of a registered design professional.

7. Any excavation of less than 300 cubic yards of material.

8. Any fill of less than 300 cubic yards of material.

9. Any soil disturbance of less than one acre.

10. Excavations solely for agricultural purposes of no greater than 50 cubic yards if the activity is occurring within the waterbody setback or 500 cubic yards if the activity is occurring outside the waterbody setback. This exemption includes clearing or grading of land for the purpose of and reasonably necessary for preparing the soil for crop production, weed control, maintenance and construction of agriculture-related water structures, other agricultural cultivation purposes, and the construction of fences and other agriculture-related structures that are exempt from the requirement of obtaining a building permit.

Appendix section J103.3, Grading fees, is added to read as follows: When plans or other data are required to be submitted, a plan review fee shall be paid at the time of submitting plans and specifications for review. A grading permit fee shall be paid at permit issuance. Said plan review and grading permit fees shall be as set forth in the adopted fee schedule.

(Code 1999, § 15.04.020; Ord. No. 582, § 1(part), 2007; Ord. No. 597, § 1, 2008; Ord. No. 639, § 1, 2011; Ord. No. 660 § 1, 2014; Ord. No. 664, § 1, 2-19-2015; Ord. No. 690 § 1, 2018; Ord. No. 693 § 1, 2019; Ord. No. 697, § 1(A), 10-15-2020)

## **CHAPTER 6.20. NATIONAL ELECTRICAL CODE**

### **Sec. 6.20.010. Administrative provisions, adoption.**

There is hereby adopted by the ~~county~~town, for the purpose of regulating the installation and use of electric conductors and equipment within the county, that certain code known as the National Electric Code published by the National Fire Protection Association, as adopted and amended by the state. The state adopts and amends the code from time to time. The then-current edition that the state adopts, as well as any and all amendments, is adopted by reference thereto the same as if set forth in ~~length~~ in this section.

(Code 1999, § 15.40.010; Ord. No. 582, § 1(part), 2007; Ord. No. 597, § 1, 2008; Ord. No. 639, § 1, 2011; Ord. No. 660 § 1, 2014; Ord. No. 690 § 1, 2018; Ord. No. 693 § 1, 2019; Ord. No. 697, § 1(F), 10-15-2020)

### **Sec. 6.20.020. Administrative provision, amendments.**

Section 301.1, Creation of enforcement agency, is amended to read as follows:

The building department is hereby created and the official in charge shall be known as the building official. The building official shall appoint an electrical inspector to assist the building department in the administration and enforcement of this code. The term "building official" shall be synonymous with the term "code official" in all other references in this code.

Section 1201.1.1, Adoption, is amended to read as follows:

Electrical systems and equipment shall be designed and constructed in accordance with the most current electrical code adopted by the state electrical board.

(Ord. No. 697, § 1(F), 10-15-2020)

## **CHAPTER 6.24. INTERNATIONAL CODE COUNCIL ELECTRICAL CODE**

### **Sec. 6.24.010. Administrative provisions, adoption.**

There is hereby adopted by the town, for the purpose of providing minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation, and maintenance or use of electrical systems and equipment within the town, that



certain code known as the International Code Council Electrical Code, Administrative Provisions, 2006 edition, published by the International Code Council, Inc. The code, and the whole thereof, but with the amendments and deletions set forth below, is adopted by reference thereto the same as if set forth in length in this section.

(Code 1999, § 15.50.010; Ord. No. 582, § 1(part), 2007; Ord. No. 597, § 1, 2008; Ord. No. 639, § 1, 2011; Ord. No. 693 § 1, 2019)

**Sec. 6.24.020. Administrative provisions, amendments.**

Section 301.1 Creation of enforcement agency, is amended to read as follows:

The building department is hereby created and the official in charge shall be known as the building official. The building official shall appoint an electrical inspector to assist the building department in the administration and enforcement of this code. The term "building official" shall be synonymous with the term "code official" in all other references in this code.

Section 1201.1.1 Adoption, is amended to read as follows:

Electrical systems and equipment shall be designed and constructed in accordance with the most current electrical code adopted by the state electrical board.

(Code 1999, § 15.50.020; Ord. No. 582, § 1(part), 2007; Ord. No. 597, § 1, 2008; Ord. No. 639, § 1, 2011; Ord. No. 693 § 1, 2019)

**CHAPTER 6.28. INTERNATIONAL ENERGY CONSERVATION CODE, ADOPTION**

**Sec. 6.28.010. ~~International Energy Conservation Code--Adoption.~~**

There is hereby adopted by the ~~county~~ town for the purpose of regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems as herein provided; providing for the issuance of permits and collection of fees therefor; the certain code known as the International Energy Conservation Code, 2018 edition, published by the International Code Council, Inc. The code, and the whole thereof, but with the amendments and deletions set forth below, is adopted by reference thereto the same as if set forth in length in this section.

(Code 1999, § 15.76.010; Ord. No. 597, § 1, 2008; Ord. No. 639 § 1, 2011; Ord. No. 660 § 1, 2014; Ord. No. 690 § 1, 2018; Ord. No. 693, § 1, 2019; Ord. No. 697, § 1(H), 10-15-2020)

**Sec. 6.28.020. ~~International Energy Conservation Code--Amendments and deletions.~~**

Table R402.1.2, Insulation and fenestration requirements by component, is amended to read as follows for Climate Zone 7 and 8.

<i>Fenestration U-Factor<sup>b</sup></i>	<i>SKYLIGHT<sup>B</sup> U-Factor</i>	<i>Glazed Fenestration SHGC<sup>b, e</sup></i>	<i>Ceiling R-Value</i>	<i>Wood Frame Wall R- Value</i>	<i>Mass Wall R- Value<sup>i</sup></i>	<i>Floor R- Value</i>	<i>BASEMENT<sup>C</sup> Wall R-Value</i>	<i>SLAB<sup>D</sup> R- Value and Depth</i>	<i>Crawlspace<sup>c</sup> Wall R-Value</i>
0.30	0.55	NR	49	20+5h or 22+3h or 27+0	15/20	30g	15/19	10,4ft. <sup>63</sup>	15/19

Footnote H amended to read as follows: The first value is cavity insulation, the second value is continuous insulation. Therefore, as an example, "20+5" means R-20 cavity insulation plus R-5 continuous insulation. Refer to section R402.2.7 for walls with partial structural sheathing and any reductions in continuous insulation.

Section R402.1.2, Testing, is hereby deleted.

(Code 1999, § 15.76.020; Ord. No. 639 § 1, 2011; Ord. No. 597 § 1, 2008; Ord. No. 660 § 1, 2014; Ord. No. 690 § 1, 2018; Ord. No. 697, § 1(H), 10-15-2020)

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<sup>63</sup> ATTENTION TOWN: Is this amount okay as is? It appears this way in the original text, but if it needs updating, please let us know.

## CHAPTER 6.32. INTERNATIONAL EXISTING BUILDING CODE

### **Sec. 6.32.010. ~~International Existing Building Code--Adoption.~~**

There is hereby adopted by the ~~county~~town, for the purpose of providing minimum life safety requirements for all existing buildings within the county that undergo alteration or a change in use, that certain code known as the International Existing Building Code, 2018 edition, published by the International Code Council, Inc. The code, and the whole thereof, but with the amendments and deletions set forth below, is adopted by reference thereto the same as if set forth in length in this section.

(Code 1999, § 15.12.010; Ord. No. 639 § 1, 2011; Ord. No. 587 § 1, 2008; Ord. No. 582 § 1 (part), 2007; Ord. No. 660 § 1, 2014; Ord. No. 690 § 1, 2018; Ord. No. 693 § 1, 2019; Ord. No. 697, § 1(C), 10-15-2020)

### **Sec. 6.32.020. ~~International Existing Building Code--Amendments.~~**

Creation of enforcement agency is amended to read as follows: The building department is hereby created and the official in charge shall be known as the building official. The term "building official" shall be synonymous with the term "code official" in all other references in this code.

(Code 1999, § 15.12.020; Ord. No. 582, § 1(part), 2007; Ord. No. 597, § 1, 2008; Ord. No. 639, § 1, 2011; Ord. No. 660 § 1, 2014; Ord. No. 690 § 1, 2018; Ord. No. 693 § 1, 2019; Ord. No. 697, § 1(C), 10-15-2020)

## CHAPTER 6.36. INTERNATIONAL FIRE CODE\*

~~\*Prior ordinance history: Ord. 524.~~<sup>64</sup>

### **Sec. 6.36.010. ~~Adoption of the International Fire Code.~~**

There is hereby adopted by the town for the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion, that certain code known as the International Fire Code, including appendix chapters B and C, published by the International Code Council, being in particular the 2006 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended by section 6.36.020, one copy of which has been and is now filed in the town hall and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which the ordinance from which this chapter is derived shall take effect, the provision thereof shall be controlling within the limits of the town within the West Routt Fire Protection District.

(Code 1999, § 15.20.010; Ord. No. 585, § 1, 2007; Ord. No. 634 § 1, 2010)

### **Sec. 6.36.020. Establishment and duties of bureau of fire prevention.**

(a) The International Fire Code as adopted and amended herein shall be enforced by the fire chief. The fire chief, or his designee, shall be in charge of the bureau of fire prevention.

(b) Enforcement of the International Fire Code, including, but not limited to, permits and inspections shall be done pursuant to the fire codes and regulations adopted by the West Routt Fire Protection District.

(Code 1999, § 15.20.020; Ord. No. 585, § 2, 2007; Ord. No. 634 § 2, 2010)

### **Sec. 6.36.030. 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:

*Jurisdiction*, whenever used in the International Fire Code, means the West Routt Fire Protection District.

(Code 1999, § 15.20.030; Ord. No. 585, § 3, 2007; Ord. No. 634 § 3, 2010)

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<sup>64</sup> We do not normally put historical notes at the beginning of chapters like this. If the town wants to keep reference to this ordinance for legislative tracking, we can add it to the history notes that appear at the end of each section in parentheses. **Town accepted.**

**Sec. 6.36.040. Amendments to the International Fire Code.**

The 2006 edition of the International Fire Code is subject to the following amendments and deletions:

- A. Section 105, Permits, shall be amended to add the following sections:

*105.1.4 Permit fees.* The fee for each permit shall be as set forth in the fee schedule adopted by the jurisdiction. All other permits fees shall be as listed in Table 105-A.

Whenever work for which a permit is required by the fire code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by Table 105-A.

*105.1.5 Plan review fees.* The fee for each plan review shall be set forth in the fee schedule adopted by the jurisdiction. The fee schedule adopted by the town shall be kept on file with the clerk.

**TABLE 105-A-<sup>65</sup>**

<i>Section I</i>	
<i>Plan Review Fee Schedule</i>	
<i>Fees</i>	
Single family	\$35.00
Multi-family	\$50.00
Commercial	\$50.00
Radio amplification plan review	\$50.00
Development review	\$50.00
<i>Section II</i>	
<i>Fees for Special Activity Permits</i>	
<i>Fees</i>	
Carnivals and fairs	\$50.00 per event/location
Dry hydrant permit	\$250.00 per hydrant
Explosive or blasting permit	\$50.00 per event/location/inspection
Fireworks permit	Retail display — \$50.00 per display
	Public aerial display — \$100.00 per event
Underground storage tank removal	\$50.00 for the first tank and \$20.00 for every additional tank removed at the same location
Open burn permit	\$25.00 every 6 months/per location
Open flame permit/flame effect	\$25.00 per event
Tents, canopies and temporary membrane structures	\$25.00 200 — 1,000 sq. ft.
	\$50.00 1,001 — 2,500 sq. ft.

<sup>65</sup> We recommend not including fees in your printed code, and instead keeping them on file with the clerk. We can insert generic language telling constituents where to find the fee schedule. **Town accepted.**

	<del>\$200.00 — &gt; 2,501 sq. ft.</del>
Miscellaneous permits	<del>\$25.00 minimum/\$50.00 maximum</del>
<i>Section III</i>	
<i>Other Inspections and Fees</i>	
<del>1. Special request, reinspections or inspections outside of normal business hours (minimum charge — 2 hours) ..... \$50.00 per hour<sup>*</sup></del>	
<del>2. Reinspection fees assessed at ..... \$50.00 per hour<sup>*</sup></del>	
<del>3. Inspections for which no fee is specifically indicated (minimum charge — ½ hour) ..... \$50.00 per hour<sup>*</sup></del>	
<del>4. Additional plan review required by changes, additions or revisions to plans or not otherwise noted (minimum charge — ½ hour) ..... \$50.00 per hour<sup>*</sup></del>	
<del>5. Test of water tanks with a Type 1 Engine (minimum charge — 1 hour) ..... \$218.00 per hour<sup>*</sup></del>	
<del>6. For use of outside consultants for plan checking and inspections, or both ..... actual costs<sup>**</sup></del>	

~~\* Or the total hourly cost to the jurisdiction, whichever is greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.~~

~~\*\* Actual costs include administrative and overhead costs.~~

B. Section 105.6.30, Open burning, is amended to delete the exception.

C. Section 307.2, Permit required, is amended to read as follows: A permit shall be obtained from the fire code official in accordance with section 105.6 prior to kindling a fire.

D. Section 501.1, Scope, is amended to add a second paragraph as follows: The fire code official shall have the authority to adopt additional standards for fire service features subject to applicable provisions of State statutes and home rule charter.

E. Section 901.1, Scope, is amended to add a second paragraph as follows: The fire code official shall have the authority to adopt additional standards for fire protection systems subject to applicable provisions of state statutes and home rule charter.

F. Section 903.2.7, Group R, is amended to add the following exception:

Exception: An automatic sprinkler system is not required in multi-use buildings, two stories or less with no more than two dwelling units, provided the building is constructed as required by section 302.3.2, and an automatic and manual fire alarm system is installed in accordance with NFPA 72. Sprinkler systems required by other sections and other codes must still be provided.

G. Section 907.2.1, Group A, exception, delete.

H. Section 907.2.2, Group B, exception, delete.

I. Section 907.2.4, Group F, exception, delete.

J. Section 907.2.7, Group M, exception, delete.

K. Section 907.2.8.1, Manual fire alarm system, exception 2, delete.

L. Section 907.2.9, Group R-2, exception 2, delete.

M. Section 907.3.1, Location, exception, delete.

N. Section 1007.3, Exit stairways, exceptions to read as follows:

The area of refuge is not required at unenclosed interior exit stairways as permitted by section 1020.1 in buildings or facilities that are equipped throughout with an automatic sprinkler system installed in accordance with section 903.3.1.1 or 903.3.1.2.

The clear width of 48 inches (1,219 mm) between the handrails is not required at exit stairways in buildings or facilities equipped throughout with an automatic sprinkler system installed in accordance with section 903.3.1.1 or 903.3.1.2.

Areas of refuge are not required at exit stairways in buildings or facilities equipped throughout with an automatic sprinkler system installed in accordance with section 903.3.1.1 or 903.3.1.2.

The clear width of 48 inches (1,219 mm) between the handrails is not required for exit stairways accessed from a horizontal exit.

Areas of refuge are not required at exit stairways serving open parking garages.

Areas of refuge are not required for smoke protected seating areas complying with section 1025.6.2.

Areas of refuge are not required in Group R-2 occupancies.

O. Section 1009.1, Stairway width, the first paragraph is amended to read as follows: The width of stairways shall be determined as specified in section 1005.1, but such width shall be not less than 48 inches (1,219 mm). See section 1007.3 for accessible means of egress stairways.

P. Section 1009.1, Stairway width, exception 1, is amended to read as follows:

1. Stairways serving one individual dwelling unit in Group R, Division 1 or 2, or serving Group U Occupancies may be 36 inches (914 mm) in width.

Q. Section 1012.3, Handrail graspability, is amended to read as follows:

Handrails with a circular cross section shall have an outside diameter of at least 1.25 inches (32 mm) and not greater than 2 inches (51 mm) or shall provide equivalent graspability. If a handrail is not circular, it shall have a maximum horizontal cross section dimension of at least 1.25 inches (32 mm) and not greater than three inches (57 mm). The narrowest horizontal cross section of the handgrip portion of the handrail shall have a minimum dimension 0.75 inch less than the maximum horizontal cross section. The surface of the handgrip portion of the handrail shall have a perimeter dimension of at least four inches (102 mm) and not greater than 6.25 inches (160 mm) measured to the centerline of the narrowest horizontal cross section. Edges shall have a minimum radius of 0.01 inch (0.25 mm).

R. Section 1028.2, Reliability, is amended to add a second paragraph as follows:

All exits to a public way shall be designed to be a minimum of four feet wide and of an all-weather surface capable of being maintained unobstructed year-round.

(Code 1999, § 15.20.040; Ord. No. 585, § 4, 2007; Ord. No. 634 § 4, 2010)

## CHAPTER 6.40. INTERNATIONAL FUEL GAS CODE

### Sec. 6.40.010. ~~International Fuel Gas Code—Adoption.~~

There is hereby adopted by the ~~county~~town, for the purpose of regulating and controlling the installation of fuel-gas piping systems, fuel-gas utilization equipment and related accessories within the county, that certain code known as the International Fuel Gas Code, 2018 edition, published by the International Code Council, Inc. The code, and the whole thereof, but with the amendments and deletions set forth below, is adopted by reference thereto the same as if set forth in length in this section.

(Code 1999, § 15.74.010; Ord. No. 582, § 1(part), 2007; Ord. No. 597, § 1, 2008; Ord. No. 639, § 1, 2011; Ord. No. 660 § 1, 2014; Ord. No. 697, § 1(J), 10-15-2020)

### Sec. 6.40.020. ~~International Fuel Gas Code—Amendments and deletions.~~

The International Fuel Gas Code, 2018 edition, is subject to the following amendments and deletions:

Section 103.1, Creation of enforcement agency, is amended to read as follows:

The building department is hereby created and the official in charge shall be known as the building official. The term "building official" shall be synonymous with the term "code official" in all other references in this code.

Section 303.3, Prohibited locations, exception 3, is hereby deleted.

Section 303.3, Prohibited locations, exception 4, is hereby deleted.

Section 303.8, Liquid propane gas appliance in a pit or basement, is added to read as follows: Liquefied petroleum gas-burning appliances shall not be installed in a pit, basement or similar location where heavier-than-air gas might collect, unless the following conditions are met:

1. A listed propane gas detector with alarm shall be installed. A listed solenoid gas valve shall be installed on the gas line that supplies all propane appliances located in the basement or pit. Upon detection of gas an alarm shall sound and the solenoid gas valve shall close.

Section 409.5.3, Located at manifold, is hereby deleted.

Section 603, Log lighters, is hereby deleted.

Section 621.2, Prohibited use, is amended to read as follows: Unvented room heaters are not to be installed in dwelling units.

Section 621.7, Unvented decorative room heaters, is hereby deleted.

Section 621.7.1, Ventless firebox enclosures, is hereby deleted.

(Code 1999, § 15.74.020; Ord. No. 582, § 1(part), 2007; Ord. No. 597, § 1, 2008; Ord. No. 639, § 1, 2011; Ord. No. 660 § 1, 2014; Ord. No. 697, § 1(J), 10-15-2020)

## **CHAPTER 6.44. INTERNATIONAL MECHANICAL CODE**

### **Sec. 6.44.010. Adoption.**

There is hereby adopted by the ~~county~~ town, for the purpose of regulating and controlling the design, construction, installation, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of heating, ventilating, cooling, refrigeration systems, incinerators and other miscellaneous heat-producing appliances in the county, that certain code known as the International Mechanical Code, 2018 edition, published by the International Code Council, Inc. The code, and the whole thereof, but with the amendments and deletions set forth below, is adopted by reference thereto the same as if set forth in length in this section.

(Code 1999, § 15.60.010; Ord. No. 582, § 1(part), 2007; Ord. No. 597, § 1, 2008; Ord. No. 639, § 1, 2011; Ord. No. 660 § 1, 2014; Ord. No. 690 § 1, 2018; Ord. No. 693 § 1, 2019; Ord. No. 697, § 1(G), 10-15-2020)

### **Sec. 6.44.020. Amendments.**

The International Mechanical Code, 2018 edition, is subject to the following amendments:

Section 103.1, Creation of enforcement agency, is amended to read as follows: The building department is hereby created and the official in charge shall be known as the building official. The term "building official" shall be synonymous with the term "code official" in all other references in this code.

Section 903.3, Unvented gas log heaters, is hereby deleted.

(Code 1999, § 15.60.020; Ord. No. 582, § 1(part), 2007; Ord. No. 597, § 1, 2008; Ord. No. 639, § 1, 2011; Ord. No. 660 § 1, 2014; Ord. No. 690 § 1, 2018; Ord. No. 693 § 1, 2019; Ord. No. 697, § 1(G), 10-15-2020)

## **CHAPTER 6.48. INTERNATIONAL PLUMBING CODE**

### **Sec. 6.48.010. Adoption.**

There is hereby adopted by the ~~county~~ town, for the purpose of regulating and controlling design, construction, installation, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to use or maintenance of any plumbing system within the county, that certain code known as the International Plumbing Code, 2018 edition, published by the International Code Council, Inc. The code, and the whole thereof, but with the amendments and deletions set forth below, is adopted by reference thereto the same as if set forth in length in this section.

(Code 1999, § 15.70.010; Ord. No. 582, § 1(part), 2007; Ord. No. 597, § 1, 2008; Ord. No. 639, § 1, 2011; Ord. No. 660 § 1,

2014; Ord. No. 690 § 1, 2018; Ord. No. 693, § 1, 2019; Ord. No. 697, § 1(I), 10-15-2020)

#### **Sec. 6.48.020. Amendments and deletions.**

The International Plumbing Code, 2018 edition, is subject to the following amendments:

Section 103.1, Creation of enforcement agency, is amended to read as follows: The building department is hereby created and the official in charge shall be known as the building official. The term "building official" shall be synonymous with the term "code official" in all other references in this code.

Section 107.2 Required inspections and testing, item 1, is amended to read as follows:

1. Underground inspection shall be made in accordance with the specifications of the city and before any backfill is put in place. Underground inspections of the water service pipe and building sewer shall be performed by the jurisdiction.

Section 312.1, Required tests, is amended to read as follows: The permit holder shall make the applicable tests prescribed in sections 312.2 through 312.10 to determine compliance with the provisions of this code. The permit holder shall give reasonable advance notice to the code official when the plumbing work is ready for tests. The equipment, material, power and labor necessary for the inspection and test shall be furnished by the permit holder and he shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests. Plumbing system piping shall be tested with either water or by air. After the plumbing fixtures have been set and their traps filled with water, the entire drainage system shall be submitted to final tests. The code official shall require the removal of any cleanouts if necessary to ascertain whether the pressure has reached all parts of the system.

Section 312.3, Drainage and vent air test, is amended to read as follows: An air test shall be made by forcing air into the system until there is a uniform gauge pressure of five psi (34.5 kPa) or sufficient to balance a ten-inch (254 mm) column of mercury. This pressure shall be held for a test period of not less than 15 minutes. Any adjustments to the test pressure required because of changes in ambient temperatures or the seating of gaskets shall be made prior to the beginning of the test period.

Section 312.5, Water supply system test, is amended to read as follows:

Upon completion of a section of or the entire water supply system, the system, or portion completed, shall be tested and proved tight under a water pressure not less than the working pressure of the system; or by an air test of not less than 50 psi (344 kPa). This pressure shall be held for not less than 15 minutes. The water utilized for tests shall be obtained from a potable source of supply. The required tests shall be performed in accordance with this section and Section 107.

Exception: The water service piping shall be tested as required by the jurisdiction.

Section 312.6, Gravity sewer test, is amended to read as follows: Gravity sewer tests shall be made in accordance with the specifications of the jurisdiction.

Section 603.2, Separation of water service and building sewer, is amended to read as follows: Water service pipe and the building sewer shall be separated as required by policy established by the Jurisdiction.

Section 605.3, Water service piping. The first sentence of the paragraph is amended to read: Water service piping shall conform to the specification of the jurisdiction.

Section 708.1.10, Cleanout access. Exception added to read as follows:

Exception:

1. Access shall not be required to one sanitary test-tee cleanout per building where installed below grade and within the building envelope. The clean-out plug must be installed in accordance with section 3005.6 and permanently glued prior to backfilling.

(Code 1999, § 15.70.020; Ord. No. 582, § 1(part), 2007; Ord. No. 597, § 1, 2008; Ord. No. 639, § 1, 2011; Ord. No. 660 § 1, 2014; Ord. No. 690 § 1, 2018; Ord. No. 693, § 1, 2019; Ord. No. 697, § 1(I), 10-15-2020)



## **CHAPTER 6.52. INTERNATIONAL PROPERTY MAINTENANCE CODE**

### **Sec. 6.52.010. 2018 ~~International Property Maintenance Code~~ Adoption.**

There is hereby adopted by the ~~county~~ town, for the purpose of providing a just, equitable and practicable method, to be cumulative with and in addition to any other remedy available by law whereby buildings or structures in the city which from any cause endanger the life, limb, health, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished, that certain code known as the 2018 International Property Maintenance Code.

(Ord. No. 697, § 1(D), 10-15-2020)

### **Sec. 6.52.020. ~~International Property Maintenance Code~~ Deletions.**

Chapters 3, 4, 5, 6, 7, 8, and chapter appendix A are hereby deleted.

(Ord. No. 697, § 1(D), 10-15-2020)

## **CHAPTER 6.56. INTERNATIONAL RESIDENTIAL CODE**

### **Sec. 6.56.010. Adoption.**

There is hereby adopted by the ~~county~~ town, for the purpose of providing minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of one and two-family dwellings within the county, that certain code known as the International Residential Code, 2018 edition, including appendix chapters E and Q, published by the International Code Council, Inc. The code, and the whole thereof, but with the amendments and deletions set forth below, is adopted by reference thereto the same as if set forth in length in this section.

(Code 1999, § 15.08.010; Ord. No. 582, § 1(part), 2007; Ord. No. 597, § 1, 2008; Ord. No. 639, § 1, 2011; Ord. No. 660 § 1, 2014; Ord. No. 690 § 1, 2018; Ord. No. 693 § 1, 2019; Ord. No. 697, § 1(B), 10-15-2020)

### **Sec. 6.56.020. Amendments and deletions.**

Section R103.1, Creation of enforcement agency, is amended to read as follows: The building department is hereby created and the official in charge shall be known as the building official.

Section R105.2, Work exempt from permit, is amended to read:

Building:

1. One-story detached accessory structure used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11.5 m<sup>2</sup>) and wall height does not exceed 11'4" total height from finished floor to top of plate.
2. Fences not over six feet (2,134 mm).

Section R105.5, Expiration, is amended to read as follows:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced.

All building permits shall automatically expire three years from the date of issuance and no further work on the project for which the permit was issued shall be done unless a renewal permit is requested in writing and approved prior to the expiration date of the original permit.

Renewal permit request shall be requested in writing and justifiable cause demonstrated. Upon review of the request and after an on-site inspection is completed the county regional building department may authorize or deny the renewal permit request.

Renewal permits shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Renewal permits shall automatically expire one year from the date of issuance and no further work on the project for which the permit

was issued shall be done. Time extensions for a renewal permit shall be requested in writing and justifiable cause demonstrated, the county regional building department may authorize or deny the time extension request.

If approved a renewal permit for the originally permitted work shall be issued upon payment based upon the valuation of the remaining work, current codes and current fee schedules. A renewal permit may be obtained only if no changes have been made to the construction documents submitted with the original permit application.

Section R106, Construction documents, is amended to read as follows:

Submittal documents consisting of construction documents, statement of special inspections, geotechnical report and other data shall be submitted electronically with each permit application. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

Section 108.3.1, Construction use tax valuation. Construction use tax may be collected by the building department at the time of building permit application submittal. A construction use tax valuation shall be provided by the permit applicant in accordance with the relevant jurisdiction's resolution or ordinance defining construction use tax valuation. The relevant jurisdiction may review the valuation and if it is determined that the valuation is underestimated on the application, the permit shall be denied unless the applicant can show detailed estimates to meet the approval of the relevant jurisdiction. Final construction use tax valuation shall be determined by the relevant jurisdiction.

Table R301.2(1), Climatic and geographic design criteria, is completed as follows:

- Ground snow load--Case study area contact the building department for ground snow load valuations per site.
- Climate Zone 7.
- Wind speed--115 MPH (ultimate design wind speed).
- Topographic effects--No.
- Seismic design category--C Note: When approved by the structural engineer of record through review of the geotechnical soils report and soils site class, the seismic category may be reduced by the engineer of record based on the known soils site class and in accordance with ASCE-7 or chapter 16 of the IBC.
- Subject to damage by weathering--Severe.
- Subject to damage by frost line depth--48 inches (1,220mm).
- Subject to damage by termite--None to slight.
- Subject to damage by decay--None to slight.
- Winter design:
  - Outdoor winter design dry-bulb temperature: -15 degrees Fahrenheit (-26 degrees Celsius).
  - Indoor winter design dry-bulb temperature: 70 degrees Fahrenheit (21 degrees Celsius).
  - Coincident wet bulb: 56 degrees Fahrenheit (13 degrees Celsius).
  - Heating temperature difference: 85 degrees Fahrenheit (29 degrees Celsius).
- Summer design:
  - Outdoor summer design dry-bulb temperature: 85 degrees Fahrenheit (29 degrees Celsius).

- Indoor summer design dry-bulb temperature: 75 degrees Fahrenheit (24 degrees Celsius).
- Design grains: Varies based on weather data range: -35 to -55.
- Cooling temperature difference: 10 degrees Fahrenheit (-12 degrees Celsius).
- Elevation: Varies elevation by address can be found at: [https://elevation.maplogs.com/poi/routt\\_county\\_co\\_usa.12879.html](https://elevation.maplogs.com/poi/routt_county_co_usa.12879.html).
- Altitude correction: Varies.
  - 7,000' 0.77.
  - 8,000' 0.75.
  - 9,000' 0.72.
  - 10,000' 0.69.
  - 12,000' 0.63.
- Latitude: 40 degrees north.
- Ice shield underlayment required: Yes.
- Flood hazards: FIRM, February 4, 2005.
- Air freezing index: Steamboat 2239.
- Mean annual temperature: 40--45 degrees Fahrenheit (4.5--7.2 degrees Celsius)
- Ground snow load values are governed by the county regional building department based on geographic location. Please visit our home page and click on ground snow load values for site-specific information.

Section R311.7.8, Handrails. Amended to read as follows adding exception:

Exception: A Handrail shall not be required if you have four total risers and the total vertical drop from top of treads, landing, or floor level is not greater than 30 inches measured vertically to the floor or grade below at any point within 36 inches horizontally to the edge of the open sides.

Section R313, Automatic fire sprinkler systems, is hereby deleted.

Section R325.6, Item 3, is amended to read as follows:

3. The occupiable attic space is enclosed by the roof assembly above intersecting and connecting directly to the top of the floor-ceiling assembly on the story below with a maximum vertical height on the sides from the top of finished floor-ceiling assembly to top of finished roof deck to be no more than 20 inches tall.

Section R408.3, Unvented crawl space, is amended to read as follows adding item 2.5:

2.5 Ventilation equipment installed under 2.1 and 2.2 may operate intermittently for a minimum of one hour for every 24-hour period, if exhaust only system is installed in accordance with 2.1, or when a dedicated HRV/ERV fan is installed to serve only the crawl space area under section 2.2.

Section R601.2, Requirements, is amended to read as follows: Wall construction shall be capable of accommodating all loads imposed according to section 301 and of transmitting the resulting loads to the supporting structural elements. All tables and applicability limits in this chapter that use roof live load less than 50 psf or ground snow load of 70 psf or less are hereby unusable for design in this jurisdiction.

Section R602.10.8.2, Connections to roof framing item 1, is amended to read as follows: For SDC A, B and C and wind speeds less than 100 miles per hour (45 m/s), where the distance from the top of the rafters or roof trusses and perpendicular top plates is 15.25 inches (387mm) or less, the rafters or roof trusses shall be connected to the top plates of braced wall lines in accordance with table 602.3(1) and with blocking in accordance with figure R602.10.8.2(1). Blocking shall be attached to top plate per table 602.3(1).

Section R703.8.3, Lintels, is amended to read as follows: Masonry veneer shall not support any vertical load other than the dead load of the veneer above. Veneer above openings shall be supported on lintels of noncombustible materials. The lintels shall have a length of bearing not less than four inches (102mm). Steel lintels over openings or steel lintels that are less than four inches (102mm) above finished grade shall be coated with a rust-inhibitive paint, except for lintels made of corrosion resistance steel or steel treated with coating to provide corrosion resistance. Construction of openings shall comply with either section R703.8.3.1 or 703.8.3.2.

Section R801.2, Requirements, is amended to read as follows: Roof and ceiling construction shall be capable of accommodating all loads imposed according to section 301 and of transmitting the resulting loads to the supporting structural elements. All tables and applicability limits in this chapter that use roof live load less than 50 psf or ground snow load of 70 psf or less are hereby unusable for design in this jurisdiction.

Section R1004.4, Unvented gas log heaters, is hereby deleted.

Chapter 11, Energy efficiency, is hereby deleted and replaced with the following:

N1101.1 Scope: This chapter governs the design and construction of buildings for energy efficiency.

N1101.1.1 Criteria: Buildings shall be designed and constructed in accordance with the International Energy Conservation Code residential requirements.

Section G2406.2 (303.3), Prohibited locations. Exception 3, is hereby deleted.

Section G2406.2 (303.3), Prohibited locations. Exception 4, is hereby deleted.

Section G2406.2.1 (303.7), Liquid propane gas appliance in a pit or basement.

Liquefied petroleum gas-burning appliances shall not be installed in a pit, basement or similar location where heavier-than-air gas might collect, unless the following conditions are met:

1. A listed propane gas detector with alarm shall be installed. A listed solenoid gas valve shall be installed on the gas line that supplies all propane appliances located in the basement or pit. Upon detection of gas, an alarm shall sound and the solenoid gas valve shall close.

Section G2420.5.3 (409.5.3), Located at manifold, is hereby deleted.

Section G2433 (603), Log lighters, is hereby deleted.

Section G2445.2 (621.2), Prohibited use, is amended to read as follows: Unvented room heaters are not to be installed in dwelling units.

Section G2445.7 (621.7), Unvented decorative room heaters, is hereby deleted.

Section G2445.7.1 (621.7.1), Ventless firebox enclosures, is hereby deleted.

Section P2503.5.1 Rough plumbing amended to read as follows: DWV systems shall be tested on completion of the rough piping installation by water or by air, without evidence of leakage. Either test shall be applied to the drainage system in its entirety or in sections after rough-in piping has been installed, as follows:

Section P2604.2 Water service installation amended to read as follows: Water service pipe and the building sewer shall be separated as required by policy established by the city. No exceptions.

Section P2503.7 Water-supply system testing amended to read as follows: Upon completion of the water-supply system or a section of it, the system or portion completed shall be tested and proved tight under a water pressure of not less than the working pressure of the system or, by an air test of not less than 50 psi (345 kPa). This pressure shall be held for not less than 15 minutes. The water used for tests shall be obtained from a potable water source.

Section P3011 Indirect/special waste.

P3011 Neutralizing device required for corrosive wastes. Corrosive liquids, spent acids or other harmful chemicals that destroy or injure a drain, sewer, soil or waste pipe, or create noxious or toxic fumes or interfere with sewage treatment processes shall not be discharged into the plumbing system without being thoroughly diluted, neutralized or treated by passing through an approved dilution or neutralizing device. Such devices shall be automatically provided with a sufficient supply of diluting water or neutralizing medium so

as to make the contents non-injurious before discharge into the drainage system. The nature of the corrosive or harmful waste and the method of its treatment or dilution shall be approved prior to installation.

Section P3005.2.10, Cleanout access. Exception added to read as follows:

Exception:

1. Access shall not be required to one sanitary test-tee cleanout per building where installed below grade and within the building envelope. The clean-out plug must be installed in accordance with section 3005.6 and permanently glued prior to backfilling.

Chapter 34, General requirements.

Section E3401.1 Applicability, is National Electric Code currently adopted by the state.

Chapter 44, Referenced standards, ICC 400-2012 Standard on the Design and Construction of Log Structures, is hereby amended to read as follows: Where the standard provides satisfactory information for construction of log structures, section 305.4, Thermal mass effect of log walls, shall be evaluated in accordance with IECC section R402.2.5, Mass walls or similar provisions, in ICC 400-2007.

Section AQ106, Energy conservation, amended to add AQ106.1

AQ106.1 Tiny homes constructed under appendix Q shall follow chapter 4 of the 2018 International Energy Conservation Code for Energy Code Compliance; Ord. No. 697, § 1(B), 10-15-2020.

(Code 1999, § 15.08.020; Ord. No. 582, § 1(part), 2007; Ord. No. 597, § 1, 2008; Ord. No. 639, § 1, 2011; Ord. No. 660 § 1, 2014; Ord. No. 690 § 1, 2018; Ord. No. 693 § 1, 2019; Ord. No. 697, § 1(B), 10-15-2020)

## **CHAPTER 6.60. UNIFORM SOLAR ENERGY CODE**

### **Sec. 6.60.010. Adoption of the Uniform Solar Energy Code, 1994 edition.**

Pursuant to the powers given to it by C.R.S. §§ 31-16-201 to 31-16-208, 1973, as amended, the town hereby adopts the following code by reference: Uniform Solar Energy Code, 1994 edition.

(Code 1999, § 15.80.010; Ord. No. 455, 1997; Ord. No. 427, 1995)

### **Sec. 6.60.020. Penalty.**

Any person convicted of violating any provision of the preceding section shall, upon conviction, be punished by a fine of not more than \$300.00 or be imprisoned for more than 90 days, or by both such fine and imprisonment. Each day that such violation continues shall constitute a separate offense.

(Code 1999, § 15.80.020; Ord. No. 427, 1995; Ord. No. 455, 1997)

## **CHAPTER 6.64. UNIFORM SWIMMING POOL, SPA AND HOT TUB CODE**

### **Sec. 6.64.010. Adoption of the Uniform Swimming Pool, Spa and Hot Tub Code, 1994 edition.**

Pursuant to the powers given to it by C.R.S. §§ 31-16-201 to 31-16-208, 1973, as amended, the town hereby adopts the following code by reference: Uniform Swimming Pool, Spa and Hot Tub, 1994 edition.

(Code 1999, § 15.90.010; Ord. No. 427, 1995; Ord. No. 455, 1997)

### **Sec. 6.64.020. Penalty.**

Any person convicted of violating any provision of the preceding section shall, upon conviction, be punished by a fine of not more than \$300.00 or be imprisoned for more than 90 days, or by both such fine and imprisonment. Each day that such violation continues shall constitute a separate offense.

(Code 1999, § 15.90.020; Ord. No. 427, 1995; Ord. No. 455, 1997)

## **Table 3-A—Fee Schedule**

### **~~A. Building permit and plan review fees.~~**

~~— Building Permit Fees.~~

<i>Total Valuation</i>	<i>Fee</i>
\$1.00 to \$500.00	\$15.00
\$501.00 to \$2,000.00	\$15.00 for the first \$500.00 plus \$2.00 for each additional \$100.00 or fraction thereof, up to and including \$2,000.00
\$2001.00 to \$25,000.00	\$45.00 for the first \$2,000.00 plus \$9.00 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$252.00 for the first \$25,000.00 plus \$6.50 for each additional \$1,000.00 or fraction thereof, up to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$414.50 for the first \$50,000.00 plus \$4.50 for each additional \$1,000.00 or fraction thereof, up to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$639.50 for the first \$100,000.00 plus \$3.50 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$2,039.50 for the first \$500,000.00 plus \$3.00 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$3,539.50 for the first \$1,000,000.00 plus \$2.00 for each additional \$1,000.00 or fraction thereof

— Plan Review Fee. When a plan or other data is required to be submitted, a plan review fee shall be paid at the time of submitting plans and specifications for review. The plan review fee for buildings and structures shall be sixty five percent of the building permit fee as set forth above.

— Electrical Permit Fees.

<i>Permit Issuance (in addition to items below):</i>	
For issuing each permit	\$25.00
For issuing each supplemental permit	\$15.00

Residential. This shall include modular homes, mobile homes, duplexes, condominiums and townhomes. Fees for all new construction and extensive remodeling and additions shall be as follows (based on floor area):

Not more than 1,000 sq. ft.	\$45.00
Over 1,000 sq. ft. but not more than 1,500 sq. ft.	\$67.00
Over 1,500 sq. ft. but not more than 2,000 sq. ft.	\$85.00
For each additional 100 sq. ft. in excess of 2,000 sq. ft. add	\$3.50

All other fees, except for inspection in mobile home and RV parks, shall be computed based on the dollar value of the electrical installation, including labor and material. The fees shall be computed as follows:

More than \$0 but not more than \$2,000.00	\$45.00
More than \$2,000.00 but not more than \$50,000.00	\$18.00 <sup>*</sup>
More than \$50,000.00 but not more than \$500,000.00	\$17.00 <sup>**</sup>
More than \$500,000.00	\$16.00 <sup>***</sup>
Mobile homes and travel (RV) parks per space	\$50.00

\* per thousand or fraction thereof

\*\* per thousand or fraction thereof plus \$50.00

~~\*\*\* per thousand or fraction thereof plus \$550.00~~

~~— Plumbing Permit Fees.~~

<del>Permit Issuance:</del>	
<del>1. For the issuance of each permit</del>	<del>\$25.00</del>
<del>2. For issuing each supplemental permit</del>	<del>\$15.00</del>

<del>Unit Fee Schedule</del> <del>(in addition to item 1 or 2 above):</del>	
<del>1. Fixtures and Vents:</del>	
<del>For each plumbing fixture or trap or set of fixtures on one trap (including water piping, drainage piping, and backflow protection therefore)</del>	<del>\$8.00</del>
<del>For repair or alteration of drainage or vent piping, each fixture</del>	<del>\$10.00</del>
<del>2. Water Piping:</del>	
<del>For installation, alteration, or repair of building water piping and/or water treating equipment, each</del>	<del>\$10.00</del>
<del>3. Roof Drains:</del>	
<del>Roof drain systems — per roof drain or overflow drain (inside building)</del>	<del>\$17.00</del>
<del>4. Water Heaters:</del>	
<del>For each water heater and/or vent</del>	<del>\$10.00</del>
<del>5. Fuel Gas Piping:</del>	
<del>For each gas pipe system of one to five outlets</del>	<del>\$20.00</del>
<del>For each additional gas piping system outlet, per outlet</del>	<del>\$1.00</del>
<del>6. Disposal Systems and Interceptors:</del>	
<del>For each industrial waste pretreatment interceptor or grease trap</del>	<del>\$10.00</del>
<del>7. Backflow Protection:</del>	
<del>For each building backflow protective device or building atmospheric type vacuum breakers or irrigation system backflow device:</del>	
<del>2 inches and smaller</del>	<del>\$10.00</del>
<del>over 2 inches</del>	<del>\$20.00</del>
<del>8. Graywater System:</del>	
<del>For each graywater system</del>	<del>\$8.00</del>
<del>9. Medical Gas Piping:</del>	
<del>For each medical gas piping system serving one to five inlet/outlets for a specific gas</del>	<del>\$20.00</del>
<del>For each additional medical gas inlet/outlet</del>	<del>\$1.00</del>

~~— Mechanical Permit Fees.~~

<del>Permit Issuance:</del>	
<del>1. For the issuance of each permit</del>	<del>\$25.00</del>
<del>2. For issuing each supplemental permit</del>	<del>\$15.00</del>

Unit Fee Schedule (in addition to items 1 and 2 above):	
1. Furnaces and Heaters:	
For the installation or relocation of each forced air or gravity type furnace or burner, including ducts and vents attached to such appliance, up to and including 100,000 Btu/h	\$16.50
For the installation or relocation of each forced air or gravity type furnace or burner, including ducts and vents attached to such appliance over 100,000 Btu/h	\$21.00
For the installation or relocation of each floor furnace, including vent	\$16.50
For the installation or relocation of each suspended heater, recessed wall heater or floor mounted unit heater	\$16.50
For the installation of a wood or gas fired fireplace, insert, or stove	\$16.50
2. Fuel Gas Piping and Tanks:	
Gas piping systems of one to five outlets	\$20.00
For each additional gas outlet	\$1.00
LPG Tank set and yard piping	\$10.00
3. Boilers and Compressors:	
For the installation or relocation of each boiler or compressor to and including three horsepower or each absorption system to and including 100,000 Btu/h	\$16.50
For the installation or relocation of each boiler or compressor over three horsepower to and including 15 horsepower, or each absorption system over 100,000 Btu/h to and including 500,000 Btu/h	\$30.50
For the installation or relocation of each boiler or compressor over 15 horsepower to and including 30 horsepower, or each absorption system over 500,000 Btu/h to and including 1,000,000 Btu/h	\$42.00
For the installation or relocation of each boiler or compressor over 30 horsepower to and including 50 horsepower, or each absorption system over 1,000,000 Btu/h to and including 1,750,000 Btu/h	\$62.00
For the installation or relocation of each boiler or refrigeration compressor over 50 horsepower, or each absorption system over 1,750,000 Btu/h	\$104.00
4. Air Handling Units:	
For each air handling unit to and including 10,000 CFM, including ducts attached thereto	\$12.00
For each air handling over 10,000 CFM	\$20.00
5. Ventilation and Exhaust:	
For each ventilation fan connected to single duct	\$8.00
For each ventilation system which is not a portion of any heating or air conditioning system authorized by a permit	\$12.00
For the installation of each domestic type hood which is served by mechanical exhaust, including ducts for such hood	\$12.00
For the installation of each commercial or industrial hood which is served by mechanical exhaust, including the ducts for such hood	\$30.00
6. Evaporative Coolers:	
For each evaporative cooler other than a portable type	\$12.00
7. Appliance Vents:	



For the installation, relocation or replacement of each appliance vent installed and not included in an appliance permit (includes dryer duct)	\$8.50
<b>8. Repair or Additions:</b>	
For the repair of, alteration of, or addition to each heating appliance, refrigeration unit, cooling unit, absorption unit, or each heating, cooling, absorption, or evaporative cooling system, including installation of controls regulated by the UMC or IMC	\$15.50
<b>9. Miscellaneous:</b>	
For each appliance or piece of equipment regulated by the UMC or IMC but not classed in other appliance categories, or for which no other fee is listed in this schedule of fees	\$12.00

**Pool, Spa and Hot Tub Permit Fees:**

<b>Permit Issuance:</b>	
Public Pools and Hot Tubs (each)	\$30.00
Private Pools and Hot Tub (each)	\$20.00

Building permit and plan review fees along with plumbing, mechanical and electrical sub permits shall apply. Permit fees shall be based on building and sub permit fee schedules.

**Grading Plan Review Fees:**

50 cubic yards	no fee
50 to 100 cubic yards	\$26.50
100 to 1,000 cubic yards	\$42.00
1,000 to 10,000 cubic yards	\$55.00
10,000 to 100,000 cubic yards	\$55.00 for the first 10,000 cubic yards, plus \$27.50 for each additional 10,000 cubic yards or fraction thereof
100,000 to 200,000 cubic yards	\$302.50 for the first 100,000 cubic yards, plus \$14.85 for each additional 10,000 cubic yards or fraction thereof
200,000 cubic yards or more	\$451.00 for the first 200,000 yards, plus \$8.15 for each additional 10,000 cubic yards or fraction thereof

**Grading Permit Fees:**

0 to 100 cubic yards	\$50.00
100 to 1,000 cubic yards	\$50.00 for the first 100 cubic yards, plus \$20.00 for each additional 100 cubic yards or fraction thereof
1,000 to 10,000 cubic yards	\$230.00 for the first 1,000 cubic yards, plus \$16.50 for each additional 1,000 cubic yards or fraction thereof
10,000 to 100,000 cubic yards	\$378.50 for the first 10,000 cubic yards, plus \$75.00 for each additional 10,000 cubic yards or fraction thereof
100,000 cubic yards or more	\$1,053.50 for the first 100,000 cubic yards plus \$42.00 for each additional 10,000 cubic yards or fraction thereof

~~Other Fees:~~

1. Inspections outside of normal business hours (minimum charge 4 hours)	\$50.00 per hour
2. Reinspection fees (work not ready for inspection or called for corrections not made)	\$50.00
3. Inspections for which no fee is specifically indicated (minimum charge 2 hours)	\$50.00 per hour
4. Additional plan review required by changes, additions or revisions to or revisions to the approved plans (minimum charge ½ hour)	\$50.00 per hour

~~Factory Built Home, Manufactured Homes and Mobile Home Permit Fee Schedule:~~*~~Building Permit Fees:~~*

For each factory built home	\$100.00 per section plus building permit and plan review fees as determined based on the valuation (material and labor) for foundation systems, porches, decks and stairs or other permanent construction which are not components of the factory built home as produced.
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*~~Electrical Permit Fees:~~*

For hookup of each factory built home	\$45.00
Fees for additions, remodels and repairs to factory built home electrical systems shall be as determined for electrical permit fees.	

*~~Plumbing Permit Fees:~~*

For the issuance of each permit	\$15.00
For hookup of each factory built home plumbing system	\$9.00
Fees for additions, remodels and repairs to factory built home plumbing systems shall be as determined for plumbing permit fees.	

*~~Mechanical Permit Fees:~~*

For the issuance of each permit	\$15.00
For hookup of fuel gas system to each factory built home	\$9.00
Fees for additions, remodels and repairs to factory built home mechanical systems shall be as determined for mechanical permit fees.	

*~~Elevator Permit Fees:~~*

North West Colorado Council of Government (NWCCOG) is the inspection agency for all elevator installations in Hayden. Contact NWCCOG at (970) 468-0295 ext. 108 for fee information on elevator permits.
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*~~Fire Suppression and Detection Permit Fees:~~*

The West Routt Fire Protection District has access and fire prevention review authority for buildings constructed in their district. Contact the district for application submittal information and permit fees.
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(Code 1999, § 15.94.010; Ord. 582 § 2, 2007)

Title 7  
**RESERVED**

PROOFS

## Title 8

**BUSINESS TAXES, LICENSES AND REGULATIONS\***<sup>66</sup>

\***State law reference**—Powers to regulate business, C.R.S. § 31-15-501. For statutory provisions authorizing municipalities to tax, license, and regulate businesses, see C.R.S. 1973 § 31-15-501 (1975 Supp.).

**CHAPTER 8.04. IN GENERAL****~~5.04.010 Billiard Table, Shooting Gallery or Bowling alley License—Payment of Fee.~~**<sup>67</sup>

License may be granted by the Mayor and town clerk to any person to keep billiard tables, shooting gallery or bowling alley, upon payment by the applicant in an amount to be determined by the council from time to time, the sum of \$\_\_\_\_\_ per year<sup>68</sup>, always payable in advance.

(Code 1999, § 5.04.010; Ord. 21 Art. 1 § 1, 1909; amended 1978)

**~~5.04.020. Bond required.~~**<sup>69</sup>

An applicant for any such license as provided herein shall execute a bond to the town, to be approved by the Mayor, with security in the sum to be determined by the Town Council from time to time of two hundred dollars, on the condition that the person so licensed shall not, during the period for which such license is granted, permit any such language or activity as described in the Ordinances prohibiting disorderly conduct which tends to incite an immediate breach of the peace, to be used in or about his premises where such billiard or pool tables, shooting gallery or bowling alley is situated. The occurrence of any such language or activity constitutes a violation of the provisions of this chapter.

(Code 1999, § 5.04.020; Ord. 21 Art. 1 § 2, 1909; amended 1978)

**~~5.04.030. Persons under age prohibited from billiard table rooms.~~**

No licensee shall allow any person under the age of sixteen to frequent the room where a billiard table is situated.

(Code 1999, § 5.04.030; Ord. 21 Art. 1 § 3, 1909; amended 1978)

**~~5.04.040. Applicability of provisions.~~**

The provisions of this chapter and the definition of "billiard table" shall apply to and include bagatelle tables or pinball tables and to all tables upon which games are played with balls.

(Code 1999, § 5.04.040; Ord. 21 Art. 1 § 5, 1909; amended 1978)

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<sup>66</sup> We recommend renaming this title to reflect the subject matter more accurately (note that business taxes appear in the Revenue and Finance title). **Town agreed.**

<sup>67</sup> Is this separate license still required by the town? Or is it covered under the general business license? If so, we will delete these provisions. **Clerk confirmed that it is under the general business license via email on 10/28. Elected to ST during conference.**

<sup>68</sup> Yearly from the date of issuance? On or before December 31 of each year? **Clerk confirmed it's calendar year via email on 10/28. Notices are sent out in Nov/Dec.**

<sup>69</sup> We recommend not including the specific bond amount as the amount can easily become outdated and is more burdensome to amend if it the amount is in your published Code. **Town agreed via email 10/28.**

**5.04.050. License issuance for public auctions.<sup>70</sup>**

~~The Mayor and town clerk may, in their discretion<sup>71</sup>, issue license to any person or corporation for the sale of goods, wares or merchandise at public auction within any building or on the streets of the town, upon such person's paying to the town clerk an amount to be determined by the Town Council from time to time the sum of \$\_\_\_\_\_ for each and every day or part thereof, or \$\_\_\_\_\_ per year said auction is to be carried on. Any license granted pursuant to the provisions of this chapter may be revoked by the Mayor for any improper conduct, misrepresentation or fraud on account of the person or corporation so licensed.~~

~~(Code 1999, § 5.04.050; Ord. 21 Art. 1 § 6, 1909; amended 1978)~~

**5.04.060. Sales at public auction exempt from chapter provisions.**

~~All sales made at public auction under and by virtue of legal process or by any trustee or mortgage shall be exempt from the provisions of this chapter.~~

~~(Code 1999, § 5.04.060; Ord. 21 Art. 1 § 8, 1909)~~

**CHAPTER 8.08. ENTERTAINMENT****Sec. 8.08.010. Purpose and authority.**

(a) *Purpose.* It is the purpose of this chapter to authorize the creation of entertainment districts within which, through its local licensing authority, the town may allow the establishment of common consumption areas, as provided for in C.R.S. 44-3-301(11), and establish application procedures and regulations concerning common consumption areas.

(b) *Authority.* The local licensing authority is hereby authorized to certify and decertify promotional associations; designate the location, size, security, and hours of operation of common consumption areas and allow attachment of licensed premises to common consumption areas consistent with this chapter.

(Ord. No. 706, § 5.19.010, 5-21-2021)

**Sec. 8.08.020. 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:

*Common consumption area* means an area within a designated entertainment district that uses physical barriers to close the area to motor vehicle traffic, limits pedestrian access, includes at least two licensed premises, and allows for the consumption of alcoholic beverages pursuant to the provisions of this chapter and the state liquor code.

*Entertainment district* means an area within the town that is designated by resolution of the Town Council as an entertainment district in accordance with C.R.S. § 44-3-301(11)(b), as amended consisting of no more than 100 acres and containing at least 20,000 square feet of premises licensed as a tavern, hotel and restaurant, brew pub, beer and wine, manufacturer that operates a sales room pursuant to C.R.S. § 44-3-402(2) or (6), beer wholesaler that operates a sales room pursuant to C.R.S. § 44-3-406(1)(b)(I), or vintner's restaurant at the time the district is created.

*Local licensing authority* means the Town Council or any authority designated by ordinance to serve as the local licensing authority.

*Promotional association* means an association that is incorporated within the state that organizes and promotes entertainment activities within a common consumption area and is organized or authorized by two or more people who own or lease property within an entertainment district.

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<sup>70</sup> Is this separate license still required by the town? Or is it covered under the general business license? If so, we will delete these provisions. **Town confirmed they do not issue separate license for auctions via email 10/28.**

<sup>71</sup> We recommend not allowing any licenses to be issued at someone's discretion, as it is vague and subjective. **Town elected to ST outdated language at conference.**

(Ord. No. 706, § 5.19.020, 5-21-2021)

**Sec. 8.08.030. Entertainment districts; creation and amendment.**

Entertainment districts may be established or amended by resolution of the Town Council as determined to be in the best interest of the public and the specific geographic area to be served, subject to demonstration that the proposed district is consistent with the definition and purpose of an entertainment district. Within 15 days of the creation or amendment of an entertainment district, the local licensing authority shall notify the state licensing authority of the creation or amendment of said entertainment district and provide a map thereof.

(Ord. No. 706, § 5.19.030, 5-21-2021)

**Sec. 8.08.040. Common consumption areas.**

(a) *Application.* Within a designated entertainment district, common consumption areas may be licensed by the local licensing authority upon application by a promotional association on forms provided by the town clerk in conformance with the requirements of the state liquor code and this chapter. At a minimum, the following information shall be provided:

- (1) Name, address and list of all officers of the promotional association.
- (2) Name and address of the existing establishments licensed under the state liquor code that are attached to the common consumption area (a minimum of two licensed establishments are required) which have opted to be included in the promotional association including the liquor license number, a list of any past liquor violations and a copy of any operational agreements.
- (3) Documentation of how the application addresses the reasonable requirements of the neighborhood or desires of the adult inhabitants as evidenced by petitions, written testimony, or otherwise.
- (4) The size, in terms of acreage or square footage, of the common consumption area. All areas must be contiguous within the common consumption area. The size of the common consumption area shall not exceed the area approved as the entertainment district within which the common consumption area is located, but may be a smaller area within the district.
- (5) Proposed dates, days and hours of operation of the common consumption area.
- (6) A site plan detailing the proposed common consumption area including the following information:
  - a. Boundaries of the area;
  - b. Location and description of physical barriers;
  - c. Location of all entrances and exits;
  - d. Location of all attached licensed premises;
  - e. Location of signs to be posted notifying customers of the hours of operation and restrictions association with the common consumption area;
  - f. Identification of licensed premises that are adjacent but not attached to the common consumption area.
- (7) A security plan detailing the security arrangements for the common consumption area, including, but not limited to, the following information:
  - a. Evidence of completed liquor training of all serving personnel;
  - b. Number and location of security personnel during the days and hours of operation of the common consumption area.
- (8) A signed statement that the common consumption area and all licensed establishments therein can be operated in compliance with this chapter and the state liquor code.
- (9) Documentation evidencing legal authorization for use of the common consumption area.
- (10) Proof of insurance of general liability and liquor liability naming the town as an additional insured in a minimum amount of \$1,000,000.00.

- (11) Application fee in the amount established by the annual fees and charges resolution adopted by the Town Council.

(b) *Hours of operation.* Common consumption areas and their attached licensed premises may serve alcohol and the customers may consume alcohol until 12:00 midnight or as further restricted by the local licensing authority in the certification of the promotional association. The hours of operation may differ between the licensed premises and the common consumption area. It is unlawful for any attached licensed premises to serve or the promotional association to allow consumption of alcohol beverages in the common consumption area after 12:00 midnight or as further restricted by the local licensing authority in the certification of the promotional association.

(Ord. No. 706, § 5.19.040, 5-21-2021)

**Sec. 8.08.050. Promotional associations.**

(a) If certified by the local licensing authority as a promotional association, the association may operate a common consumption area within an entertainment district and authorize the attachment of a licensed premises to the common consumption area, subject to approval of the local licensing authority. To qualify for certification, a promotional association must:

- (1) Submit a copy of the articles of incorporation and bylaws and a list of the names of all directors and officers of the promotional association;
- (2) Include at least two licensed premises attached to the common consumption area;
- (3) Have at least one director from each licensed premises attached to the common consumption area on the board of directors;
- (4) Submit a request for recertification of the promotional association and pay a recertification fee as established by the annual fees and charges resolution adopted by the Town Council.

(b) Recertification requests and annual reports shall be submitted by January 31 of each year to the local licensing authority, showing the items listed in section 8.08.040(a), along with any violation of the liquor code committed by any attached licensed premises and a copy of any changes to the articles of incorporation, bylaws and/or directors and officers of the promotional association.

(Ord. No. 706, § 5.19.050, 5-21-2021)

**Sec. 8.08.060. Application for attachment to a common consumption area.**

An application by a liquor licensee to attach to an existing common consumption area of a certified promotional association shall be on forms prepared and furnished by the town clerk. The information required shall include, but shall not be limited to:

- (1) Written authorization for attachment from a certified promotional association;
- (2) The name of the representing director to sit on the board of the certified promotional association;
- (3) Detailed map of the common consumption area including:
  - a. Location of physical barriers;
  - b. Entrances and exits;
  - c. Location of attached licensed premises;
  - d. Identification of licensed premises that are adjacent but not to be attached to the common consumption area;
  - e. Approximate location of security personnel;
  - f. Application fee as established by the annual fees and charges resolution adopted by the Town Council.

(Ord. No. 706, § 5.19.060, 5-21-2021)

**Sec. 8.08.070. Review of applications for certification, recertification or attachment.**

Upon receipt of an application for certification or recertification of a promotional association, or attachment of a liquor licensee to an existing common consumption area, the local licensing authority shall consider such application within 60 days of receipt. The local licensing authority shall review the application for compliance with the requirements of this chapter, the state liquor laws and the desires and needs of the community and after consideration and a public hearing, the local licensing authority may either approve the application with or without conditions or deny the application.

(Ord. No. 706, § 5.19.070, 5-21-2021)

**Sec. 8.08.080. Decertification of a promotional association.**

The local licensing authority has the authority to decertify a promotional association if the association:

- (1) Fails to submit the annual report as required under section 8.08.050 by January 31 of each year or fails to pay the required application fee.
- (2) Fails to establish that the licensed premises and common consumption area can be operated without violating this section, any provision of the state liquor code or regulations or without creating a safety risk to the neighborhood.
- (3) Fails to have at least two licensed premises attached to the common consumption area.
- (4) Fails to obtain or maintain a properly endorsed general liability and liquor liability insurance policy that is acceptable to the local licensing authority and names the town as an additional insured.
- (5) The use is not compatible with the reasonable requirements of the neighborhood or the desires of the adult inhabitants.
- (6) Violates any provision of C.R.S. 44-3-909, "common consumption areas," as amended.

(Ord. No. 706, § 5.19.080, 5-21-2021)

**~~5.04.070. Licenses for amusements and entertainment.~~<sup>72</sup>**

~~— The Mayor and town clerk shall issue licenses to any person, persons, company or corporation who shall own, conduct or manage for profit, within the limits of the town, any theater, circus, caravan, exhibition, show, amusement, natural or artificial curiosities, panorama, concert, musical entertainment or performance of any kind or nature upon payment by said parties in an amount to be determined by the Town Council from time to time of the following fee: for each circus, caravan or other show the sum of \$ \_\_\_\_\_ per day; for each hall or opera house used for entertainments, with a seating capacity of less than \_\_\_\_\_, \$ \_\_\_\_\_ per year, payable in advance; for each such hall with a seating capacity of more than \_\_\_\_\_, \$ \_\_\_\_\_ per year, payable in advance.~~

~~— Any such person, company or corporation giving any exhibition or performance in the opera house or hall or under canvas without first having obtained a license as herein provided, constitutes a violation of the provisions of this chapter; provided that for all such entertainments or exhibitions given by the citizens of the town for benevolent or charitable purposes, no license shall be required.~~

(Code 1999, § 5.04.070; Ord. 21 Art. 2 § 2, 1909; amended 1978)

**~~5.04.080. Violation -- penalty.~~**

~~..Any violation of the provisions of this chapter will be punished in accordance with the provisions of Chapter 1.08 of the Hayden Municipal Code.~~

(Code 1999, § 5.04.080; Ord. 21 Art. 2 § 2, 1909; amended 1978)

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<sup>72</sup> Is this license still required by the town? Or is it covered under the general business license? If so, we will delete these provisions. If there is still a separate license, we recommend moving 5.04.070 through 5.04.080 to appear in the chapter titled "Amusements." **Town confirmed that it is part of the general business license.**



## CHAPTER 8.12. LIQUOR LICENSES<sup>73</sup>

### Sec. 8.12.010. Reduction of distance.

As authorized by ~~C.R.S. 44-3-313-§ 12-47-138(1)(d)(IV) of the C.R.S.~~, as amended, the Town Council ~~Board of Trustees~~, as the local liquor licensing authority, may grant ~~hotel and restaurant~~<sup>74</sup> liquor licenses for locations at least 100 feet from any middle or high school or any post-secondary educational facility.

(Code 1999, § 5.20.010; Ord. No. 395, 1992)

### Sec. 8.12.020. Compliance with other laws.

Licenses granted pursuant to this chapter shall be subject to all other provisions of the ~~state liquor code liquor code~~ and the Colorado Revised Statutes.

(Code 1999, § 5.20.020; Ord. No. 395, 1992)

### Sec. 8.12.030. Liquor license special event permits; ~~election under c.r.s. § 12-48-107(5).~~

(a) The ~~Town Council-Board of Trustees~~, acting as the town liquor licensing authority, hereby elects, on an application by application basis, at its option, such option to be exercised within five business days after the filing of an application for a liquor license special events permit for events within the town, to exercise local control over the issuance of liquor license special event permits for events within the town, as authorized by C.R.S. 44-5-107(5) ~~Section 12-48-107(5), C.R.S.~~, as existing or as hereafter amended. Such option shall be exercised by the town manager in accordance with the time limitations reflected above.

(b) In addition, if the town assumes local control, before approval, the town clerk shall confirm the following when appropriate for special event licenses:

- (1) Timely and proper posting of a conspicuous public notice sign as required by C.R.S. 44-5-101 et seq., Article 48, Title 12, C.R.S., as amended.
- (2) Whether the applicant satisfies the eligibility criteria set forth in ~~Article 48, Title 12, C.R.S. 44-5-101 et seq.~~, as amended.
- (3) After investigation, no sufficient grounds for denial appear to exist and no protests have been filed by affected persons.
- (4) That the applicant has not exceeded and does not propose to exceed the maximum number of special event calendar days permitted by ~~Article 48, Title 12, C.R.S. 44-5-101 et seq.~~, as amended.

(c) The town clerk shall report the issuance of any special event permit to the state liquor enforcement division in accordance with the requirements of ~~Article 48, Title 12, C.R.S. 44-5-101 et seq.~~, as amended.

(d) The special event liquor license permit fee ~~is in an amount to be determined by the Town Council from time to time is hereby established to be one hundred dollars (\$100.00) per day as of the effective date of this ordinance.~~

(Code 1999, § 5.20.030; Ord. No. 657, § 1, 2013)

### Sec. 8.12.040. On-site alcoholic beverage tastings.

(a) Pursuant to C.R.S. § ~~44-3-301(10)(a)-12-47-301(10)(a)~~, the town hereby authorizes alcoholic beverage tastings of malt, vinous, or spirituous liquor for licensed retail liquor stores and liquor-licensed drug stores within the town subject to the requirements and limitations contained in C.R.S. § ~~44-3-301(10)-12-47-301(10)~~, as the same may be amended from time to time.

<sup>73</sup> Note: 12-47-301 to 12-47-313 was repealed and relocated in 2018. We have corrected the citations throughout. **Town accepted.**

<sup>74</sup> **Per clerk comment via email 10/28: "I am not sure we want to state hotel and restaurant only. We have retail sales, fermented malt, brewery, tavern/pub." Language edited.**

(b) Each license is restricted to a maximum of 104 tastings per year which may occur no more than four of the six days from Monday through the following Saturday each week, and not to exceed four hours in duration per day.

(Code 1999, § 5.20.040; Ord. No. 677, §§ 1, 2, 2-2-2017)

#### **Sec. 8.12.050. Optional premises licenses.**

(a) *Authority.* The Town Council shall have the power to issue optional premises licenses and optional premises for hotel and restaurant licenses in accordance with the provisions of the state liquor code, C.R.S. § 44-3-101 et seq. and the provisions of this section.

(b) *Required.* It shall be unlawful for any person to sell, dispense or serve malt, vinous or spirituous liquors at an outdoor sports and recreational facility as defined herein without first having obtained a valid optional premises license as provided in this section.

(c) *Standards.* The following standards for the issuance of optional premises licenses or for optional premises for hotel and restaurant licenses are adopted pursuant to C.R.S. § 44-3-310. The standards adopted herein shall be considered in addition to all other standards applicable to the issuance of licenses under this chapter and the state liquor code for an optional premises license or for an optional premises for a hotel and restaurant license. These two types of licenses for optional premises will be collectively referred to as optional premises in these standards unless otherwise stated.

(d) *Eligible facilities.* An optional premises may only be approved when that premises to be licensed is located on or adjacent to an outdoor sports and recreational facility as defined in C.R.S. § 44-3-103; provided, however, that the type of outdoor sports and recreational facilities which may be considered for an optional premises license shall be limited to outdoor sports, recreational facilities, municipal parks with facilities, and local fairgrounds.

(e) *Size of eligible facilities.* There are no restrictions on the minimum size of the outdoor sports and recreational facilities which may be eligible for the approval of an optional premises license. However, the Town Council may consider the size of the particular outdoor sports and recreational facility in relation to the number of optional premises requested for the facility.

(f) *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. However, any applicant requesting approval of more than one optional premises on an outdoor sports or recreational facility shall demonstrate the need for each optional premises in relationship to the outdoor sports or recreational facility and its guests.

(g) *Submittal requirements.* Application for an optional premises license shall be made to the town clerk on forms which shall contain the following information in addition to information required by the licensing authority of the state:

- (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.
- (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.
- (4) A description of the provisions which will be implemented to control the dispensing of alcoholic beverages to minors or visibly intoxicated persons.
- (5) If the applicant does not own the optional premises, the applicant shall submit to the town clerk proof of the applicant's right of possession and written authorization for the optional premises license from the owner of the optional premises.
- (6) Such other information as may be reasonably required to satisfy the Town Council that control of the optional premises will be ensured and that the health, safety and welfare of the neighborhood and users of the outdoor sports and recreation facility will not be adversely affected should the optional premises

license be issued.

(h) *Processing of applications.* An application for a new optional premises license or an optional premises for a new hotel and restaurant license shall be processed in the same manner as any other new license application. An application for an optional premises filed in connection with an existing hotel and restaurant license shall be processed in the same manner as an application to modify or expand the licensed premises.

(i) *Discretion of the Town Council.* The decision of the Town Council whether to grant an optional premises license shall be discretionary. The Town Council shall have the right to deny any request for such a license or to place on the license any conditions, restrictions or requirements which, in its discretion, it deems appropriate to serve the public health, safety and welfare. The Town Council shall also have the right to suspend or revoke the optional premises license in accordance with the procedures provided for in the state liquor code.

(j) *Notice of operation.* Pursuant to C.R.S. § 44-3-310, no alcoholic beverages may be served on the optional premises unless the licensee has provided written notice to the Town Council (local licensing authority) and the state licensing authority 48 hours prior to serving alcoholic beverages on the optional premises. Such notice must contain the specific days and hours on which the optional premises are to be used. In this regard, there shall be no limitation on the number of days which a licensee may specify in each notice. However, no notice may specify any date of use which is beyond the current license period.

- (1) All prior ordinances or parts of such prior ordinances, codes or parts of codes in conflict with the provisions of this chapter are hereby repealed.
- (2) If any paragraph, section, subsection, sentence, clause or phrase of this chapter is, for any reason, held to be invalid, unconstitutional and/or unenforceable, such provisions shall be deemed to be separate, distinct and independent and the remaining provisions of this chapter shall continue in full force and effect.

(Ord. No. 705, § 05.20.050, 4-15-2021)

## **CHAPTER 8.16. MARIJUANA CULTIVATION FACILITIES**

### **Sec. 8.16.010. Purpose, intent and other laws.**

(a) The purpose of this chapter is to authorize, under limited circumstances and in limited locations, the cultivation of retail marijuana pursuant to the ~~Colorado Retail Marijuana Code~~ and the cultivation of medical marijuana pursuant to the state ~~Medical~~ marijuana code, which authorize the licensing and regulation of marijuana cultivation and affords the town the option to determine whether or not to allow such cultivation within its jurisdiction and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in state law. The intent of this chapter is to establish a nondiscriminatory mechanism by which the town can control, through appropriate regulation, the location and operation of marijuana cultivation within the town. Nothing in this chapter is intended to promote or condone the sale, distribution, possession or use of marijuana in violation of any applicable law. Compliance with the requirements of this chapter shall not provide a defense to criminal prosecution under any applicable law.

(b) If the state adopts any stricter regulation governing the cultivation of marijuana than that set forth in this chapter, the stricter regulation shall control such activity in the ~~town~~-City. A 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 applicable state regulation. If the state prohibits the cultivation of marijuana, any license issued under this chapter shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress by the licensee. The issuance of any license pursuant to this chapter 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.

(Code 1999, § 5.22.010; Ord. No. 666, § 2)

### **Sec. 8.16.020. 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:

~~The following words and phrases, when used in this chapter, shall have the meanings ascribed to them in this Section:~~

*Applicant* means any person or entity who has submitted an application for a license or renewal of a license issued pursuant to this chapter. If the applicant is an entity and not a natural person, applicant shall include all persons who are members and managers of such entity.

~~<sup>75</sup>"Colorado Medical Marijuana Code" means Title 12, Article 43.3 of the Colorado Revised Statutes, as amended from time to time, and any rules or regulations promulgated thereunder.~~

~~<sup>76</sup>"Colorado Retail Marijuana Code" means Title 12, Article 43.4 of the Colorado Revised Statutes, as amended from time to time, and any rules or regulations promulgated thereunder.~~

Colorado Marijuana Code means C.R.S. 44-10-101 et seq., as amended from time to time, and any rules or regulations promulgated thereunder.

*Consumer* means a person who purchases marijuana for his own use and not for resale to others.

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

*Facility* means the defined area in which a cultivation operation may be conducted, whether the entirety of a building or structure or a unit, suite, leaseable space or other defined portion thereof, as clearly delineated on the site plan or other development approval associated with the conditional use permit issued for the facility and on the detailed diagram of the proposed licensed premises required to be filed with the town pursuant to section 8.16.070(b)(7) as part of an application for a license under this chapter.

*Fee schedule* means the town of the town fee schedule, as adopted and amended by the Town Council from time to time.

~~<sup>77</sup>Good cause, for purposes of refusing or denying a license renewal, reinstatement, or initial license issuance, means:~~

- ~~(1) The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this chapter; any rules promulgated pursuant to this chapter; or any supplemental local law, rules, or regulations;~~
- ~~(2) The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority;~~
- ~~(3) The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.~~

~~(for the purpose of refusing or denying a license or license renewal under this chapter) means: (1) the licensee has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this chapter, of the Colorado Retail Marijuana Code, of the Colorado Medical Marijuana Code, of any rule or regulation promulgated pursuant to such Codes or pursuant to this chapter, or of the Hayden Municipal Code; (2) the licensee has failed to comply with any special terms or conditions that were placed on its license, whether state or local, at the time the license was issued, or that were placed on its license, whether state or local, in prior disciplinary proceedings or to which the licensee agreed in the context of potential disciplinary proceedings; or (3) the licensee's facility has been found to have been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the facility is located. Evidence to support such a finding can include: (i) a continuing pattern of offenses against the public peace; (ii) a continuing pattern of drug-related criminal conduct within the premises of the facility or in the immediate area surrounding the facility; or (iii) a continuing pattern of~~

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<sup>75</sup> C.R.S. 12-43.3-101 et seq. was repealed and relocated in 2018. We will update citations throughout. **Town accepted.**

<sup>76</sup> C.R.S. 12-43.3-101 et seq. was repealed and relocated in 2018. We will update citations throughout. **Town accepted.**

<sup>77</sup> We recommend modifying this definition to comply with C.R.S. 44-10-103. **Town accepted.**

~~criminal conduct directly related to or arising from the operation of the 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 (0.3) percent on a dry-weight basis.

*License* means a document issued by the town officially authorizing an applicant to operate a marijuana cultivation facility pursuant to this chapter, or, if required by the context, means a document issued by the state licensing authority pursuant to the state ~~Retail~~ marijuana code.

*Licensed premises* means the premises specified in an application for a license under this chapter which is owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, sell, or test regulated marijuana and regulated marijuana products in accordance with state and local law.

*Licensee* means the person or entity to whom as license has been issued pursuant to this chapter.

*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, but provided, however, that such concentrate must have been extracted with water-based methods. Water-based marijuana concentrate is the only type of marijuana concentrate that a marijuana cultivation facility is authorized to produce under a license issued pursuant to this chapter. 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 cultivation facility* means an entity licensed to cultivate more than 12 marijuana plants at any one time, prepare and package the marijuana and either provide medical marijuana to one or more patients or sell marijuana to marijuana stores, to marijuana product manufacturing facilities, to other marijuana cultivation facilities, to medical marijuana centers or to medical marijuana-infused products manufacturers, but not to consumers.

*Marijuana product manufacturing facility* shall have the same meaning as set forth in the state ~~Retail~~ marijuana code.

*Marijuana store* shall have the same meaning as set forth in the state ~~Retail~~ marijuana code.

*Medical marijuana center* shall have the same meaning as set forth in the state ~~Medical~~ marijuana code.

*Medical marijuana-infused products manufacturer* shall have the same meaning as set forth in the state ~~Medical~~ marijuana code.

~~State means the State of Colorado.~~

*State licensing authority* shall have the same meaning as set forth in the ~~Colorado Retail Marijuana Code, in the context of retail marijuana, and in the state Medical marijuana code, in the context of medical marijuana.~~

*Water-based marijuana concentrate* means a specific subset of marijuana that was produced by extracting cannabinoids from marijuana through the use of only water, ice or dry ice.

(b) In addition to the definitions contained in subsection (a) of this section, other terms used in this chapter shall have the meaning ascribed to them in article XVIII, section 14, of the state constitution or in the state ~~Medical~~ marijuana code ~~or in the Colorado Retail Marijuana Code~~, and such definitions are hereby incorporated into this chapter by reference.

(Code 1999, § 5.22.020; Ord. No. 666, § 2)

#### **~~5.22.030. Reserved.~~**

#### **Sec. 8.16.030. Licensing authority created.**

There shall be and is hereby created a marijuana licensing authority, hereafter referred to in this chapter as the authority.

(Code 1999, § 5.22.040; Ord. No. 666, § 2)

**Sec. 8.16.040. Composition of authority.**

The authority shall be the town clerk.

(Code 1999, § 5.22.050; Ord. No. 666, § 2)

**Sec. 8.16.050. Functions of authority.**

(a) The authority shall have the duty and authority pursuant to this chapter and the state ~~Medical marijuana code and Colorado Retail Marijuana Code~~ to grant or deny licenses, as well as all powers of a local licensing authority as set forth in said state codes.

(b) The authority shall have the power to promulgate rules and regulations concerning the procedures for hearings before the authority; require any applicant or licensee to furnish any relevant information required by the authority; and administer oaths and issue subpoenas to require the presence of persons and the production papers, books and records at any hearing that the authority is authorized to conduct. Any such subpoena shall be served in the same manner as a subpoena issued by a district court of the state.

(Code 1999, § 5.22.060; Ord. No. 666, § 2)

**Sec. 8.16.060. License required; term of license; renewal application.**

(a) It shall be unlawful for any person to establish or operate a marijuana cultivation facility in the town without first having obtained from the town and from the state, if the state requires licensure of such a facility, a license for each facility to be operated. Such licenses shall be kept current at all times and shall be conspicuously displayed at all times in the premises to which they apply. The failure to maintain a current license shall constitute a violation of this section.

(b) It shall be unlawful for any person, group of persons or entity to cultivate more than 12 marijuana plants on any premises without first having obtained the license required by this chapter, regardless of whether such plants are grown individually or co-operatively, for wholesale, personal use or for provision to another, as a commercial enterprise, as a caregiving enterprise or for purely personal use, and regardless of any other factor concerning such cultivation.

(c) Any license issued by the authority under this chapter shall expire one year after the date of its issuance.

(d) An application for renewal of an existing license shall be made on forms provided by ~~the town and the state~~<sup>78</sup>. At the time of the renewal application, each applicant shall pay a nonrefundable fee to the town, as set forth in the fee schedule, to defray the costs incurred by the town for background investigations, review of the application and inspection of the proposed premises, as well as any other costs associated with the processing of the application.

(Code 1999, § 5.22.070; Ord. No. 666, § 2)

**Sec. 8.16.070. Application requirements; payment of application fee.**

(a) Prior to making an application for a license, the person potentially seeking the license shall first attend at least one pre-application meeting with the town manager, town clerk and any other town official or employee whose presence is requested by the town manager or clerk. The purpose of the pre-application meeting is to advise the potential applicant as to the process for applications under this chapter, to answer preliminary questions from the potential applicant and to provide an opportunity to identify issues that might preclude the issuance of a license pursuant to this chapter. Prior to such pre-application meeting, the potential applicant shall pay a pre-application fee to the town, as set forth in the fee schedule, to defray the costs incurred by the town in conducting the meeting. A person seeking a license shall submit an application to the town on forms provided by the state and town. At the time of application, each applicant shall pay an application fee to the town, as set forth in the fee schedule to defray the costs incurred by the town for background investigations, review of the application and inspection of the proposed premises, as well as any other costs associated with the processing of the application. In addition, the applicant shall present for recording one of the following forms of identification:

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<sup>78</sup> Via email on 10/28, Town confirmed it is just state.

- (1) An identification card issued in accordance with C.R.S. § 42-2-302;
- (2) A valid state driver's license;
- (3) A valid driver's license containing a picture issued by another state;
- (4) A United States military identification card;
- (5) A valid passport; or
- (6) An alien registration card.

(b) The applicant shall also provide the following information on a form approved by, and acceptable to, the town, which information shall be required for the applicant and all persons having a financial interest in the facility that is the subject of the application or, if the applicant is an entity, having a financial interest in the entity:

- (1) Name, address, date of birth and other identifying information as may be required;
- (2) An acknowledgement and consent that the town may conduct a background investigation, including a criminal history check, and that the town will be entitled to full and complete disclosure of all financial records of the facility, including, but not limited to, records of deposits, withdrawals, balances and loans;
- (3) 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;
- (4) A copy of the deed reflecting the applicant's ownership of, or a lease reflecting the right of the applicant to possess, the proposed licensed premises;
- (5) 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 marijuana cultivation facility;
- (6) Evidence of the issuance of a valid town excise tax license, if required;
- (7) A clearly legible "to scale" diagram of the proposed licensed premises, no smaller than 8.5 inches by 11 inches and no larger than 11 inches by 17 inches, showing, without limitation, the building layout, all entryways and exits to and from the proposed licensed premises, all areas in which marijuana will be cultivated and stored, and all proposed areas of water-based extraction activities;
- (8) A comprehensive operation plan for the cultivation facility that contains, at a minimum, the following:
  - a. A description of the security provisions and systems meeting the requirements of section 8.16.100(e);
  - b. An exterior lighting plan; and
  - c. A description of the cultivation activities, including without limitation, the area in which plants will be grown, a description of the ventilation and odor filtration system for the premises, if required by section 8.16.100(d), and a description of the automatic fire suppression system, if required by applicable building and fire codes;
- (9) An area map drawn to scale indicating land uses of other properties within a 500-foot radius of the property upon which the applicant is seeking a license. The map shall depict the proximity to the property to any school, park or commercial childcare center;
- (10) Any additional information that the authority reasonably determines to be necessary in connection with the investigation, review and determination of the application;

(c) A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the facility, including, without limitation, any development approvals or building permits required by this Code;

(d) Upon receipt of a complete application, the authority shall circulate the application to all affected service areas and departments of the town to determine whether the application is in full compliance with all applicable laws, rules and regulations. No license shall be approved until after the authority has caused the proposed premises to be inspected to determine compliance of the premises with any applicable requirements of this chapter and Code,

and with the plans and descriptions submitted as part of the application. Within 30 days after the completion of the authority's investigation of the application, the authority shall issue a written decision approving or denying the application for licensure, which decision shall state the reasons for the decision and be sent via certified mail to the applicant at the address shown in the application. In addition, the authority shall promptly notify the state medical marijuana licensing authority of any approval of an application for local licensure;

(e) After approval of an application, the authority shall not issue a license or license certificate until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures and equipment in place as are necessary to comply with the applicable provisions of this chapter. After approval of an application, the authority shall not issue a license or license certificate until the applicant provides written evidence that the applicant has paid all license application fees due to the state in connection with the state licensing authority's review of the application, where applicable. Each license certificate issued by the town pursuant to this chapter shall specify the date of issuance, the period of licensure, the name of the licensee and the premises or optional premises licensed.

(Code 1999, § 5.22.080; Ord. No. 666, § 2)

#### **Sec. 8.16.080. Denial of application.**

The authority shall deny any application that does not meet the requirements of this chapter and may deny an application that does not meet the requirements of the state ~~Medical~~ marijuana code. The authority shall also deny any application that contains any false, misleading or incomplete information. Denial of an application for a license shall be subject to review by a court of competent jurisdiction.

(Code 1999, § 5.22.090; Ord. No. 666, § 2)

#### **Sec. 8.16.090. Persons prohibited as licensees.**

No license shall be issued to, held by or renewed by any of the following:

- (1) Any applicant who has made a false, misleading or fraudulent statement, or who has omitted pertinent information, on the application for a license;
- (2) Any applicant who has failed to pay all required state and local application and/or license fees, as applicable;
- (3) Any licensee who is delinquent in or who has failed to file tax returns and other required financial information, to remit taxes to the town or the state, or who has otherwise failed to conduct the facility in compliance with all applicable ordinances, rules, regulations and laws.

(Code 1999, § 5.22.100; Ord. No. 666, § 2)

#### **Sec. 8.16.100. Requirements related to premises.**

(a) All cultivation, water-based extraction and related activities shall be conducted indoors.

(b) All product storage shall be indoors. Marijuana shall not be visible from a public sidewalk or right of way.

(c) No marijuana shall be consumed on the licensed premises.

(d) The cultivation of marijuana that results in any single marijuana plant of a height greater than 12 inches is only permitted when the premises are equipped with a system that removes the odors of the marijuana being cultivated so that the odor is not detectable from the exterior of the business or from within any adjoining premises. Approval of the odor removal system by the building inspector is required prior to any cultivation process beginning. The building inspector's determination of the adequacy of any proposed odor-removing system shall be based on his reasonable determination of the ability of the proposed system to remove odors as required by this subsection, which determination shall be based upon the manufacturer's or an engineer's design specifications for the system as they relate to the premises in question.

(e) Adequate security must be provided on the premises. At a minimum, the security shall include:

- (1) Security surveillance cameras installed and properly maintained to monitor each entrance along the interior and exterior of the premises to discourage crime and to facilitate the reporting of criminal acts, as well as nuisance activities; security video shall be preserved in the manner and for the period of time



set forth in the state ~~Medical~~ marijuana enforcement division rules, as amended from time to time;

- (2) Robbery and burglary alarm systems that are professionally monitored and maintained in good working condition;
- (3) Exterior lighting that illuminates the exterior walls of the business during evening hours and is compliant with this Code;
- (4) A secure safe that is utilized for the purposes of storing cash and marijuana that is not then being actively cultivated; and
- (5) Locking systems for exterior doors that are designed and installed in such fashion as to deter unlawful entry and provide safe emergency egress.

(Code 1999, § 5.22.110; Ord. No. 666, § 2)

#### **Sec. 8.16.110. Prohibited acts.**

(a) It shall be unlawful for any licensee to permit the consumption of alcohol beverages, as defined in the state liquor code, on the licensed premises.

(b) It shall be unlawful for any licensee to sell, dispense, give or otherwise distribute marijuana except as permitted by law.

(c) After issuance of a license, it shall be unlawful for a licensee to make a physical change, alteration or modification of the licensed premises that materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without obtaining the prior written approval of the authority and the state licensing authority, when applicable. For purposes of this subsection, physical changes, alterations or modification of the licensed premises, or in the usage of the premises requiring prior written approval, shall include, but not be limited to, the following:

- (1) Any increase or decrease in the size or physical capacity of the licensed premises;
- (2) The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of ingress and/or egress, when such common entryway, doorway or passage alters or changes the cultivation, wholesale or distribution of marijuana within the licensed premises;
- (3) Any enlargement of a cultivation area; and
- (4) Any change in the interior of the premises that would affect the basic character of the premises or physical structure that existed in the plan on file as part of the latest prior application.

(Code 1999, § 5.22.120; Ord. No. 666, § 2)

#### **Sec. 8.16.120. Required books and records.**

(a) In addition to any requirements under the state ~~Medical~~ marijuana code or ~~colorado retail~~ marijuana code, and any rules or regulations promulgated thereunder requiring licensees to maintain books and records, every facility shall maintain an accurate and complete record of all marijuana cultivated, all marijuana processed into usable form, and all marijuana sold, given away, dispensed or otherwise distributed or removed from the licensed premises. Such records shall include:

- (1) The total quantity of marijuana cultivated and the total usable quantity of marijuana produced from time to time, including the date of cultivation and the date on which cultivated marijuana was reduced to usable form; and
- (2) The date and time at which any marijuana was removed from the licensed premises, including the amount of marijuana removed, the person who removed it, the location to which the marijuana was delivered and the date and time of such delivery.

(b) All events and/or transactions that are to be recorded pursuant to this section shall be kept in a numerical register in the order in which they occur.

(c) All records required to be kept under this section must be kept in the English language in a legible manner and must be preserved and made available for inspection by the town for a period of three years after the date of the

occurrence and/or transaction. The licensee may redact any information the licensee is required by law to maintain as confidential prior to providing records to the town for inspection and shall provide to the town, upon request, a citation to the law that requires such non-disclosure or a copy of any court order or other legal authority to withhold such information.

(Code 1999, § 5.22.130; Ord. No. 666, § 2)

**Sec. 8.16.130. Inspection of licensed premises.**

During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the chief of police, the fire chief, the building official or the authorized representative of any of them, for the purpose of investigating and determining compliance with the provisions of this chapter and any other applicable state or local law or regulation. Such inspection may include, but need not be limited to, the inspection of books, records and inventory. Where any part of the premises consists of a locked area, such area shall be made available for inspection, without delay, upon request.

(Code 1999, § 5.22.140; Ord. No. 666, § 2)

**Sec. 8.16.140. Nonrenewal, suspension or revocation of license.**

(a) The authority may suspend, revoke or refuse to renew a license for any of the following reasons:

- (1) The applicant or licensee, or his agent, manager or employee, have violated, do not meet or have failed to comply with any of the terms, requirements, conditions or provisions of this chapter or with any applicable state or local law or regulation;
- (2) The applicant or licensee, or his agent, manager or employee, have failed to conduct the licensed operations in conformance with the application pursuant to which the license was issued, or have failed to comply with any special terms or conditions of its license pursuant to the order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the license; or
- (3) The facility has been operated in a manner that adversely affects the public health, safety or welfare.

(b) The authority shall not suspend or revoke a license until after notice and an opportunity for hearing has been provided to the licensee.

(c) The authority shall not hold a hearing on a license renewal application unless a complaint has been filed concerning the licensee or there are allegations against the licensee that, if established, would be grounds for suspension, revocation or nonrenewal under subsection (a) of this section.

(d) Evidence to support a finding under subsection (a)(3) of this section may include, without limitation, a continuing pattern of disorderly conduct or drug-related criminal conduct within the premises of the facility or in the area immediately surrounding the facility, or a continuing pattern of criminal conduct directly related to or arising from the operation of the facility.

(Code 1999, § 5.22.150; Ord. No. 666, § 2)

**Sec. 8.16.150. Violations and penalties.**

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, any person, including, but not limited to, any licensee, manager, agent or employee of a cultivation facility who violates any provision of this chapter shall be guilty of a misdemeanor punishable in accordance with section 1.12.010.

(Code 1999, § 5.22.160; Ord. No. 666, § 2)

**Sec. 8.16.160. No town liability; indemnification; no defense.**

(a) By accepting a license issued pursuant to this chapter, the licensee waives any claim concerning, and releases the town, its officers, elected officials, employees, attorneys and agents from, any liability for injuries or damages of any kind that result from any arrest or prosecution of facility owners, operators, employees, customers or patients of the licensee for a violation of state or federal laws, rules or regulations.

(b) By accepting a license issued pursuant to this chapter, 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 facility that is the subject of the license.

(c) The issuance of a license pursuant to this chapter shall not be deemed to create an exception, defense or immunity for any person in regard to any potential criminal liability the person may have under state or federal law for the cultivation, possession, sale, distribution or use of marijuana.

(Code 1999, § 5.22.170; Ord. No. 666, § 2)

## CHAPTER 8.20. MARIJUANA MANUFACTURING FACILITIES

### Sec. 8.20.010. Purpose, intent and other laws.

(a) The purpose of this chapter is to authorize, under limited circumstances and in limited locations, the manufacturing of marijuana-related products pursuant to ~~the Colorado Retail Marijuana Code and the state Medical marijuana code~~. The intent of this chapter is to establish a nondiscriminatory mechanism by which the town can control, through appropriate regulation, the location and operation of marijuana manufacturing activities within the town. Nothing in this chapter is intended to promote or condone the sale, distribution, possession or use of marijuana in violation of any applicable law. Compliance with the requirements of this chapter shall not provide a defense to criminal prosecution under any applicable law.

(b) If the state adopts any stricter regulation governing the manufacture of marijuana-related products than that set forth in this chapter, the stricter regulation shall control such activity in the town. A 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 applicable state regulation. If the state prohibits the manufacturing of marijuana-related products, any license issued under this chapter shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress by the licensee. The issuance of any license pursuant to this chapter 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.

(c) It is clearly understood and reiterated that all building standards adopted under chapter 8.16 of this title of the town apply to any marijuana facilities that may be constructed or refurbished under this chapter.

(Code 1999, § 5.23.010; Ord. No. 688, § 2, 9-6-2018)

### Sec. 8.20.020. Definitions.

(a) The words and phrases defined by section 8.16.020 shall apply to this chapter and, in addition, 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:

*Food-based marijuana concentrate* means a marijuana concentrate that was produced by extracting cannabinoids from marijuana through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats.

*Heat/pressure-based marijuana concentrate* means marijuana concentrate that was produced by extracting cannabinoids from marijuana through the use of heat and/or pressure.

*Marijuana concentrate* means a specific subset of marijuana that was produced by extracting cannabinoids from marijuana. Categories of marijuana concentrate include water-based medical marijuana concentrate, food-based medical marijuana concentrate, solvent-based medical marijuana concentrate, and heat/pressure based medical marijuana concentrate, as those terms are defined by the state ~~Medical marijuana code and Colorado Retail Marijuana Code~~.

*Solvent-based marijuana concentrate* means a marijuana concentrate that was produced by extracting cannabinoids from marijuana through the use of a solvent approved by the state marijuana enforcement division.

*Water-based marijuana concentrate* means a marijuana concentrate that was produced by extracting cannabinoids from marijuana through the use of only water, ice or dry ice.

(b) In addition to the definitions contained in subsection (a) of this section, other terms used in this chapter shall have the meaning ascribed to them in article XVIII, section 14, of the state constitution or in the state ~~Medical~~ marijuana code ~~or in the Colorado Retail Marijuana Code~~, and such definitions are hereby incorporated into this chapter by reference.

(Code 1999, § 5.23.020; Ord. No. 688, § 2, 9-6-2018)

#### **Sec. 8.20.030. Licensing authority; license required; application process.**

A town of license issued under this chapter is required to operate a marijuana product manufacturing facility or a medical marijuana-infused products manufacturing facility in town. The licensing authority and application process shall be the same as set forth and established under chapter 8.20 of this title, and the requirements of sections 8.16.030 through 8.16.090 shall apply, except that the application for a manufacturing license filed pursuant to this chapter shall be the same as the application required by the state for such a license.

(Code 1999, § 5.23.030; Ord. No. 688, § 2, 9-6-2018)

#### **Sec. 8.20.040. Restrictions related to manufacturing and extraction activities.**

(a) All applicable rules, requirements and restrictions imposed by the state apply to marijuana manufacturing, the production of marijuana concentrate, and related extraction activities conducted pursuant to a license issued pursuant to this chapter, as if fully set forth herein. A proven violation of any such rule, requirement or restriction may form the basis of disciplinary action under section 8.20.050, specifically including, but not limited to, suspension or revocation of a license pursuant to the process set forth in section 8.16.040.

(b) Prior to engaging in any solvent-based manufacturing or extraction activity, a licensee must file with the authority a complete copy of the report required by state MED rule 605.D.1, as existing or as hereafter amended, from an industrial hygienist or a professional engineer certifying the safety and compliance of the licensed premises, equipment and standard operating procedures.

(Code 1999, § 5.23.040; Ord. No. 688, § 2, 9-6-2018)

#### **Sec. 8.20.050. Prohibited acts, inspections, disciplinary actions and liability.**

The provisions of sections 8.16.110 through 8.16.160 shall apply to all applicants, licensees, licensed premises and activities conducted in relation thereto, under this chapter.

(Code 1999, § 5.23.050; Ord. No. 688, § 2, 9-6-2018)

#### **Sec. 8.20.060. Violations and penalties.**

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, any person, including, but not limited to, any licensee, manager, agent or employee of a manufacturing facility who violates any provision of this chapter shall be guilty of a misdemeanor punishable in accordance with section 1.12.010.

(Code 1999, § 5.23.060; Ord. No. 688, § 2, 9-6-2018)

### **CHAPTER 8.24. MARIJUANA TESTING FACILITIES**

#### **Sec. 8.24.010. Purpose, intent and other laws.**

(a) The purpose of this chapter is to authorize, under limited circumstances and in limited locations, the testing of marijuana and marijuana-related products pursuant to the ~~Colorado Retail Marijuana Code~~ and the state ~~Medical~~ marijuana code. The intent of this chapter is to establish a nondiscriminatory mechanism by which the town can control, through appropriate regulation, the location and operation of marijuana testing facilities within the town. Nothing in this chapter is intended to promote or condone the sale, distribution, possession or use of marijuana in violation of any applicable law. Compliance with the requirements of this chapter shall not provide a defense to criminal prosecution under any applicable law.

(b) If the state adopts any stricter regulation governing the testing of marijuana or marijuana-related products

than that set forth in this chapter, the stricter regulation shall control such activity in the town. A 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 and marijuana-related products found upon the licensed premises are in full compliance with applicable state regulation. If the state prohibits the testing of marijuana, any license issued under this chapter shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress by the licensee. The issuance of any license pursuant to this chapter 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.

(c) It is clearly understood and reiterated that all building standards adopted under chapter 5.04 of this title of the town apply to any marijuana facilities that may be constructed or refurbished under this chapter.

(Code 1999, § 5.24.010; Ord. No. 688, § 3, 9-6-2018)

#### **Sec. 8.24.020. Definitions.**

(a) The words and phrases defined by section 8.16.020 shall apply to this chapter and, in addition, 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:

<sup>79</sup>*Marijuana testing facility* means and includes a medical marijuana testing facility, as defined by section 16(2)(I) of article XVIII of the state constitution C.R.S. § 12-43.3-405 and licensed by the state pursuant to the state ~~Medical marijuana code, and a retail marijuana testing facility, as defined by C.R.S. § 12-43.4-103(21) and licensed by the State pursuant to the Colorado Retail Marijuana Code.~~

(b) In addition to the definitions contained in subsection (a) of this section, other terms used in this chapter shall have the meaning ascribed to them in article XVIII, section 14, of the state constitution or in the state ~~Medical marijuana code or in the Colorado Retail Marijuana Code~~, and such definitions are hereby incorporated into this chapter by reference.

(Code 1999, § 5.24.020; Ord. No. 688, § 3, 9-6-2018)

#### **Sec. 8.24.030. Licensing authority; license required; application process.**

A town license issued under this chapter is required to operate a marijuana testing facility in town. The licensing authority and application process shall be the same as set forth and established under chapter 8.16 of this title, and the requirements of sections 8.16.030 through 8.16.090 shall apply, except that the application for a testing license filed pursuant to this chapter shall be the same as the application required by the state for such a license.

(Code 1999, § 5.24.030; Ord. No. 688, § 3, 9-6-2018)

#### **Sec. 8.24.040. Restrictions related to testing activities.**

(a) All applicable rules, requirements and restrictions imposed by the state shall apply to marijuana testing conducted pursuant to a license issued pursuant to this chapter. A proven violation of any such rule, requirement or restriction may form the basis of disciplinary action under section 8.24.050, specifically including but not limited to suspension or revocation of a license pursuant to the process set forth in section 8.16.140.

(b) Notwithstanding subsection (a) of this section or any provision of state law, rule or regulation in existence or that may hereafter be enacted, a licensed marijuana testing facility within the town is prohibited from engaging in clinical trials or any other activity that involves the consumption of marijuana or marijuana-related products by human beings or animals. A proven violation of this subsection may form the basis of disciplinary action under section 8.24.050, specifically including, but not limited to, suspension or revocation of a license pursuant to the process set forth in section 8.16.140.

(Code 1999, § 5.24.040; Ord. No. 688, § 3, 9-6-2018)

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<sup>79</sup> We recommend modifying this definition to comply with C.R.S. 44-10-103. **Town accepted via email on 10/28.**

**Sec. 8.24.050. Prohibited acts, inspections, disciplinary actions and liability.**

The provisions of sections 8.16.110 through 8.16.160 shall apply to all applicants, licensees, licensed premises and activities conducted in relation thereto, under this chapter.

(Code 1999, § 5.24.050; Ord. No. 688, § 3, 9-6-2018)

**Sec. 8.24.060. Violations and penalties.**

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, any person, including, but not limited to, any licensee, manager, agent or employee of a manufacturing facility who violates any provision of this chapter shall be guilty of a misdemeanor punishable in accordance with section 1.12.010.

(Code 1999, § 5.24.060; Ord. No. 688, § 3, 9-6-2018)

<sup>80</sup>**CHAPTER 8.28. SEXUALLY ORIENTED BUSINESS LICENSES**<sup>81</sup>

**Sec. 8.28.010. Application for sexually oriented business license.**

(a) The town clerk is the licensing officer and is responsible for granting, renewing, and suspending sexually oriented business licenses for proposed or existing sexually oriented businesses.

(b) The ~~Town Council Board of Trustees for the town~~ is responsible for revoking the licenses of existing sexually oriented businesses.

(c) The town manager or his designee is responsible for ascertaining whether a proposed sexually oriented business for which a sexually oriented business license application has been submitted complies with all locational requirements of this chapter.

(d) The chief of police or his designee is responsible for providing information on whether an applicant has been convicted of a specified criminal act during the time periods set forth in section 8.28.040(c).

(e) The building official or his designee is responsible for inspecting a proposed sexually oriented business in order to ascertain whether it is in compliance with applicable building codes and ordinances.

(f) Any person desiring to operate a sexually oriented business shall file with the licensing officer an original and two copies of a sworn sexually oriented business license application on the standard application form supplied by the licensing officer.

(g) The completed application shall contain the following information and shall be accompanied by the following documents:

- (1) If the applicant is an individual, the individual shall state his legal name and any aliases, and submit satisfactory proof that he is 21 years of age or older in the case of a Type A sexually oriented business license or eighteen years of age or older in the case of a Type B sexually oriented business license.
- (2) If the applicant is a legal entity, the application shall state its complete name, the date and place of its organization, evidence that it is in good standing under the laws of the state in which it is organized, and if it is organized under the laws of a state other than the state, that it is registered to do business in the state, the full legal names, date of birth and capacity of all officers, directors, managers, and principal owners, and the name of the registered agent and the address of the registered agent for service of process, if any.
- (3) If the applicant intends to operate the sexually oriented business under a name other than that of the

<sup>80</sup> We recommend adding a definitions section. Some terms to define might include: sexually oriented business, employee, peep booth, type a sexually oriented business, type b sexually oriented business, manager, specified sexual activity etc.

<sup>81</sup> Did the originating ordinance include a "Purpose and Findings" section? If so, we recommend adding it to this chapter.

applicant, the sexually oriented business' fictitious name must be stated.

- (4) Whether the applicant or any of the other individuals listed pursuant to subsection (g)(1) or (2) of this section has been convicted of a specified criminal act within the times set forth in section 8.28.040(c)(1), and if so, the specified criminal act involved, the date of conviction and the place of conviction.
- (5) Whether the applicant or any of the other individuals listed pursuant to subsection (g)(1) or (2) of this section has had a previous license under this or any other sexually oriented business ordinance from another city, town or county denied, suspended, or revoked and, if so, the name of the city, town or county where the license was previously denied, suspended or revoked, and the name and location of the sexually oriented business for which the license was denied, suspended, or revoked, as well as the date of the denial, suspension or revocation.
- (6) Whether the applicant or any other individuals listed pursuant to subsection (g)(1) or (2) of this section has been a partner in a partnership or a principal owner of a corporation or other legal entity whose license has previously been denied, suspended, or revoked and, if so, the name of the city, town or county where the license was previously denied, suspended or revoked, and the name and location of the sexually oriented business for which the license was denied, suspended, or revoked, as well as the date of denial, suspension, or revocation.
- (7) Whether the applicant or any other individual listed pursuant to subsection (g)(1) or (2) of this section holds any other licenses under this article or any other sexually oriented business ordinance from another city, town or county and, if so, the name of such city, town or county, and names and locations of such other licensed businesses.
- (8) The location of the proposed sexually oriented business including a legal description of the property, street address, and telephone number.
- (9) Proof of the applicant's right to possession of the premises wherein the sexually oriented business will be conducted.
- (10) The applicant's mailing address and residential address.
- (11) A sketch or diagram showing the configuration of the premises including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be oriented to the north or to some designated street or object and shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. The licensing officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not be altered since it was prepared. If the sexually oriented business has or will have a peep booth or booths subject to the provisions of section 14.28.020, the sketch shall show the locations and dimensions of any manager's stations and demonstrate that there is an unobstructed view from at least one of the manager's stations of every area of the premises to which any patron is permitted access, excluding restrooms. The floor plan shall designate those rooms or other areas of the premises where patrons are not permitted and shall also designate the use of each room or other area of the premises.
- (12) A current certificate and straight-line drawing prepared within 30 days prior to an initial application by a state-registered land surveyor depicting the property lines and the structures of the property to be certified; and the location of the property lines of any church, school, dwelling, public park, or childcare facility within 500 feet of the property to be certified and the location of the property lines and structures on the property of any other sexually oriented business within 100 feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence or pending at the time an application is submitted.
- (13) If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a sexually oriented business license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each principal owner of the applicant must sign the application for a sexually oriented business license as applicant.
- (h) In the event that the licensing officer determines or learns at any time that the applicant has improperly

completed the application for a proposed sexually oriented business, he shall promptly notify the applicant of such fact and allow the applicant ten days properly to complete the application. The time period for granting or denying a sexually oriented business license shall be stayed during the period in which the applicant is allowed an opportunity properly to complete the application.

(i) The fact that a person possesses or is required to possess other types of state or town licenses does not exempt him from the requirement of obtaining a sexually oriented business license.

(Code 1999, § 5.21.010; Ord. No. 508 (part), 2001)

#### **Sec. 8.28.020. Duty to supplement application.**

(a) Applicants for a sexually oriented business license under section 8.28.010 shall have a continuing duty to promptly supplement any application information required by that section in the event that said information changes in any way from what is stated on the application.

(b) The failure to comply with said continuing duty to supplement an application within 30 days from the date of such change shall be grounds for suspension of a sexually oriented business license.

(Code 1999, § 5.21.020; Ord. No. 508, (part), 2001)

#### **Sec. 8.28.030. Investigation and application.**

(a) Upon receipt of an application for a sexually oriented business license properly filed with the licensing officer and upon payment of the nonrefundable application fee, the licensing officer shall immediately stamp the application as received and send copies of the application to the building official and the chief of police. The town manager, the building official and the chief of police, or their respective designees, shall promptly conduct an investigation of the applicant, application, and the proposed sexually oriented business in accordance with his responsibilities under this section. Investigations shall be completed within 20 days of receipt of the application by the licensing officer. At the conclusion of their investigations, the town manager and the building official shall indicate on the copy of the application his approval or disapproval of the application, date it, sign it, and in the event of disapproval, state the reasons therefor. The chief of police shall only be required to provide the information specified in section 8.28.010(d) and shall not be required to approve or disapprove applications.

(b) The town manager and the building official may disapprove an application if he finds that the proposed sexually oriented business will be or is in violation of any provision of any statute, code, ordinance, regulation, or other law in effect in the town. After their investigations and review, the building official and the chief of police shall immediately return the copy of the application to the licensing officer. The licensing officer shall not issue a sexually oriented business license unless signed copies of the application for the same have been delivered to said officer by the town manager and the building official and unless the chief of police has supplied said officer with the information specified in section 8.28.010(d).

(Code 1999, § 5.21.030; Ord. No. 508, (part), 2001)

#### **Sec. 8.28.040. Issuance of sexually oriented business license.**

(a) The licensing officer shall grant or deny an application for a sexually oriented business license within 30 days from the date of its proper filing. Upon the expiration of the 30 days, the applicant shall be licensed to begin operating the business for which the sexually oriented business license is sought, unless and until the licensing officer notifies the applicant, by first class mail to the address on the application, of a denial of the application and states the reason for that denial.

(b) Grant of application for sexually oriented business license.

(1) The licensing officer shall grant the sexually oriented business license unless one or more of the criteria set forth in subsection (c) of this section is present.

(2) The sexually oriented business license, if granted, shall state on its face the name of the person to whom it is granted, the expiration date, and the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be easily read at any time.

(c) Denial of application for sexually oriented business license.



- (1) The licensing officer shall deny the application for any of the following reasons:
- a. An applicant is under 21 years of age in the case of an application for a Type A sexually oriented business license or under eighteen years of age in the case of an application for a Type B sexually oriented business license.
  - b. An applicant is overdue on his payment to the town of taxes, fees, fines, or penalties assessed against or imposed upon him in relation to a sexually oriented business.
  - c. An applicant has failed to provide information required by this article for the issuance of the sexually oriented business license or has falsely answered a question or request for information on the application form and has refused to provide corrected information.
  - d. The premises to be used for the sexually oriented business have been disapproved by an inspecting agency pursuant to the provisions of section 8.28.030(b).
  - e. The application or sexually oriented business license fees have not been paid.
  - f. An applicant for the proposed business is in violation of or is not in compliance with any of the provisions of this chapter.
  - g. The granting of the application would violate a statute, ordinance, or court order.
  - h. The applicant has or had a sexually oriented business license under this article, or under the regulatory provisions of another jurisdiction, that was suspended or revoked within the previous 12 months. In the case of a denial of an application due to the suspension or revocation of the applicant's license in another jurisdiction, the applicant shall be entitled to a hearing before the Town Council ~~Board of Trustees~~. After the hearing, the Town Council ~~Board~~ may grant the application without regard to the suspension or revocation of the applicant's license in another jurisdiction if the Town Council ~~Board~~ finds that the grounds for suspension or revocation in that jurisdiction would not be grounds for suspension or revocation of a license pursuant to this chapter.
  - i. An applicant has been convicted of a specified criminal act or acts for which:
    1. Less than two years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense;
    2. Less than five years have elapsed since the date of conviction or the date or release from confinement, whichever is the later date, if the conviction is of a felony offense; or
    3. Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanors.

The fact that a conviction is being appealed shall have no effect on disqualification of the applicant. An applicant who has been convicted of a specified criminal act or acts may qualify for a sexually oriented business license only when the time period required above has elapsed.
- (2) If the licensing officer denies the application, he shall notify the applicant, by first class mail to the address on the application, of the denial and state the reason for the denial. A copy of such denial shall be forwarded to the town attorney.

(Code 1999, § 5.21.040; Ord. No. 508, (part), 2001)

#### **Sec. 8.28.050. Expiration of sexually oriented business license.**

(a) Each sexually oriented business license shall expire one year from the date of issuance and may be renewed only by making application as provided in section 8.28.010, including, but not limited to, a review of whether the applicant has been convicted of a specified criminal act (for renewals, filing of the original survey shall be sufficient). Application for renewal of a sexually oriented business license shall be made at least 45 days before the expiration date of the sexually oriented business license.

(b) If, subsequent to denial of renewal the licensing officers finds that the basis for denial of the renewal of the sexually oriented business license has been corrected, the applicant shall be granted a sexually oriented business license if no more than 90 days have elapsed since the date denial became final.

(Code 1999, § 5.21.050; Ord. No. 508, (part), 2001)

**Sec. 8.28.060. Suspension of sexually oriented business license.**

(a) The licensing officer may suspend a sexually oriented business license for a period not to exceed 150 days, unless the period is extended by operation of subsection (b) of this section, if he determines that a licensee or an employee of a licensee has:

- (1) Violated or is not in compliance with any section of this article or any provision of chapter 14.28;
- (2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;
- (3) Knowingly allowed repeated disturbances of the public peace to occur within the licensed establishment or upon the premises of the licensed establishment involving patrons, employees, or the licensee;
- (4) Operated the sexually oriented business in violation of a building, fire, health, or development zoning code, ordinance, or regulation, whether federal, state, or local, said determination being based on investigation by the department, division, or agency charged with enforcing said rules or laws. In the event of such a statute, code, ordinance, or regulation violation, the licensing officer shall promptly notify the licensee of the violation and shall allow the licensee a 20-day period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the 20-day period, the licensing officer shall forthwith suspend the sexually oriented business license and shall notify the licensee of the suspension;
- (5) Operated the sexually oriented business in violation of the hours of operation provisions in section 14.28.120, or
- (6) Transferred a sexually oriented business license contrary to section 8.28.090. In the event of such suspension, the licensing officer shall forthwith notify the original licensee and the transferee of the suspension. The suspension shall remain in effect until the applicable provisions of this section have been satisfied.

(b) The suspension shall remain in effect until and including the last day in the licensing officer's order and until the violation of the statute, code, ordinance, or regulation in question has been corrected.

(Code 1999, § 5.21.060; Ord. No. 508, (part), 2001)

**Sec. 8.28.070. Revocation of sexually oriented business license.**

(a) ~~The Town Council-Board of Trustees of the town~~ shall revoke a sexually oriented business license upon determining that:

- (1) A cause of suspension in section 8.28.060 occurred and the sexually oriented business license has been suspended within the preceding 12 months;
- (2) A licensee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a sexually oriented business license;
- (3) A licensee, manager or an employee has knowingly allowed possession, use, or sale of controlled substances (as defined in C.R.S. title 12, art. 22, pt. 3) on the premises;
- (4) A licensee, manager or an employee has knowingly allowed acts of prostitution or negotiations for acts of prostitution on the premises;
- (5) A licensee, manager or an employee knowingly operated the sexually oriented business during a period of time when the licensee's sexually oriented business license was suspended;
- (6) A licensee has been convicted of a specified criminal act for which the time period set forth in section 8.28.040(c)(1)i has not elapsed;
- (7) On two or more occasions within a 12-month period, a person or persons committed an offense, occurring in or on the licensed premises constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the sexually oriented business license;

- (8) A licensee is delinquent in payment to the town or state for any taxes or fees; or
- (9) A licensee, manager or an employee has knowingly allowed any specified sexual activity to occur in or on the licensed premises.

(b) When the Town ~~Council~~ ~~Town Board~~ revokes a sexually oriented business license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective.

(Code 1999, § 5.21.070; Ord. No. 508, (part), 2001)

#### **Sec. 8.28.080. Suspension or revocation hearing.**

(a) A licensee shall be entitled to a hearing before the Town ~~Council~~ ~~Town Board of Trustees~~ if the town seeks to suspend his sexually oriented business license based on a violation of this chapter or any provision of chapter 14.28. The business may continue to operate during the hearing process.

(b) When there is probable cause to believe that a cause for suspension or revocation exists, the town attorney may file a written complaint with the licensing officer setting forth the circumstances of the alleged violation.

(c) The licensing officer shall provide a copy of the complaint to the licensee, together with notice to appear before the Town ~~Council~~ ~~Town Board of Trustees~~ for revocation or suspension, for the purpose of a hearing on a specified date to show cause why the licensee's sexually oriented business license should not be suspended or revoked.

(d) At the hearing, the Town ~~Council~~ ~~Board of Trustees~~ shall hear such statements and consider such evidence as the police department or other enforcement officers, the owner, occupant, lessee, or other party in interest, or any other witness shall offer that is relevant to the violation alleged in the complaint. The ~~Town Council~~ ~~Board of Trustees~~ shall make findings of fact from the statements and evidence offered as to whether the violation occurred in or near the licensed establishment. If the Town ~~Council~~ ~~Town Board~~ determines that a cause for suspension or revocation exists it shall issue an order suspending or revoking the sexually oriented business license within 30 days after the hearing is concluded based on the findings of fact. A copy of the order shall be mailed to or served on the licensee at the address on the license. In performing his duties pursuant to this section, the Town ~~Council~~ ~~Board of Trustees~~ may retain independent counsel to advise it or him with regard to any matter.

(e) The order of the Town ~~Council~~ ~~Board of Trustees~~ made pursuant to subsection (d) of this section shall be a final decision and may be appealed to the district court pursuant to Colorado Rule of Civil Procedure 106(a)(4). Failure of a licensee timely to appeal said order constitutes a waiver by him of any right he may otherwise have to contest the suspension or revocation of the sexually oriented business license.

(f) The ~~Town Council~~ ~~Board of Trustees~~ shall have the power to administer oaths, issue subpoenas, and when necessary grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books, and records necessary to the determination of any hearing which the Town Council ~~Board of Trustees~~ conducts. It is unlawful for any person to fail to comply with any subpoena issued by the Town Council ~~Board of Trustees~~. A subpoena shall be served in the same manner as a subpoena issued by the district court of the state.

(g) All hearings held before the Town Council ~~Board of Trustees~~ regarding suspension or revocation of a sexually oriented business license issued under this ordinance shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the town clerk and shall pay all costs of preparing such record.

(h) In the event of suspension, revocation, or cessation of business, no portion of the sexually oriented business license fee shall be refunded.

(Code 1999, § 5.21.080; Ord. No. 508, (part), 2001)

#### **Sec. 8.28.090. Transfer of sexually oriented business license.**

(a) A licensee shall not operate a sexually oriented business under the authority of a sexually oriented business license at any place other than the address designated in the application for sexually oriented business license.

(b) A licensee shall not transfer his sexually oriented business license to another person unless and until such

other person satisfies the following requirements:

- (1) Obtains an amendment to the sexually oriented business license from the licensing officer that provides that he is now the licensee, which amendment may be obtained only if he has completed and properly filed an application with the licensing officer setting forth the information called for under section 8.28.010 in the application; and
- (2) Pays a transfer fee of twenty percent of the annual sexually oriented business license fee.
- (c) No sexually oriented business license may be transferred when the licensing officer has notified the licensee that suspension or revocation proceedings have been or will be brought against the licensee.
- (d) Any attempt to transfer a sexually oriented business license either directly or indirectly in violation of this section is declared void.

(Code 1999, § 5.21.090; Ord. No. 508, (part), 2001)

**Sec. 8.28.100. Manager's license required; change of manager; inactive status.**

- (a) A manager or designee shall be on the premises of a sexually oriented business at all times during operation. It is unlawful for any person to work as a manager of a sexually oriented business without first obtaining a manager's license for such premises.
- (b) In the event a manager ceases to be employed at the premises listed in his application, the manager shall immediately report such change to the licensing officer but in no event shall such change be reported later than ten days after cessation of employment.
- (c) Provided a manager has complied with the requirements of subsection (b) of this section, his license shall remain in inactive status until it expires or is reactivated. A manager who is re-employed at the premises listed in the manager's license may reactivate his license provided the licensing officer determines he still meets the requirements of section 8.28.110.

(Code 1999, § 5.21.100; Ord. No. 508, (part), 2001)

**Sec. 8.28.110. Application for manager's license.**

- (a) A manager shall submit an application for a manager's license for each sexually oriented business the manager proposes to manage on a form to be provided by the licensing officer. The application shall contain the applicant's name, address, date of birth, telephone number, address, the name and address of the sexually oriented business that the manager proposes to manage and the information required in section 8.28.010(g)(4).
- (b) The police department shall conduct an investigation of the applicant to determine if the applicant has been convicted of a specified criminal act within the times set forth in section 8.28.040(c)(1)i.
- (c) The licensing officer shall grant the application within ten days of its filing unless:
  - (1) The applicant is under the age of 21 in the case of a Type A sexually oriented business license or under the age of eighteen in the case of a Type B sexually oriented business license;
  - (2) The applicant has failed to provide the information required by this section;
  - (3) The license fee has not been paid;
  - (4) The applicant has been convicted of a specified criminal act within the times set forth in section 8.28.040(C)(1)i.

(Code 1999, § 5.21.110; Ord. No. 508, (part), 2001)

**Sec. 8.28.120. Expiration of manager's license.**

- (a) Each manager's license shall expire one year from the date of issuance and may be renewed only by making application as provided in section 8.28.110, including, but not limited to, a review of whether the applicant has been convicted of a specified criminal act or acts. Application for renewal of a manager's license shall be made at least 30 days before the expiration date of the manager's license.
- (b) If, subsequent to denial of renewal the licensing officer finds that the basis for denial of the renewal of

the manager's license has been corrected, the applicant shall be granted a manager's license if no more than 90 days have elapsed since the date denial became final.

(Code 1999, § 5.21.120; Ord. No. 508, (part), 2001)

#### **Sec. 8.28.130. Suspension of manager's license.**

(a) The licensing officer may suspend a manager's license for a period not to exceed 90 days, unless the period is extended by operation of subsection (b) of this section, if he determines that the manager has:

- (1) Violated or is not in compliance with any section of this chapter or any provision of chapter 14.28;
- (2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;
- (3) Knowingly allowed repeated disturbances of the public peace to occur within the licensed establishment or upon the premises of the licensed establishment involving patrons, employees, or the licensee; or
- (4) Operated the sexually oriented business in violation of the hours of operation provisions in chapter 14.28;

(b) The suspension shall remain in effect until and including the last day in the licensing officer's order and until the violation of the statute, code, ordinance, or regulation in question has been corrected.

(Code 1999, § 5.21.130; Ord. No. 508, (part), 2001)

#### **Sec. 8.28.140. Revocation of manager's license.**

(a) ~~The Town Council Board of Trustees~~ shall revoke a manager's license upon determining that:

- (1) A cause of suspension in section 8.28.130 occurred and the manager's license has been suspended within the preceding 12 months;
- (2) The manager gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a manager's license;
- (3) The manager knowingly allowed possession, use, or sale of controlled substances (as defined in ~~Part 3 of Article 22 of Title 12, C.R.S. 18-18-102~~<sup>82</sup>) on the premises;
- (4) The manager knowingly allowed acts of prostitution or negotiations for acts of prostitution on the premises;
- (5) The manager knowingly operated the sexually oriented business during a period of time when the sexually oriented business license was suspended;
- (6) The manager has been convicted of a specified criminal act for which the time period set forth in section 8.28.040(C)(1)i has not elapsed; or
- (7) The manager has knowingly allowed any specified sexual activity to occur in or on the licensed premises.

(b) When the ~~Town Council Board of Trustees~~ revokes a manager's license, the revocation shall continue for one year and the licensee shall not be issued a manager's license for one year from the date revocation became effective.

(Code 1999, § 5.21.140; Ord. No. 508, (part), 2001)

#### **Sec. 8.28.150. Suspension or revocation hearing.**

(a) A manager shall be entitled to a hearing before the ~~hearing officer~~ ~~Town Council Board of Trustees~~ if the town seeks to suspend the manager's license based on a violation of this chapter or any provision of chapter 14.28. A manager shall be entitled to a hearing before the ~~Town Council Board of Trustees~~ if the town seeks to revoke the manager's license based on a violation of this article or any provision of chapter 14.28. The manager may continue to manage a sexually oriented business during the hearing process.

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<sup>82</sup> Title 12, article 22, part 3 was repealed in 2012. We've inserted another citation and recommend the town approve it.

(b) When there is probable cause to believe that a cause for suspension or revocation exists, the town attorney may file a written complaint with the licensing officer setting forth the circumstances of the alleged violation.

(c) The ~~Town Council Board of Trustees~~, if revocation, or the licensing officer, if suspension, shall provide a copy of the complaint to the licensee, together with notice to appear before the Town Council ~~Board of Trustees~~ for the purpose of a hearing on a specified date to show cause why the licensee's license should not be suspended or revoked.

(d) At the hearing, the Town Council ~~Board of Trustees~~ shall hear such statements and consider such evidence as the police department or other enforcement officers, the owner, employer, occupant, lessee, or other party in interest, or any other witness shall offer that is relevant to the violation alleged in the complaint. The ~~Town Council Board of Trustees~~ shall make findings of fact from the statements and evidence offered as to whether the violation occurred in or near the licensed establishment. If the Town Council ~~Board of Trustees~~ determines that a cause for suspension or revocation exists it shall issue an order suspending or revoking the manager's license within 30 days after the hearing is concluded based on the findings of fact. A copy of the order shall be mailed to or served on the licensee at the address on the license.

(e) The order of the Town Council ~~Board of Trustees~~ made pursuant to subsection (d) of this section shall be a final decision and may be appealed to the district court pursuant to Colorado Rule of Civil Procedure 106(a)(4). Failure of a licensee timely to appeal said order constitutes a waiver by him of any right he may otherwise have to contest the suspension or revocation of the manager's license.

(f) The ~~Town Council Board of Trustees~~ shall have the power to administer oaths, issue subpoenas, and when necessary grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books, and records necessary to the determination of any hearing which the Town Council ~~Board of Trustees~~ conducts. It is unlawful for any person to fail to comply with any subpoena issued by the Town Council ~~Board of Trustees~~. A subpoena shall be served in the same manner as a subpoena issued at the district court in the state.

(g) All hearings held before the Town ~~Council Board of Trustees~~ of a manager's license issued under this chapter shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the town clerk and shall pay all costs of preparing such record.

(h) In the event of suspension, revocation, or cessation of business, no portion of the manager's license fee shall be refunded.

(Code 1999, § 5.21.150; Ord. No. 508, (part), 2001)

#### **Sec. 8.28.160. Notice.**

Any notice required by this chapter shall be deemed sufficient if it is deposited in first class mail, postage pre-paid, to the address on the application and shall be effective upon mailing.

(Code 1999, § 5.21.160; Ord. No. 508, (part), 2001)

#### **Sec. 8.28.170. Judicial review.**

After denial of an application, or denial of a renewal of an application, or suspension or revocation of a license, such act shall be a final decision. Therefore, the applicant or licensee may seek judicial review of such administrative action pursuant to Colorado Rules of Civil Procedure. The court shall promptly review such administrative action.

(Code 1999, § 5.21.170; Ord. No. 508, (part), 2001)

#### **Sec. 8.28.180. Inspection.**

(a) An applicant or licensee or manager shall permit representatives of the licensing officer, building official, the town manager, the police department, the county health department and the fire department to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law at any time it is occupied or open for business.

(b) It is unlawful for any person, applicant, licensee, or manager who operates a sexually oriented business or his agent to refuse to permit such lawful inspection of the premises at any time that it is occupied or open for business.

(Code 1999, § 5.21.180; Ord. No. 508, (part), 2001)

## **CHAPTER 8.32. RETAIL MARIJUANA STORES**

### **Sec. 8.32.010. Purpose, intent and other laws.**

(a) The purpose of this chapter is to authorize, under limited circumstances and in limited locations, the location and operation of retail marijuana stores within the town pursuant to the state ~~Retail~~ marijuana code.

(b) The intent of this chapter is to establish a nondiscriminatory mechanism by which the town can control, through appropriate regulation, the location and operation of retail marijuana stores within the town. Nothing in this chapter is intended to promote or condone the sale, distribution, possession or use of marijuana in violation of any applicable law. Compliance with the requirements of this article and chapter shall not provide a defense to criminal prosecution under any applicable law.

(c) If the state adopts any stricter regulation governing the sale of marijuana than that set forth in this chapter, the stricter regulation shall control such activity in the town. A 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 applicable state regulation. If the state prohibits the sale of marijuana, any license issued under this chapter shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress by the licensee. The issuance of any license pursuant to this chapter 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 possession, sale or distribution of marijuana.

(Ord. No. 692, § 2, 7-25-2019)

### **Sec. 8.32.020. Definitions.**

(a) The words and phrases defined by section 8.16.020 shall apply to this chapter.

(b) In addition to the definitions contained in subsection (a) of this section, other terms used in this chapter shall have the meaning ascribed to them in article XVIII, sections 14 and 16, of the state constitution or in the state ~~Medical~~ marijuana code ~~or in the Colorado Retail Marijuana Code~~, and such definitions are hereby incorporated into this chapter by reference.

(Ord. No. 692, § 2, 7-25-2019)

### **Sec. 8.32.030. Licensing authority; license required; application process.**

A town license issued under this chapter is required to operate a retail marijuana store in town. The licensing authority and application process shall be the same as set forth and established under chapter 8.16 of this title, and the requirements of sections 8.16.030 through 8.16.090 shall apply, except that the application for a retail marijuana store filed pursuant to this chapter shall be the same as the application required by the state for such a license.

(Ord. No. 692, § 2, 7-25-2019)

### **Sec. 8.32.040. Restrictions related to retail marijuana stores: location and operation.**

(a) All applicable rules, requirements and restrictions imposed by the state apply to retail marijuana store activities conducted pursuant to a license issued pursuant to this chapter, as if fully set forth herein. A proven violation of any such rule, requirement or restriction may form the basis of disciplinary action under section 8.32.050, specifically including, but not limited to, suspension or revocation of a license pursuant to the process set forth in section 8.16.140.

(b) A retail marijuana store may operate only between the hours of \_\_\_\_\_ a.m. and \_\_\_\_\_ p.m. daily.

(c) A retail marijuana store may not be located or operated within 1,000 feet of a day care facility, public or private school, childcare center, drug or alcohol treatment or rehabilitation facility or public park, open space, recreational or library facility. This required distance shall be measured as a direct line between the nearest two points of each respective property boundary. This location restriction shall apply when a retail marijuana store is proposed to be licensed at a particular premises and shall not operate to require a previously approved retail marijuana store to relocate if another use, listed within this subsection, subsequently locates within 1,000 feet of the store.

(d) A retail marijuana store must obtain at least 50 percent of its average daily on-hand inventory from a duly licensed marijuana cultivation or manufacturing facility located in the county (unincorporated and/or incorporated areas).

(e) A retail marijuana store may not be located or operated more than \_\_\_\_ feet<sup>83</sup> from a major transportation facility. For purposes of this subsection, the term "major transportation facility" means a transportation facility funded, at least in part, and regulated by the federal government, including, by way of example only, airports and highways. This distance shall be measured as a direct line between the nearest point of the property line upon which the store is located to the nearest point of the property line upon which the transportation facility is located or, in the case of a highway, the nearest point of dedicated and platted right-of-way, regardless of paved roadway, shoulder areas or other constructed improvements.

(Ord. No. 692, § 2, 7-25-2019)

#### **Sec. 8.32.050. Prohibited acts, inspections, disciplinary actions and liability.**

The provisions of ~~this chapter sections 5.25.120 through 170~~ shall apply to all applicants, licensees, licensed premises and activities conducted in relation thereto, under this chapter.

(Ord. No. 692, § 2, 7-25-2019)

#### **Sec. 8.32.060. Violations and penalties.**

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this chapter, any person, including, but not limited to, any licensee, manager, agent or employee of a store who violates any provision of this chapter shall be guilty of a misdemeanor punishable in accordance with section 1.12.010.

(Ord. No. 692, § 2, 7-25-2019)

### **CHAPTER 5.08 ENTERTAINMENT**

#### **5.08.010. Fee designated.<sup>84</sup>**

~~Each person or company offering to show in the town (for profit) shall pay the town the sum of five dollars for each time they exhibit, except entertainments for charitable purposes.~~

~~(Code 1999, § 5.08.010; Ord. 18 (part), 1908)~~

#### **5.08.020. License required.<sup>85</sup>**

~~Any person or company desiring to exhibit in the town shall apply in advance to the town clerk, and upon payment to the Clerk of the fee required, the Clerk is authorized to issue license to such person or company~~

~~(Code 1999, § 5.08.020; Ord. 18 (part), 1908)~~

### **CHAPTER 5.12 PEDDLERS**

#### **5.12.010. Nuisance — when.<sup>86</sup>**

~~The practice of going in and upon private residences in the town by solicitors, peddlers, hawkers, itinerant~~

<sup>83</sup> Is there an amount the town would like to add here?

<sup>84</sup> This language appears to have been superseded by section 5.04.070. If so, we recommend deleting it and moving 5.04.070 to appear in this chapter.

<sup>85</sup> This language appears to have been superseded by section 5.04.070. If so, we recommend deleting it and moving 5.04.070 to appear in this chapter. **Town elected to strike at conference.**

<sup>86</sup> Similar "Green River" ordinances have consistently been held to be unconstitutional. We recommend striking these provisions. The town is welcome to supply us with replacement language. **Town elected to strike at conference.**



~~merchants and transient vendors of merchandise, not having been requested or invited to do so by the owner or owners, occupant or occupants of such private residence, for the purpose of soliciting for the sale of goods, wares and merchandise, and/or for the purpose of and/or peddling or hawking the same, is a nuisance, and punishable as such as a misdemeanor.~~

~~(Code 1999, § 5.12.010; Ord. 76 § 1, 1937)~~

#### **5.12.020. Duty of town marshal to suppress nuisance.**

~~The Town Marshal of the town is required and directed to suppress the nuisance described in section 5.12.010 above, and to abate any such nuisance as is described in section 5.12.010.~~

~~(Code 1999, § 5.12.020; Ord. 76 § 2, 1937)~~

#### **5.12.030 violation of sec. 5.12.010. -- penalty.**

~~Any person convicted of perpetrating a nuisance as described and prohibited in Section 5.12.010, upon conviction thereof, shall be fined a sum of not less than twenty five dollars (\$25.00), nor more than one hundred dollars (\$100.00), together with costs of proceedings, which said fine may be satisfied, if not paid in cash, by execution against the person or anyone convicted of committing the misdemeanor herein prohibited.~~

~~(Code 1999, § 5.12.030; Ord. 76 § 3, 1937)~~

#### **5.12.040. License -- required.<sup>87</sup>**

~~All persons are prohibited from selling or offering to sell any goods, wares, or merchandise, chattels or property of any kind at public auction or by hawking or peddling the same within the limits of the town without having first obtained a license therefor, as provided in this chapter.~~

~~(Code 1999, § 5.12.040; Ord. 269 § 1, 1979)~~

#### **5.12.050. Peddler -- defined.**

~~"Peddler", for the purposes of this chapter, means any person, either principal or agent, who is temporarily in or locates within the limits of the town for the purposes of displaying goods, wares or merchandise or works of art for sale, or selling the same, or for the purpose of taking orders for the sale of the same. It also includes transients, dealers and hawkers of goods, wares or merchandise.~~

~~(Code 1999, § 5.12.050; Ord. 269 § 2, 1979)~~

#### **5.12.060. Farm products excepted.**

~~This chapter shall not apply to persons selling vegetables, produce or provisions raised by such persons, or any product of their own farm or premises, situated within the County of Routt.~~

~~(Code 1999, § 5.12.060; Ord. 269 § 3, 1937)~~

#### **5.12.070. License -- issuance -- fee.<sup>88</sup>**

~~The license for peddlers shall be in an amount to be determined by the Town Council from time to time is twenty five dollars (\$25.00) per day. Upon receipt of the license fee, the town clerk may grant a license. However, such license may be denied for good cause. The Town Council Board of Trustees may, for good cause, deny any license so granted or grant any license that has been refused.~~

~~(Code 1999, § 5.12.070; Ord. 279 § 1, 1979; Ord. 269 § 4, 1979)~~

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<sup>87</sup> Is this license still required by the town? If not, we recommend deleting these provisions, many of which need a re-write anyways since they have not been amended since 1979. **Town confirmed it is not required via email 10/28. Ok to delete.**

<sup>88</sup> We do not recommend allowing a license to be denied for "good cause" as this is a vague and subjective standard. **Town elected to strike at conference.**

**5.12.080. License—revocation.<sup>89</sup>**

Any license granted pursuant to the provisions of this chapter may be revoked by the Town Council Board of Trustees as follows:

- For any improper conduct on the part of the licensee;
- Upon the perpetration of any fraud or misrepresentation on the part of the licensee;
- Upon the display or sale of any goods, wares or merchandise other than those specified in his license;
- Upon the display or sale of any goods, wares or merchandise upon the streets of the town such as to cause the blockading, either by such display or by the congregation of the crowd, of any street or side walk within such Town.

(Code 1999, § 5.12.080; Ord. 269 § 5, 1979)

**5.12.090 violation of sec.s 5.12.040 through 5.12.080. — penalty.**

Any violation of the provisions of Sections 5.12.040 through 5.12.080 will be punished in accordance with the provisions of Chapter 1.08 of this code.

(Code 1999, § 5.12.090; Ord. 269 § 6, 1979)

**CHAPTER 5.17 CABLE TELEVISION AND CABLE TELEVISION PERMITS<sup>90</sup>****5.17.010. Definition of terms.**

For the purpose of the Ordinance codified in this chapter, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

A. "Affiliate" means an entity which owns or controls, is owned or controlled by, or is under common ownership with, the Grantee.

B. "Basic Cable" is the tier of service regularly provided to all subscribers that includes the retransmission of local broadcast television signals.

C. "Cable Act" means the Cable Communications Policy Act of 1984 and 1992, as amended.

D. "Cable Service" means (i) the one way transmissions to subscribers of video programming or other programming service, and (ii) subscriber interaction, if any, which is required for the selection of such video programming or any other lawful communication service.

E. "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment or other communications equipment that is designed to provide Cable Service and other service to subscribers.

F. "FCC" means the Federal Communications Commission, or successor governmental entity there to.

G. "Franchise" shall mean the initial authorization, or renewal thereof, issued by the Franchising Authority whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the Cable System for the purpose of offering Cable Service or other service to subscribers.

<sup>89</sup> We recommend adding language that allows for an appeal of denial or revocation. **Town elected to strike at conference.**

<sup>90</sup> The term of this franchise has expired. The name of this chapter doesn't accurately state what the chapter includes, as it actually it is a grant of franchise to TCI. We recommend not including specific franchise language in a published code, as it can become outdated and the language is usually more appropriate for a contract. **Town elected to strike at conference.**

H. "Franchise Authority" means the town of Hayden or the lawful successor, transferee, or assignee thereof.

I. "Grantee" means TCI Cablevision of Colorado, Inc., or their lawful successor, transferee, or assignee thereof.

J. "Gross Revenues" means the monthly Cable Service revenues received by Grantee from Subscribers of the Cable System, including local advertising revenue placed on the Cable System; provided, however, that such phrase shall not include: (i) revenues received from any national advertising carried on the Cable System; (ii) any taxes on Cable Service which are imposed directly or indirectly on any Subscriber thereof by any governmental unit or agency, and which are collected by the Grantee on behalf of such governmental unit or agency.

K. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

L. "Public Way" shall mean the surface of and the space above and below any of the following property: any public street, highway, freeway, bridge, path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right of way, as may be designated by Town now or in the future, including but not limited to public utility easements, dedicated utility strips, or rights of way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon, now or hereafter owned by the Franchise Authority in the Service Area which, after designation by the Franchise Authority, shall entitle the Franchise Authority and Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System.

M. "Service Area" means the present municipal boundaries of the Franchising Authority, and shall include any additions thereto by annexations or other legal means.

N. "Service Tier" means a category of Cable Service or other services, provided by Grantee and for which a separate charge is made by Grantee.

O. "Subscriber" means a person or user of the Cable System who lawfully receives Cable Services or other service therefrom with Grantee's express permission.

P. "Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

(Code 1999, § 5.17.010; Ord. 413 § 1, 1994)

#### **5.17.020. Grant of franchise.**

— The Town hereby grants to Grantee a nonexclusive franchise which authorizes the Grantee to construct and operate a Cable System and offer Cable Service and other services in, along, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along, any Public Way and all extensions thereof and additions thereto such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment, as may be necessary or appurtenant to the Cable System, as approved by the Franchising Authority.

— The Franchise granted pursuant to this chapter shall be for an initial term of 15 years from the effective date of this Franchise as set forth in Section 2.3 of the Franchise, unless otherwise lawfully terminated in accordance with the terms of this chapter.

— In the event the Franchising Authority enters into a franchise, permit, license, authorization, or other agreement of any kind with any other person or entity other than Grantee to enter into the Franchising Authority's streets and public ways for the purpose of construction or operating a cable system or providing cable service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

(Code 1999, § 5.17.020; Ord. 413, § 2, 1994)

#### **5.17.030. Standards of service.**

— All transmission and distribution structures, poles, other lines, and equipment installed or erected by the

~~Grantee pursuant to the terms hereof shall be located so as not to cause interference with the proper use of Public Ways, or with other users of Public Ways, and with the rights and reasonable convenience of the town and property owners who own property that adjoins any of said Public Ways.~~

~~— If, during the course of Grantee's construction, operation, or maintenance of the Cable System, there occurs a disturbance of any Public Way by Grantee, it shall, at its expense, replace and restore such Public Way to a condition comparable to the condition of the Public Way existing immediately prior to such disturbance.~~

~~— Upon its receipt of reasonable advance notice, not to be less than two business days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any property of the Grantee when required by Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the Franchising Authority; but, the Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any company using such street, easement, or right of way for the purpose of defraying the cost of any of the foregoing, Grantee may apply for such funds.~~

~~— The Grantee shall, on the request of any person holding a building moving permit issued by the Franchising Authority, temporarily raise or lower its wires to permit the moving of such building, provided (a) the expense of such temporary raising or lowering of wires is paid by said person, including, if required by the Grantee, making such payment in advance, and (b) the Grantee is given not less than five business days advance written notice to arrange for such temporary wire changes.~~

~~— The Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Service Area so as to prevent branches from coming in contact with the Grantee's wires, cables, or other equipment. The Grantee shall reasonably compensate the Franchising Authority or property owner for any damages caused by such trimming.~~

~~— Subject to any applicable state or federal regulations or tariffs, the Franchising Authority shall have the right to make additional use, for any public purpose, of any conduits controlled or maintained exclusively by or for the Grantee in any Public Way, provided that (a) such use by the Franchising Authority does not interfere with a current or future use by the Grantee; (b) the Franchising Authority holds the grantee harmless against and from all claims, demands, costs, or liabilities of every kind and nature whatsoever arising out of such use of said poles or conduits, including, but not limited to, reasonable attorneys' fees and costs; and (c) at Grantee's sole discretion, the Franchising Authority may be required either to pay a reasonable rental fee or otherwise reasonably compensate Grantee for the use of such conduits or equipment; provided, however, that Grantee agrees that such compensation or charge shall not exceed those paid by it to public utilities pursuant to the applicable pole attachment agreement, or other authorization, relating to the Service Area.~~

~~— Construction, installation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in accordance with applicable FCC or other federal, state, and local statutes, ordinances, or regulations. The Cable System shall not endanger or interfere with the safety of persons or property in the Service Area.~~

~~— In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain all of its transmission and distribution facilities underground. In those areas of the Service Area where transmission or distribution facilities of the respective public utilities providing telephone communication and electric services are both aerial and underground, Grantee shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing contained in this Section will require Grantee to construct, operate, and maintain underground any ground mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional coupler), amplifiers, power supplies, pedestals, or other related equipment.~~

~~— The Cable System, as constructed as of the date of the passage and final adoption of this Ordinance, substantially complies with the material provisions hereof. Grantee is hereby authorized to extend the Cable System as necessary, as desirable, or as required pursuant to the terms hereof within the Service Area. Whenever Grantee shall receive a request for service from at least 15 Subscribers within 1,320 cable bearing strand feet (one quarter~~

~~cable mile) of its trunk or distribution cable, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for system extension, other than the usual connection fees for all Subscribers; provided that such extension is technically feasible, and it will not adversely affect the operation, financial condition, or market development of the Cable System, or as provided for under subsection (J) of this Section.~~

~~— No Subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as a Subscriber's request to locate his cable drop underground, existence of more than one hundred fifty (150) feet of distance from distribution cable to connection of service to Subscriber, or a density of less than 15 Subscribers per 1,320 cable bearing strand feet of trunk or distribution cable, Cable Service or other service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by Grantee and Subscribers in the area in which Cable Service may be expanded, Grantee will contribute an amount equal to the number of potential subscribers per 1,320 cable bearing strand feet of its trunks or distribution cable, and whose denominator equals 15 Subscribers. Potential Subscribers will bear the remainder of the construction and other costs on a pro rata basis. Grantee may require that the payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance.~~

~~— The Grantee shall provide without charge one outlet of Basic Service to each of the Franchising Authority's office building, local fire station, police station, public library, and public school building that are passed by its Cable System. The outlets of Basic Service shall not be used to sell Cable Services in or throughout such buildings; nor shall such outlets be located in common or public areas open to the public, unless otherwise used solely for educational purposes. users of such outlets shall hold Grantee harmless from any and all liability and claims arising out of their use of such outlets, including, but not limited to, those arising from copyright liability. Notwithstanding anything to the contrary set forth in this Section, the Grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to said buildings or premises exceeds one hundred fifty (150) cable feet, unless it is technically feasible and so long as it will not adversely affect the operation, financial condition, or market development of the Cable System to do so, or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of one hundred fifty (150) cable feet. In the event that additional outlets of Basic Service are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials. Upon request of Grantee, the building owner may also be required to pay the service fees associated with the provision of Basic Service and the additional outlets relating thereto.~~

~~— in the case of any emergency or disaster, the Grantee shall, upon request of the Franchising Authority, make available its facilities for the Franchising Authority to provide emergency information and instructions during the emergency or disaster period. The Franchising Authority shall hold the Grantee, its agents, employees, officers, and assigns hereunder, harmless from any claims arising out of the emergency use of its facilities by the Franchising Authority, including but not limited to, reasonable attorney's fees and costs.~~

~~— The Grantee shall maintain all parts of the system in good condition so it meets or exceeds FCC technical standards throughout the entire franchise period.~~

~~Upon termination of service to any subscriber, the Grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request.~~

~~The Grantee shall provide efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.~~

~~Grantee shall not allow its cable or other operations to interfere with television reception of persons not served by Grantee, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities servicing the residents of the town including the regional television transmitter system now in operation.~~

~~Grantee shall have a toll free, publicly listed telephone and be so operated that complaints and requests for repairs or adjustments may be received on a 24 hour basis.~~

~~Grantee shall maintain a repair and maintenance crew so it will respond to subscriber complaints or requests for service within 24 hours after receipt of the complaints or requests.~~

The Grantee shall establish procedures for receiving, acting upon, and resolving subscriber complaints to the satisfaction of the town. The Grantee shall furnish a notice of such procedure to each subscriber at the time of initial subscription to the system.

~~— The Grantee shall provide one channel to the Franchise Authority for governmental and educational access. The Grantee may utilize any unused portion on such channel upon request to the Franchise Authority. Such consent shall not unreasonably be withheld.~~

~~— Grantee shall upgrade its facilities, equipment, and services so that its system is as advanced as the current state of technology will allow. At all times, Grantee's cable system shall be not less advanced than any other stand alone system of comparable size operated by Grantee, excluding any pilot or test system. The Town shall order the Grantee to comply with this section in case of specific violations which it may investigate upon complaint or upon its own motion.~~

(Code 1999, § 5.17.030; Ord. 413 § 3, 1994)

#### **5.17.040. Regulation by franchise authority.**

~~— Grantee shall pay to the Franchising Authority a franchise fee equal to three percent (3%) of Gross Revenues (as defined in Section 1.1 of this Franchise) received by Grantee from the operation of the Cable System on an annual basis; provided, however, that Grantee may credit against any such payments (i) any tax, fee or assessment of any kind imposed by Franchising Authority or other governmental entity on a cable operator, or subscriber, or both, solely because of their status as such; (ii) any tax, fee or assessment of general applicability which is unduly discriminatory against cable operators or subscribers; including any such tax, fee, or assessment imposed, both on utilities and cable operators and their business, occupation, and entertainment tax. For the purpose of this section, the three month period applicable under the Franchise for the computation of the franchise fee shall be a calendar quarter, unless otherwise agreed to in writing by the Franchising Authority and Grantee. Payments shall be made quarterly to the town. Payments are due forty five (45) days after each three month quarter of the calendar year, with the first payment for each year due on May 15. Each payment shall be accompanied by a report from an officer of Grantee showing the basis for the computation. In no event shall the franchise fee payments required to be paid by Grantee exceed three percent (3%) of Gross Revenues received by Grantee in any 12 month period.~~

~~— The Franchising Authority may regulate rates for the provision of Basic Cable and other services and equipment as expressly permitted by applicable law.~~

~~— The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended, unless the procedures and substantive protection set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or state law.~~

~~In addition to the procedures set forth in Section 626(a) of the Cable Act, the Franchising Authority agrees to notify Grantee of all of its assessments regarding the identity of future cable related community needs and interests, as well as, the past performance of Grantee under the then current Franchise term. The Franchising Authority further agrees that such assessments shall be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal under Section 626(b) of the Cable Act and complete renewal of the franchise prior to the expiration of its term. Notwithstanding anything to the contrary set forth in this Section 5.17.040, the Grantee and Franchising Authority agree that at any time during the term of the then current Franchise, while affording the public appropriate notice and opportunity to comment, the Franchising Authority and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current Franchise and the Franchising Authority may grant a renewal thereof. The Grantee and the Franchising Authority consider the terms set forth in this section to be consistent with the express provisions of Section 626 of the Cable Act, as amended.~~

~~— Except to the extent expressly required by federal or state law, if a renewal or extension of Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the Cable System or transfers it to another party, any such acquisition or transfer shall be at a fair market value, determined on the basis of the Cable System valued as a going concern.~~

~~Grantee and Franchising Authority agree that in the case of a lawful revocation of the Franchise, at Grantee's~~

request, which shall be made in its sole discretion, Grantee shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party. The Franchising Authority further agrees that during such a period of time, it shall authorize the Grantee to continue to operate pursuant to the terms of its prior Franchise for a six month period of time from the effective date of such revocation. If, at the end of that time, Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the Franchising Authority, Grantee and Franchising Authority may either avail themselves of any rights they may have pursuant to federal or state law, or Grantee may request an extension to continue operating beyond the initial six month period; or, at Grantee's discretion, Grantee may remove all of its cable wires and equipment from the Cable System. The Franchising Authority and Grantee agree that Grantee's continued operation of its Cable System during the six month period or any extensions granted by the Franchise Authority shall not be deemed to be a waiver, nor an extinguishment of, any right of either the Franchising Authority or the Grantee. Notwithstanding anything to the contrary set forth in this subsection, neither Franchising Authority nor Grantee shall be required to violate federal or state law.

— Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an Affiliate, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecations, or by assignment of any rights, title, or interest of Grantee in the Franchise or Cable System in order to secure indebtedness.

— On or about the fifth and tenth anniversaries of the date of this Franchise, and only upon Grantor's written request, the Grantee shall attend a public meeting for the purpose of performance evaluation. Topics which may be discussed may include but are not limited to: customer service; rate structure; services offered; and programming services offered.

— In accepting this Franchise, Grantee acknowledges that its rights hereunder are subject to the police power of the town to adopt and enforce general Ordinances necessary to the safety and welfare of the public; and it agrees to comply with all applicable general laws and Ordinances enacted by the town pursuant to such power.

(Code 1999, § 5.17.040; Ord. 413 § 4, 1994)

#### **5.17.050. Compliance and monitoring.**

— The Franchising Authority may perform technical tests of the Cable System during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Grantee or the Cable System in order to determine whether or not the Grantee is in compliance with the terms hereof and applicable state or federal laws. Except in emergency circumstances, such tests may be undertaken only after giving Grantee reasonable notice thereof, not to be less than two business days, and providing a representative of Grantee an opportunity to be present during such tests. In the event that such testing demonstrates that the Grantee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the Grantee. In the event that such testing demonstrates that Grantee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the Franchising Authority. Except in emergency or non-compliant circumstances, the Franchising Authority agrees that such testing shall be undertaken no more than two times a year in the aggregate, and that the results thereof shall be made available to the Grantee upon Grantee's request.

— The Grantee agrees that the Franchising Authority may review such of its books and records, during normal business hours, as is reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by the Grantee to it as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof.

(Code 1999, § 5.17.050; Ord. 413 § 5, 1994)

#### **5.17.060. Insurance and indemnification.**

— Grantee shall maintain in full force and effect during the life of any permit public liability insurance in a

~~solvent insurance company authorized to do business in the State of Colorado, at no less than in the following amounts: (1) \$500,000.00 property damage in any one accident; (2) \$ 1,000,000.00 for personal injury to any one person; (3) \$2,000,000.00 for personal injury in any one accident. Provided that all such insurance may contain reasonable deductible provision not to exceed \$1,000.00 for any type of coverage, and provided further that the town may require that any and all investigations of claims made by any person, firm or corporation against the town arising out of any use or misuse of privileges granted to Grantee hereunder shall be made by or at the expense of Grantee or its insurer.~~

~~— The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards, and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System, including, but not limited to, reasonable attorney's fees and costs.~~

~~(Code 1999, § 5.17.060; Ord. 413 § 6, 1994)~~

#### **5.17.070. Enforcement and termination of franchise.**

~~— In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, it shall notify Grantee, in writing, of the specific nature of the alleged noncompliance.~~

~~— Grantee shall have 30 days from receipt of the notice described in Section A: (a) to respond to the Franchising Authority contesting the assertion of noncompliance, or (b) to cure such default, or (c) in the event that, by the nature of default, such default cannot be cured within the 30 day period, initiate reasonable steps and proceed diligently to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be in compliance.~~

~~— Subject to applicable federal and state law, in the event the Franchising Authority, after such meeting, determines that Grantee is in default of any provision of the Franchise, the Franchising Authority at its sole discretion may take any of the following steps:~~

- ~~— Foreclose on all or any part of any security provided under this Franchise, if any, including without limitation, any bonds or other surety; provided, however, the foreclosure shall only be in such a manner and in such amount as the Franchising Authority reasonably determines is necessary to remedy the default; or,~~
- ~~— Commence an action at law for monetary damages or seek other equitable relief which shall include reasonable attorneys fees and costs.~~
- ~~— In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked; or~~
- ~~— Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages.~~

~~The Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the Franchising Authority to enforce prompt compliance.~~

~~— The Grantee shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control. Nonpayment of penalties shall not be construed as an act of God.~~

~~(Code 1999, § 5.17.070; Ord. 413 § 7, 1994)~~

#### **5.17.080. Unauthorized reception.**

~~In addition to those criminal and civil remedies provided by state and federal law, it shall be a misdemeanor for any person, firm, or corporation to create or make use of any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the Cable System without the express consent of the Grantee. Further, without the express consent of Grantee, it shall be a misdemeanor for any person to tamper with, remove, or injure any property, equipment, or part of the Cable System or any means of receiving Cable Service or other services provided thereto.~~



(Code 1999, § 5.17.080; Ord. 413 § 8, 1994)

**5.17.090. Miscellaneous provisions.**

~~— The following documents shall be incorporated herein by this reference, and in the case of a conflict or ambiguity between or among them, the document of latest date shall govern:~~

- ~~— Any enabling ordinance in existence as of the date hereof; and~~
- ~~— Any proposal submitted by Grantee pursuant to a Franchise renewal procedure, as amended and supplemented during the Franchise renewal negotiation process;~~
- ~~— Any Franchise Agreement between Grantee and Franchising Authority reflecting the renewal of the Franchise, if any.~~

~~— If the FCC, or any other federal or state body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of the Franchise, then to the extent such jurisdiction shall preempt and supersede or preclude the exercise of the like jurisdiction by the Franchising Authority, the jurisdiction of the Franchising Authority shall cease and no longer exist.~~

~~— In any action by the Franchising Authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.~~

~~— Unless expressly otherwise agreed between the parties, every notice or response to be served upon the Franchising Authority or Grantee shall be in writing, and shall be deemed to have been duly given to the required party five business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service.~~

~~The notices or responses to the Franchising Authority shall be addressed as follows:~~

~~The Town of Hayden~~

~~P.O. Box 190~~

~~Hayden, Colorado 81639~~

~~The notice or responses to the Grantee shall be addressed as follows:~~

~~TCI Cablevision of Colorado, Inc.~~

~~625 South Lincoln~~

~~P.O. Box 772882~~

~~Steamboat Springs, Colorado 80477~~

~~with copy to:~~

~~TCI Cablevision of Colorado, Inc.~~

~~Attention: Legal Department~~

~~47005 Syracuse Pkwy.~~

~~Suite 1100~~

~~Denver, Colorado 80237~~

(Code 1999, § 5.17.090; Ord. 413 § 9, 1994)

Title 9  
**RESERVED**

PROOFS

Title 10  
**DEVELOPMENT CODE**  
**CHAPTER 10.04. IN GENERAL**

**Sec. 10.04.010. Short title.**

This title shall be known and may be cited as the "Town of Hayden Development Code," or the "Development Code."

(Code 1999, § 7.04.010; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.04.020. Authority.**

(a) This chapter is adopted and enacted pursuant to the authority provided by article XX of the state constitution and the town Home Rule Charter; article 65.1, areas and activities of state and local interest (C.R.S. § 24-65.1-101 et seq.), article 65.5 notification of surface development (C.R.S. § 24-65.5-101 et seq.), article 67 Planned Unit Development Act of 1972 (C.R.S. § 24-67-101 et seq.) and article 68 vested property rights (C.R.S. § 24-68-101 et seq.) of title 24, C.R.S.; article 20 Local Government Regulation of Land Use Control Enabling Act of 1974 of title 29 (C.R.S. § 29-20-101 et seq.), C.R.S.; and article 12 annexation; consolidation; disconnection (C.R.S. § 31-12-101 et seq.), article 15 exercise of municipal powers (C.R.S. § 31-15-101 et seq.), article 16 ordinances, penalties (C.R.S. § 31-16-101 et seq.), article 20 taxation and finance (C.R.S. § 20-20-101 et seq.), article 23 planning and zoning (C.R.S. § 31-23-101 et seq.), and article 25 public improvements (C.R.S. § 31-25-101 et seq.), of title 31, C.R.S.; and other applicable state and federal laws and regulations.

(b) Whenever a section of the Colorado Revised Statutes cited in this title is later amended or superseded, this Code shall be deemed amended to refer to the amended section or sections that most nearly corresponds to the superseded section.

(Code 1999, § 7.04.020; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.04.030. Purposes.**

This title is intended to promote and achieve the following goals and purposes for the town community, including the residents, property owners, business owners and visitors:

- (1) Divide the town into zones, restricting and requiring therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for trade, industry, residence and other specified uses; regulate the intensity of the use of lot areas; regulate and determine the area of open spaces surrounding such buildings; establish building lines and locations of buildings designed for specified industrial, commercial, residential and other uses within such areas; establish standards to which buildings or structures shall conform; establish standards for use of areas adjoining such buildings or structures;
- (2) Implement the goals and policies of the comprehensive plan and other applicable planning documents of the town;
- (3) Comply with the purposes stated in state and federal regulations which authorize the regulations in this title;
- (4) Avoid undue traffic congestion and degradation of the level of service provided by streets and roadways, promote the proper arrangement of streets in relation to existing and planned streets, promote effective and economical mass transportation, and enhance effective, attractive and economical pedestrian and biking opportunities;
- (5) Promote adequate light, air, landscaping and open space and avoid undue concentration or sprawl of population;
- (6) Provide a planned and orderly use of land, protection of the environment and preservation of viability,

all to conserve the value of the investments of the people of the town community and encourage a high quality of life and the most appropriate use of land throughout the municipality;

- (7) Prevent the inefficient use of land; avoid increased demands on public services and facilities which exceed capacity or degrade the level of service for existing residents; provide for phased development of government services and facilities which maximizes efficiency and optimizes costs to taxpayers and users; and promote sufficient, economical and high-quality provision of all public services and public facilities, including, but not limited to, water, sewage, schools, libraries, police, parks, recreation, open space and medical facilities;
- (8) Minimize the risk of damage and injury to people, structures and public infrastructure created by wildfire, unstable slopes, rock fall, mudslides, geologic, flood danger and other natural hazards;
- (9) Sustain water sources by maintaining the natural watershed, preventing accelerated erosion, reducing runoff and consequent sedimentation, eliminating pollutants introduced directly into streams and enhancing public access to recreational water sources;
- (10) Maintain the natural scenic beauty of the Hayden community in order to preserve areas of historical and archaeological importance, provide for adequate open spaces, preserve scenic views, provide recreational opportunities, sustain the tourist-based economy and preserve property values;
- (11) Promote architectural design which is compatible, functional, practical and complimentary to the town's environment;
- (12) Achieve innovation and advancement in design of the built environment to improve efficiency, reduce energy consumption, reduce emission of pollutants, reduce consumption of nonrenewable natural resources and attain sustainability;
- (13) Achieve a diverse range of attainable housing which meets the housing needs created by jobs in the town, provides a range of housing types and price points to serve a complete range of life stages and promotes a balanced, diverse and stable full time residential community which is balanced with the visitor economy;
- (14) Promote quality real estate investments which conserve property values by disclosing risks, taxes and fees; by incorporating practical and comprehensible legal arrangements; and by promoting accuracy in investment expectations; and
- (15) Promote the health, safety, morals and general welfare of the Hayden community.

(Code 1999, § 7.04.030; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.04.040. Interpretation.**

(a) *Conflict of laws.* In their interpretation and application, the provisions of this title shall be held to be minimum requirements for the promotion of the public health, safety and welfare. Whenever the requirements of this title are more or less restrictive than the requirement of any other lawfully adopted rules, regulations or ordinances, including any applicable state or federal regulations, the more restrictive regulation or the regulation imposing the higher standards shall govern.

(b) *Meanings and intent.* All provisions, terms, phrases and expressions contained in this title shall be construed according to the stated purposes in this title. All provisions, terms, phrases and expressions contained in this title shall be construed according to the general purposes set forth in section 10.04.030 and the specific purpose statements set forth throughout this title. The stated purpose in a specific section of this title shall control over the general purposes stated in section 10.04.030 to the extent of any conflict in the stated purposes.

(c) *Headings, illustrations and text.* In the event of a conflict or inconsistency between the text of this title and any heading, caption, figure, illustration, table or map, the text shall control.

(d) *Lists and examples.* Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and shall not be interpreted as exhaustive lists of all possibilities or requirements.

(e) *References to other regulations and publications.* Whenever reference is made to a resolution, ordinance,

statute, regulation or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation or document, unless otherwise specifically stated.

(f) *Delegation of authority.* Any act authorized by this title to be carried out by a specific official of the town may be carried out by a designee of such official. The manager shall be authorized to carry out any act or designate any official to carry out any act authorized by this title.

(g) *Technical and nontechnical terms.* Words and phrases not otherwise defined in this title shall be construed according to the common and approved usage of the language. Technical words and phrases not otherwise defined in chapter 10.08 of this title which may have acquired a particular and appropriate meaning in law shall be construed and understood according to such meaning. The most recent version of Webster's Dictionary or the most recent version of Black's Law Dictionary may be used to interpret the definition of a word or phrase not defined in this title.

(h) *Public officials and agencies.* All public officials, bodies and agencies to which references are made are those of the town unless otherwise indicated.

(i) *Mandatory and discretionary terms.* The terms "shall," "must" and "will" are always mandatory, and the terms "may," "can," "might" and "should" are always discretionary.

(j) *Conjunctions.* Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- (1) *And* indicates that all connected items, provisions or events shall apply; and
- (2) *Or* indicates that one or more of the connected items, conditions, provisions or events shall apply.

(k) *Tenses and plurals.* Words used in one tense (past, present or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural and the plural shall include the singular.

(l) *Relationship to third party agreement.* This title is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of private agreements or restrictive covenants running with land. Where this title imposes a greater restriction than that of any other law, contract or deed, the provisions of this title shall control. Nothing in this title shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with this title. In no case shall the town be obligated to enforce the provisions of any easement, covenants or agreements between private parties.

(m) *Authority of manager to interpret.* The manager has authority to render an interpretation or usage of terms used in this title as applied to a specific development applications or activity or where such term or phrase is not defined in this title. The manager shall use the rules of interpretation set forth in this section and shall render interpretations in writing upon request. The written interpretation of the manager may be appealed to the Council in accordance with section 10.16.140.

(n) *Prohibited.* Any use of property which violates local, state or federal law is prohibited.

(Code 1999, § 7.04.040; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.04.050. Computation of time.**

(a) This section shall apply to the requirements and procedures of this title. The time within which an act is required to be done shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, an official holiday recognized by the state or any official holiday recognized by the town, the last day shall be deemed to be the next day which is not a Saturday, Sunday or official holiday. The failure of the town to perform any act within the timeframe required for the town shall not be deemed to be an automatic approval by the town or a waiver of the town's ability to review an application for development for compliance with the applicable standards and regulations.

(b) The following time-related words shall have the following meaning:

*Day* means a calendar day unless working day is specified.

*Month* means a calendar month.

*Week* means seven calendar days.

*Year* means a calendar year unless a fiscal year is indicated.

(Code 1999, § 7.04.050; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.04.060. Applicability.**

(a) *Jurisdiction.* This title shall be effective throughout the town's corporate boundaries. The town's planning jurisdiction includes all land within the town and the land within three miles of the town's corporate boundaries to the extent of the town's major street plan, as adopted in the town transportation plan. A copy of a map showing the boundaries of the town and the area within the three-mile planning jurisdiction shall be available for public inspection in the town community development department<sup>91</sup> offices.

(b) *Permit requirement.* This title establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications will be reviewed for compliance with the town's comprehensive plan, with the regulations and standards adopted in this title or with such regulations as are applicable in this Municipal Code or state or federal law. Issuance of a building permit or grading permit is required prior to the commencement of any development in the town, including grading property or erecting, constructing, reconstructing, altering, moving or changing the use of any building, structure or improvement within the town. A permit shall not be issued until the plans for development of the proposed erection, construction, reconstruction, alteration, moving, use or grading fully conform to the land development regulations in effect at the time of submitting the permit.

(Code 1999, § 7.04.060; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.04.070. Applicability to public agencies.**

The provisions of this title shall apply to all public bodies, districts and agencies of the federal, state, county and municipal governments to the extent permitted by law.

(Code 1999, § 7.04.070; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.04.080. Exemption for essential services.**

The normal maintenance by public utilities, special districts or municipal departments of underground, surface or overhead electrical, television, steam, gas, fuel, water, sewer or storm drainage transmission, collection or distribution systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar equipment in connection therewith are exempted from the application of this title. Not included in the exemption granted by this section is the construction or alteration by public utilities or special districts of any aboveground systems or improvements within the right-of-way pursuant to section 18.12.050. Business offices and maintenance yards of such public utilities, special districts or municipal departments are not included in the exemption granted by this section.

(Code 1999, § 7.04.080; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.04.090. Relationship to comprehensive plan.**

(a) *Implementation.* It is the intention of the town that this title implements the planning policies adopted in the comprehensive plan (including related documents as all may be amended or updated from time to time as defined in chapter 10.08 of this title) for the town and its extraterritorial planning area. This title and any amendment to it may not be challenged on the basis of any alleged nonconformity with the comprehensive plan.

(b) *Binding.* Pursuant to C.R.S. § 31-23-206, the comprehensive plan, as defined in this title, shall be binding except as provided herein. Compliance or consistency with the comprehensive plan shall be a criterion for review of development applications as set forth in this title. Persons other than the applicant shall not have any legal right or claim to challenge a determination by the town of compliance or consistency with the comprehensive plan. Any language in the comprehensive plan document which states that any provision, guideline or policy is mandatory shall be subject to this section. This section shall apply and supersede any language contained in the comprehensive plan documents concerning interpretation and application of any comprehensive plan document. In all cases where

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<sup>91</sup> Is this department name correct? **Leave as is.**

compliance or consistency with the comprehensive plan is a criteria for review, the reviewing entity may determine that strict compliance with the comprehensive plan is not required under the following circumstances:

- (1) The development application is consistent with the general goals and intent of the comprehensive plan, taking into consideration the unique circumstances of the property, market conditions and the current needs of the community;
- (2) Strict compliance with multiple provisions of the comprehensive plan is not practical; and
- (3) The procedures for amending the comprehensive plan are not beneficial as applied to the development application for the purpose of promoting public involvement, community planning, updating the comprehensive plan or adopting or clarifying the precedence of a decision.

(c) *Prior amendment required.* An amendment to the comprehensive plan will be required prior to any approval of a rezoning, PUD, subdivision or annexation approval where a development proposal would be in substantial conflict with the comprehensive plan. A substantial conflict shall be deemed to exist when a rezoning, PUD, subdivision or annexation proposal is not consistent with the future land use plan in the comprehensive plan. A substantial conflict may be found to exist when a rezoning, PUD, subdivision or annexation proposal is found to conflict with other goals and policies of the comprehensive plan.

(Code 1999, § 7.04.090; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.04.100. Fees.**

(a) *Fees.* Reasonable fees sufficient to cover the costs of administration, peer review by professionals qualified in fields relevant to development applications, inspection, publication of notice and similar matters will be charged to applicants for all development applications. The council may adopt, amend and update a schedule of fees by resolution. The manager may require additional fees when deemed necessary and reasonable based on the nature and character of the review required or where unusual issues are presented which may require additional review. Fees for independent consultants and studies may include an additional 15 percent charge for town staff administration oversight, costs and supplies.

(b) *Pass-through accounts.* All development applications shall be treated as pass-through accounts, unless otherwise stated in the schedule of fees adopted by the Council through a resolution, whereby the applicant shall be liable for all costs of review incurred by the town. Additional review fees may be requested if the initial amount designated in the fee schedule is not sufficient for the cost of application review. Subsequent deposits may be required when 85 percent of deposits are expended. Upon request by the applicant, the town shall provide an estimate of the cost for review of a development application. The manager may withhold processing and review of a development application where the applicant has not provided sufficient fees to continue or complete the application review. The town shall return the balance of any unused application review fees when the application process is complete.

(c) *Payment in full required.* All development applications shall be required to pay the town in full for all costs incurred for the review of a development application. Payment in full to the town of the costs incurred for development application review shall be a condition to each and every development application. The failure to pay the town in full for the costs incurred for development application review within 35 days of final approval shall render any such approval null and void. The council may waive this requirement, reduce fees or extend the time period for payment.

(d) *Interest on delinquent fees.* Development application review fees and charges which are not paid within 30 days of sending an invoice shall be deemed to be past due and shall bear interest at the rate of one percent per month.

(e) *Lien for delinquent fees.* All delinquent development application review fees and charges, along with such interest that has accrued thereon, shall be subject to a lien on the property which the development application concerned, and all such delinquent charges may be certified to the county-treasurer and may be collected and paid over to the town by the county treasurer in the same manner as taxes are as authorized by C.R.S. title 31.

(Code 1999, § 7.04.100; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.04.110. Transition to Development Code.<sup>92</sup>**

(a) *Purpose.* The purpose of this section is to clarify the status of properties with pending applications or recent approvals, as those terms are used below, and properties with outstanding violations, at the time of the adoption of this title.

(b) *Effective date.* The provisions of this title became effective on November 16, 2017. Development plans approved under previous regulations that received vested property rights by approval of the Council by ordinance shall be valid for the duration of that vested property right, provided that all terms and conditions of such vested right approval are followed. Existing legal uses that may become nonconforming by adoption of this title shall become legal nonconforming uses subject to the provisions of this section.

(c) *Violations continue.* Any violation of the previous titles 16 Hayden Land Use Code and Subdivision shall continue to be a violation under this title and shall be subject to the penalties and enforcement in this chapter.

(d) *Preliminary subdivision and PUD approvals.* Preliminary subdivision and preliminary PUD approvals granted prior to the effective date of the ordinance from which this title is derived shall be considered as approved pursuant to this title. Preliminary subdivision and PUD approvals granted under the previous regulations shall be valid for two years from the date of approval unless a vested right providing a longer period was granted by the Council by ordinance. Extensions of preliminary subdivision plats and preliminary PUD plans may be granted in accordance with section 10.16.020(6). Failure to obtain a final plat or final planned unit development plan approval in the allowed time shall result in the expiration of the preliminary plan. Applications for final subdivision plat and final planned unit development plan shall follow application submittal requirements and review procedures in this title and shall be subject to the standards and review criteria in this title, provided that this title shall not be so applied as to alter, impair, prevent, diminish, impose a moratorium on development or otherwise delay the development or use of a site-specific development plan with vested property rights as defined and approved by the town.

(e) *Future subdivisions.* Large tracts or blocks of land contained within a recorded subdivision that were intended or designed for resubdivision into smaller tracts, lots or building sites when originally approved shall comply with all provisions of this title.

(f) *Projects with final approval.* Development projects with final approval that are valid on November 16, 2017, shall remain valid until their termination date. Projects with valid approvals or permits may be completed in conformance to the development standards in effect at the time of approval.

(g) *Active building permits.* Any building or development for which a building permit was granted prior to November 16, 2017, shall be allowed to proceed to construction under the regulations in place when the building permit was issued. If the development for which the building permit is issued prior to November 16, 2017, fails to comply with the time frames for development established for the building permit, the building permit shall expire and future development shall comply with the requirements of this title.

(h) *Violations, enforcement and penalties.* A use, structure or lot not lawfully existing at the time of the adoption of this title is deemed lawful and conforming as of the effective date of the ordinance from which this title is derived if it conforms to all requirements of this title. Payment shall be required for any civil penalty assessed under the previous code, even if the original violation is no longer considered a violation under this title.

(Code 1999, § 7.04.110; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.04.120. Nonconforming uses and structures.**

(a) *Intent.* Within the districts established by this title or amendments thereto that may be adopted, there may exist lots, structures and uses of land and structures, which were lawfully established before this title was passed or amended, but which would be prohibited, regulated or restricted under the terms of this title or by future amendment to this title. It is the intent of this section to permit these nonconformities to continue until they are removed,

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<sup>92</sup> We recommend reviewing this provision. If it is no longer applicable, we recommend striking it.  
**Leave as is.**



abandoned or more than 50 percent destroyed. It is the further intent of this section that nonconforming structures and uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district, except as provided in this section.

(b) *Uses of land.* Where, at the time of the passage of this title or amendment thereof, lawful use of land existed which would not be permitted by the regulations imposed by this title, the use may be continued so long as it remains otherwise lawful, provided:

- (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy greater area of land than was occupied at the effective date of adoption or amendment of the ordinance from which this title is derived;
- (2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of the ordinance from which this title is derived;
- (3) Any such nonconforming use of land which ceases for any reason for a period of one year shall be deemed abandoned, then any subsequent use of such land shall conform to the regulations specified by this title for the district in which such land is located; and
- (4) No additional structure, not conforming to the requirements of this title, shall be erected in connection with such nonconforming use of land.

(c) *Structures.* Where a lawful structure existed at the effective date of adoption or amendment of the ordinance from which this title is derived that could not be built under the terms of this title by reason of restrictions on area, lot coverage, height, location on the lot or other requirements concerning the structure, such structure may continue to exist so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;
- (2) Should 50 percent or more of such nonconforming structures or nonconforming portion of a structure be destroyed by fire or other disaster, it shall not be reconstructed except in conformity with the provisions of this title unless a permit for repair or reconstruction of a damaged nonconforming structure is issued pursuant to subsection (d) of this section;
- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after having been moved;
- (4) Additions or alterations to a nonconforming structure which meet the requirements of this title shall not be prohibited; and
- (5) Additions or alterations to a nonconforming structure in the town center zone district shall not be required to comply with building orientation, minimum setbacks or building entry requirements when compliance with such requirements is determined by the town to not be practical or feasible.

(d) *Repair or reconstruction of nonconforming structures.* When compliance with the requirements of this title may result in a hardship or burden, the owner of a nonconforming structure which is damaged by fire or other disaster by more than 50 percent of its replacement cost may apply to the planning and zoning commission (planning commission) for a permit to repair or reconstruct the nonconforming structure. The decision of the planning commission may be appealed to the Council in accordance with section 10.16.190. The planning commission shall use the criteria set forth in this section to review an application to repair or reconstruct a damaged nonconforming structure:

- (1) The damage to the nonconforming structure was not caused by the intentional act of criminal conduct of the owner of the nonconforming structure or the owner's agent or representative;
- (2) The repair or reconstruction of the damaged nonconforming structure as proposed by the applicant will not result in a greater degree of nonconformity than existed immediately prior to the structure being damaged;
- (3) The repair or reconstruction of the damaged nonconforming structure as proposed by the applicant will

be compatible and consistent with the existing development character in the immediate vicinity of the damaged structure;

- (4) The damaged nonconforming structure has been brought into compliance with the requirements of this title to the maximum extent practical; and
- (5) The continuation of the nonconformity would not threaten the health or safety of the community, would not present risk of damage or injury to property or persons and would not materially or adversely affect property values.

(e) *Uses of structures or of structures and premises in combination.* If lawful use involving individual structures or of structures and premises in combination existed at the effective date of adoption or amendment of the ordinance from which this title is derived that would not be allowed in the district under the terms of this title, that use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this title in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
- (2) Any nonconforming use may not be extended throughout any parts of a building, unless such building was manifestly arranged or designed for such use at the time of adoption or amendment of this title, but no such use shall be extended to occupy any land outside such building;
- (3) Any structure or structures and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district and the nonconforming use may not thereafter be resumed;
- (4) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for a period of one year, the structure or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located; and
- (5) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction, for the purpose of this subsection, is defined as loss of 50 percent or more or of substantial damage to the structure.
- (f) *Lot reduction; prohibition against establishing new nonconforming uses.*
- (1) No lot or parcel of land, nor any interest therein, shall be transferred, conveyed, sold, subdivided or acquired either in whole or in part, so as to create a new nonconforming use, to avoid, circumvent or subvert any provision of this title or so as to leave remaining any lot or width or area below the requirements for a legal building site as described in this title; nor shall any lot or portion of a lot required for a legal building site under the provisions of this title be used as a portion of a lot required as a site for another structure.
- (2) No building permit shall be issued for any lot or parcel of land which has been transferred, conveyed, sold, subdivided or acquired in violation of this section.

(Code 1999, § 7.04.120; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.04.130. Severability.**

If any court of competent jurisdiction invalidates any provision of this title, then such judgment shall not affect the validity and continued enforcement of any other provision of this title. If any court of competent jurisdiction invalidates the application of any provision of this title, then such judgment shall not affect the application of that provision to any other building, structure or use not specifically included in that judgment. If any court of competent jurisdiction invalidates any condition attached to the approval of an application for development approval, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

(Code 1999, § 7.04.130; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.04.140. Save harmless clause.**

An applicant agrees to save the town, its officers, employees and agents harmless from any and all costs, damages and liabilities that may occur or be claimed to occur by reason of any work performed as a result of any development approval granted by the town.

(Code 1999, § 7.04.140; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.04.150. Disclaimer of liability.**

This title shall not be construed as imposing upon the town or any official or employee of the town any liability or responsibility for damages of any kind to any person by reason of inspection authorized in this title or failure to inspect or by reason of issuance of an application approval or building permit or by reason of pursuing or failing to pursue an action for injunctive relief.

(Code 1999, § 7.04.150; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.04.160. Violations.**

(a) *Compliance required.* It is unlawful for any person to commence or any property owner or lessee to allow any development activity or subdivide land within the entire area of the town without having first complied with the provisions of this title. In the territory subject to subdivision jurisdiction beyond the municipal limits, it is unlawful for any person to subdivide land without having conformed with the major street plan of the town, known as the Town of Hayden Comprehensive Transportation Master Plan.

(b) *Permit or approval based on materially false information.* Any building permit or approval authorized by this title that is issued in reliance upon any materially false statement in the development application or in supporting documents or oral statements is void from the beginning and shall be revoked.

(c) *Transfer or sale of interest prior to final subdivision approval.* It is unlawful for any person to transfer or sell or agree to sell any lot, tract, parcel, site, separate interest (including a leasehold interest), condominium interest, timeshare estate or any other division within a subdivision within the town until such subdivision has been approved in writing by the Council and a plat thereof recorded in the office of the county clerk and recorder. A written agreement to sell a condominium unit prior to final subdivision approval shall not constitute a violation of this section if the written agreement is expressly conditioned upon approval of the Council of the final subdivision plat and all related documents, the preliminary plan has been approved by the Council, the building or property to be subdivided has received design review approval (if applicable), the written agreement provides that the prospective buyer or purchaser is entitled to terminate the written agreement and is entitled to receive the full amount of any monies deposited and the form of the written agreement has received approval by the town attorney prior to using the form of such written agreement with a prospective purchaser or buyer.

(d) *Public nuisance.* Violations of this Code may coincide with actions or conditions that are identified as a public nuisance in chapter 12.05. When that is the case, the manager may proceed under this title, as well as the procedures of chapter 12.05.

(e) *Persons liable.* The owner of property upon which any violation of this title occurs shall be held responsible for the violation and be subject to the penalties and remedies provided in this section.

(f) *Violations cumulative.* Any person violating any of the provisions of this title shall be deemed to have committed a civil infraction for each and every day or portion of a day during which any infraction is committed, continued or permitted.

(Code 1999, § 7.04.160; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.04.170. Penalties.**

Any person violating any of the provisions of this title shall be prosecuted as a civil infraction and shall be subject to a civil fine up to \$1,000.00 for each violation, and each day that such violation continues to exist shall constitute a separate offense and violation. Any remedies provided for in this section shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. The imposition of any penalty under this title shall not preclude the town or affected property owner from instituting any appropriate action or proceeding to require compliance with the provisions of this title. All civil fines and penalties which are not paid within 30 days,

shall be subject to a lien on the property, and all such delinquent fines and penalties may be certified to the county treasurer and may be collected and paid over to the town by the county treasurer in the same manner as taxes are as authorized by C.R.S. title 31.

(Code 1999, § 7.04.170; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.04.180. Costs and attorney's fees.**

Costs and attorney's fees associated with enforcement and abatement shall be charged to the owner of property on which the violation has occurred. The cost of abating a violation of this title shall include all direct and indirect costs of such abatement, plus the costs of collection and interest at the rate of one percent per month. Notice of the bill for abatement of the violation shall be mailed to the address of the property owner according to the county assessor's recorders by certified mail and shall be payable within 30 calendar days from the receipt thereof. If all such costs are not paid within 30 days of the notice, such costs may be made a lien on the property and certified to the county treasurer and may be collected and paid over to the town by the county treasurer in the same manner as taxes are as authorized by C.R.S. title 31.

(Code 1999, § 7.04.180; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.04.190. Enforcement authority and procedures.**

(a) *Right of entry.* Whenever necessary to make an inspection to enforce any of the provisions of this title or whenever the manager has reasonable cause to believe that there exists in any building or upon any premises any violation of this title, the manager may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the manager by this title. If such building or premises are occupied, the manager shall first present proper credentials and demand entry. If such building or premises are unoccupied, the manager shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. The manager may be accompanied by an officer of the police department or other law enforcement officer.

(b) *Refusal of entry.* Should entry be refused, the manager shall have recourse to every remedy provided by law to secure entry. When the manager shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the manager for the purpose of inspection and examination pursuant to this title. Any person failing or refusing to permit entry shall be deemed to have committed a violation of this section.

(c) *Enforcement procedures.* If the manager finds that any provision of this title is being violated, the following actions may be taken:

- (1) *Nonemergency violations.* In the case of violations of this title that do not constitute an emergency or require immediate attention, written notice of the nature of the violation and required corrective action to be taken shall be given to the property owner, agent, occupant or to the applicant for any relevant permit. Notice shall be given in person, by certified U.S. mail (return receipt requested) or by posting notice on the premises. The notice shall specify this title provisions allegedly in violation and shall state that the individual has a period of 30 days from the date of the notice of violation in which to correct the alleged violations before further enforcement action shall be taken. The notice shall also state any appeal and/or variance procedures available pursuant to this title. In the event that the violation is not corrected and cured within 30 days of the date of the notice of violation, the manager shall refer the violation to the town attorney who shall promptly file a complaint in municipal court seeking penalties, injunction, abatement and such other remedies as may be appropriate.
- (2) *Emergency violations.* In the case of violations of this title that constitute an emergency as a potential imminent threat to health or safety of the public, to public infrastructure, to damage to other properties or to soil erosion or water quality degradation, the manager may use the enforcement powers available under this title without prior notice but shall attempt to give notice simultaneously with beginning enforcement action or as soon thereafter as practicable. Notice may be provided to the property owner, agent, occupant or to the applicant for any relevant permit. The manager shall refer the violation to the town attorney who shall promptly file a complaint in municipal court seeking penalties, injunction,

abatement and such other remedies as may be appropriate.

- (3) *Extension of time for correction.* The manager may grant an extension of the time to cure an alleged violation, up to a total of 90 days, if the manager finds that, due to the nature of the alleged violation, it reasonably appears that it cannot be corrected within 30 days.

(Code 1999, § 7.04.190; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.04.200. Enforcement actions and remedies.**

(a) *Town Council.* The Council may refer violations to the town attorney, direct the building official to issue a stop work order, set a hearing for revocation of a permit or take such other enforcement action set forth in this section.

(b) *Penalties.* When a violation is referred to the town attorney by the manager or the Council, the town attorney shall promptly file a complaint in municipal court or other court of competent jurisdiction seeking penalties, injunction, abatement and such other remedies as may be appropriate.

(c) *Deny/withhold permits.* The manager or building official may deny and withhold all permits, certificates or other forms of authorization to use or develop any land, structure or improvements thereon until the alleged violation related to such property, use or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit is responsible for the violation. The denial or withholding of a permit by the manager or building official may be appealed to the board of adjustment (BOA) as provided in section 10.16.140.

(d) *Revocation of permits.*

- (1) *Referral by manager.* The manager may refer a request to revoke a development permit or building permit to the Council based upon violation of this title.

- (2) *Hearing required.* The Council may revoke any development permit, building permit or other authorization, after notice and a hearing. This section shall not apply to the forfeiture of vested property rights.

- (3) *Notice of hearing.* The hearing on the revocation of a development permit, building permit or other authorization shall be conducted during a regular or special meeting of the Council not less than seven days nor more than 45 days from the date the notice of the hearing is given. Notice of hearing shall be deemed given to the owner, the owner's agent or other person to whom the development permit was issued, upon deposit of said notice in the U.S. mail, by certified mail, return receipt requested, addressed to the last known address of said person or to the address of record according to the county assessor's records. Additional methods of service may also be utilized to give notice of the public hearing.

- (4) *Findings.* Following the hearing, the Council upon a finding of the following, may revoke any development permit, building permit or other authorization:

- a. There is a departure from the approved plans, specifications or conditions of approval;
- b. There is a violation of any provision of this title;
- c. The development permit was obtained by false representation;
- d. The development permit was issued in error;
- e. Public improvements are not constructed in accordance with the approved final plat and supplemental information; or
- f. There is a material failure in the security granted for the public improvements.

- (5) *Notice of revocation.* Written notice of revocation shall be served upon the owner, the owner's agent, applicant or other person to whom the permit was issued by certified U.S. mail, return receipt requested, or such notice may be posted in a prominent location at the place of the violation. No work or construction or use of the property shall proceed after service of the revocation notice.

(e) *Stop work order.*

- (1) *Issuance of stop work order.* The manager or building official may issue a written order to stop work on any property on which there is an uncorrected violation of either a provision of this title or a provision of a development permit, building permit or other form of authorization. The stop work order shall specify this title provisions allegedly in violation. Service of the order shall be given in person, by certified U.S. mail (return receipt requested) or by posting notice on the premises. After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to correct such violation or comply with the order. The notice shall also state any appeal and/or variance procedures available pursuant to this title.
- (2) *Timing/notice.* The stop work order may be issued in conjunction with a notice of violation or subsequent to such notice. The stop work order may also specify a shorter time for correction of the violation than the 30-day period specified in section 10.04.190(c)(1). The stop work order shall also indicate that failure to comply with the order may subject the violator to criminal liability as penalty for the violation.

(f) *Abatement or injunctive relief.* The manager, through the town attorney, may initiate injunction or abatement proceedings or other appropriate legal action in the district court or other court of competent jurisdiction to abate, remove or enjoin such violation and to recover damages, costs and reasonable attorney's fees incurred in the abatement and removal of such violation. In any court proceedings in which the town seeks a preliminary injunction, it shall be presumed that a violation of this title is a real, immediate and irreparable injury to the public; that the public will be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject violation. The town may also abate a public nuisance in accordance with the procedures set forth in chapter 12.05.

(g) *Remedies cumulative.* The remedies provided for violations of this title shall be cumulative and in addition to any other remedy provided by law and may be exercised in any order.

(h) *Compliance agreement.* The manager or the town attorney may enter into a compliance agreement with the following terms:

- (1) The violation shall be defined and admitted;
- (2) The manner and time frame in which the violation will be corrected shall be defined;
- (3) The timeframe for correction of the violation may not exceed six months without approval by Council;
- (4) Prosecution of the violations shall be deferred during the timeframe for correction of violation stated in the compliance agreement;
- (5) The penalties shall be determined;
- (6) The costs of enforcement shall be determined and payment of such costs shall be required; and
- (7) All enforcement actions and remedies may be pursued without waiver in the event that the violation is not corrected in accordance with the terms of the compliance agreement.

(i) *Appeals of enforcement actions.* Appeals of any order, requirement, decision or determination made by an administrative official in the enforcement of this title shall be made to the Council in accordance with the provisions of section 10.16.190.

(Code 1999, § 7.04.200; Ord. No. 679, § 2(exh. A), 11-16-2017)

## **CHAPTER 10.08. DEFINITIONS**

### **Sec. 10.08.010. General definitions.**

The terms in this section shall be defined as stated in this section. The rules of interpretation stated in section 10.04.040 shall apply to the interpretation and application of the definitions in this section. 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:

*Access* means the place, means or way by which pedestrians and vehicles shall have adequate, usable and legal ingress and egress to property, use or parking space.

*Access grade* means the slope of a road, street, driveway or other means of access, as measured from the edge

of asphalt along the centerline of the means of access.

*Accessory building, structure or use* means a subordinate building, structure, or use, which is:

- (1) Integrally related, subordinate and clearly incidental to an existing principal building, structure or use of the land;
- (2) Located on the same lot (or on a contiguous lot in the same ownership) with the principal building, structure or use;
- (3) Used only at the same time as the principal building, structure or use is active and operational; and
- (4) Not detrimental or an alteration of the character of the area in which the building, structure or use is located.

The term "accessory building, structure or use" shall include, but not be limited to, storage sheds and detached garages in residential zoning districts. Microwave dishes, antennas and similar devices which have a surface area of six square feet or larger shall also be considered accessory structures and shall comply with requirements for accessory buildings and structures, including height requirement.

*Accessory dwelling* means an apartment integrated within a single-family dwelling, or located in a detached accessory building, such as carriage houses or agricultural-type outbuildings, located on the same lot as single-family dwellings. Accessory dwellings shall be limited to 800 square feet in floor area. For purposes of calculating residential density, each accessory dwelling shall count as one-half dwelling unit. There shall not be more than one accessory dwelling located on a lot in addition to the single-family dwelling.

*Adjacent* means meeting or touching at some point or separated from a lot or parcel by one of the following: a street, alley or other right-of-way, lake, stream or open space.

*Adjacent property owner* means an owner of record of any estate, right or interest in real property abutting the subject property.

*Adult-oriented or sexually oriented use* means a use of property where the principal use, or a significant or substantial adjunct to another use of the property, is the sale, rental, display or other offering of live entertainment, dancing or material which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to specified sexual activities or specified anatomical areas as the primary attraction to the premises, including, but not limited to:

*Adult arcade* means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

*Adult bookstore, adult novelty store or adult video* means a commercial establishment which devotes a significant or substantial portion of its stock-in-trade or interior floor space to, or has as one of its principal business purposes, the sale, rental or viewing, for any form of consideration, of any books, magazines, periodicals or other printed matter or photographs, films, motion pictures, videocassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, or any instruments, devices or items which are designed or intended for use with or in specified sexual activities.

*Adult cabaret* means a nightclub, bar, restaurant, concert hall, auditorium or similar commercial establishment which features:

- a. Persons who appear in a state of nudity;
- b. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- c. Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

*Adult motel* means a hotel, motel or similar commercial establishment which offers private rooms to the public and provides patrons live performances or closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from a public right-of-way which advertises the availability of this adult type of photographic reproductions.

*Adult motion picture theater* means a commercial establishment which is distinguished or characterized by showing of films, motion pictures, videocassettes, slides or similar photographic reproductions with an emphasis on depicting or describing specified sexual activities or specified anatomical areas which are regularly shown for any form of consideration.

*Adult photo studio* means any establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing H-specified anatomical areas.

*Adult theater* means a theater, concert hall, auditorium or similar business which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

*Commercial establishment* with respect to the regulation of sexually oriented businesses may have other principal business purposes that do not involve the depicting or describing of specified sexual activities or specified anatomical areas and still be categorized as a sexually oriented business. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a sexually oriented business so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. The term "commercial establishment" includes clubs, fraternal organizations, social organizations, civic organizations or other similar organizations with paid memberships.

*Nude model studio* means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons.

*Nudity or state of nudity* means:

- a. The appearance of human bare buttock, anus, male genitals, female genitals or the areola or nipple of the female breast; or
- b. A state of dress which fails to opaquely and fully cover human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

*Peep booth* means a viewing room, other than a private room, of less than 150 square feet of floor space upon the premises of a sexually oriented business where there are exhibited photographs, films, motion pictures, video cassettes or other video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

*Private room* means a room in an adult motel that is not a peep booth, has a bed in the room, has a bath in the room or adjacent to the room, and is used primarily for lodging.

*Sexual encounter establishment* means a business or commercial establishment which, as one of its primary business purposes, offers for any form of consideration a place where two or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas, when one or more of the persons exposes any specified anatomical area.

*Sexually oriented business* means an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, nude model studio, sexual encounter establishment or other similar business and includes:

- a. The opening or commencement of any sexually oriented business as a new business;
- b. The conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business;
- c. The addition of any sexually oriented business to any other existing sexually oriented business;



- d. The relocation of any sexually oriented business; or
- e. The continuation of a sexually oriented business in existence on the effective date of the initial ordinance codified herein.

*Specified anatomical areas* means:

- a. Less than completely and opaquely covered: human genitals, pubic region, buttocks, and female breast below a point above the top of the areola.
- b. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

*Specified sexual activities* means acts, simulated acts, exhibitions, representation, depictions or descriptions of:

- a. Human genitals in a state of sexual stimulation or arousal.
- b. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.
- c. Intrusion, however slight, of any object, any part of an animal's body, or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal.
- d. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function.
- e. Flagellation, mutilation or torture for purposes of sexual arousal, gratification or abuse.

*Stage* means a raised floor or platform at least three feet above the surrounding floor measured perpendicularly from the edge of the stage to the surrounding floor and at least 36 square feet in area.

*Affordable housing project* means a development project in which at least 75 percent of the gross acreage to be developed under the plan is to be developed as residential dwelling units or mobile home park spaces; at least ten percent of said dwelling units or spaces (the "affordable housing units") are to be available for rent or purchase on the terms described in the definitions of the term "affordable housing unit for rent" or "affordable housing unit for sale" (as applicable); the construction of the dwelling units or spaces is to occur as part of the initial phase of the project and prior to the construction of the market rate units or on a proportional basis, according to the same ratio as the number of affordable units bears to the number of the market rate units; and the units will be required by binding legal instrument acceptable to the town and duly recorded with the county clerk and recorder, to be occupied by and affordable to low-income households for at least 20 years.

*Affordable housing unit for rent* means a dwelling unit which is available for rent on terms that would be affordable to households earning eighty percent or less of the median income of county residents, as adjusted for family size, and paying less than 30 percent of their gross income for housing, including rent and utilities. The unit must be occupied by and be affordable to such low-income household for a period of at least 20 years. The median income of county residents, as adjusted for family size, and paying less than 30 percent of their gross income for housing, including rent and utilities. The unit must be occupied by and be affordable to such low-income household for a period of at least 20 years.

*Affordable housing unit for sale* means a dwelling unit which is available for purchase on terms that would be affordable to households earning eighty percent or less of the median income of county residents, as adjusted for family size and paying less than 38 percent of their gross income for housing, including principal, interest, taxes, insurance, utilities and homeowner's association fees. The unit must be occupied by and affordable to such low-income household for a period of at least 20 years or permanently.

*Agricultural activity* means farming, including plowing, tillage, cropping, utilization of best management practices, seeding, cultivating or harvesting for the production of food and fiber products; the grazing or raising of livestock (except in feedlots); aquaculture; sod production; orchards; Christmas tree plantations; nurseries; and the cultivation of products as part of a recognized commercial enterprise.

*Agricultural land* means land that is being used for agricultural activities.

*Alley* means a minor or secondary way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

*Alteration* means any change, addition or modification in construction, occupancy or use or change in the exterior materials or design which is inconsistent with an approved design.

*Amusement center* means an establishment providing completely enclosed recreation activities, including, but not limited to, bowling, roller skating or ice skating, billiards, swimming pools, motion picture theaters, and related amusements. Accessory uses may include the preparation, serving and sale of food and/or sale or rental of equipment related to the enclosed uses.

*Amusement park* means an outdoor enterprise whose main purpose is to provide the general public with entertaining activity, where tickets are sold or fees collected at the activity. Commercial amusements include miniature golf courses, outdoor arcades, Ferris wheels, children's rides, roller coasters, skateboard parks, go-cart tracks, water parks and similar uses.

*Animal boarding* means the operation of an establishment in which domesticated animals other than household pets are housed, groomed, bred, boarded, trained or sold. The term "animal boarding" shall not include the operation of a kennel.

*Animals, domestic*, means common household pets, such as dogs and cats, kept for amusement, companionship, decoration or interest.

*Animals, food*, means fish, fowl, cattle, swine, sheep and others raised for the purposes of food consumption.

*Animals, wild*, means animals, such as wolves, tigers, lions and snakes that are not normally a domestic animal or farm animal and would ordinarily be confined in a zoo or found in the wild.

*Annual high water mark* means the visible line on the edge of a river, stream, lake, pond, spring or seep up to which the presence and action of water are so usual and long conditions (with a recurrence interval of one year or less) so as to create a distinct character with respect to vegetation and the nature of the soil.

*Appeal* means a request by an applicant to the board of adjustment or Council for a review of and administrative interpretation of any provision of this chapter or a request for a variance.

*Applicant* means an owner of real property, including mineral owners and lessees, and the owner's representative or owner of an option to acquire the property or portion thereof, who is authorized to represent and/or act upon any application or submittal.

*Appurtenances* are the visible, functional or ornamental objects accessory to and part of a building.

*Aquifer recharge area* means an area where water is absorbed into a natural aquifer adding to the zone of saturation.

*Arcade* is a series of arches supported on piers or columns.

*Area of lot* means the total horizontal area within the lot line boundaries of a lot.

*Area of special flood hazard* means the land in a floodplain subject to a one percent chance or greater of flooding in any given year, and, those zones on the flood insurance rate map (FIRM) designated as A, AO, AE AH, AR A99, X or D zones, as well as any floodway designated or to be designated within the floodplain.

*Automobile repair shop, major*, means an establishment primarily engaged in the repair or maintenance of commercial and heavy truck-oriented motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender and major engine and engine part overhaul, provided that it is conducted within a completely enclosed building. Such use shall not include the sale of fuel, gasoline or petroleum products.

*Automobile repair shop, minor*, means an establishment primarily engaged in the repair or maintenance of passenger and light truck-oriented motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune-ups and transmission work, car washing, detailing, polishing or the like, provided that it is conducted within a completely enclosed building. Such use shall not include the sale of fuel, gasoline or petroleum products.

*Awning* means a roof-like cover of canvas or other material extending in front of a doorway or window or over a deck, to provide protection from the sun or rain.

*Balcony* means that portion of a structure that is essentially open and outward from the main building with a

floor and a railing, with or without a ceiling and over four feet above the existing ground level.

*Bar of tavern* means an establishment providing or dispensing fermented malt beverages, and/or malt, vinous or spirituous liquors and in which the sale of food products such as sandwiches or light snacks is secondary.

*Base flood* means a flood having a one percent chance of being equaled or exceeded in any given year. In the context of this article, the term "base flood" is used interchangeably with "100-year flood" or "one-percent chance flood."

*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.

*Base floor elevation* or *base floor* means the lowest actual floor by elevation, in the structure, including basement irrespective of use of the floor space or of the structure itself.

*Basement* means the definition of the term "basement" as set forth in the most recent version of the International Building Code adopted by the town.

*Beacon, revolving*, means a rotating source of light or electronic simulation of a revolving source of light.

*Bed and breakfast* means an establishment operated in a private residence or portion thereof, which provides temporary accommodations to overnight guests for a fee and which is occupied by the operator of such establishment.

*Berm* means a mound of earth used to screen or separate one area from another to reduce visual, noise and similar impacts of development. The term "berm" may also mean the act of pushing earth into a mound.

*Best management practice (BMP)* means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures and practice to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage.

*Bikeway* means a path designed for use by bicyclists, which may be used by pedestrians.

*Blank wall* means an exterior building wall with no openings and a single material and uniform texture on a single plane.

*Block* means a unit of land or a group of lots, bounded by streets or by a combination of streets and public lands or other rights-of-way other than an alley, waterways or any barrier to the continuity of development or land which is designated as a block on any recorded subdivision plat.

*Board of adjustment* means a board appointed by the council whose principal duties are to hear appeals and, where appropriate, grant variances from the strict application of the zoning ordinance.

*Boardinghouse* and *roominghouse* means a building or portion of which is used to accommodate, for compensation, four or more boarders or roomers, not including members of the occupant's immediate family who might be occupying such building. The term "compensation" shall include compensation in money, services or other things of value.

*Bollard* means a pole used to close a road or path to vehicles above a certain width.

*Building* means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, which is permanently affixed to the land and has one or more floors and a roof.

*Building code* means the building codes adopted in title 6 as may be amended.

*Building frontage* means the horizontal, linear dimension of that side of a building, which abuts a street, a parking area, a mall or other circulation area open to the public and has either a main window display or a primary entrance to the building.

*Building height* is measured from the existing or finished grade (based on the average of the center of all walls), whichever is more restrictive, to the top of the parapet or highest roof beam (whichever is higher) on a flat or shed roof, to the top of the parapet or deckline (whichever is higher) on a mansard roof, or the average distance between the highest ridge and its eave on a gable, hip, or gambrel roof.

*Caliper* means the American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at six inches above the ground for trees up to and including four inch caliper size and as measured at 12 inches above the ground for larger sizes.

*Canopy sign* means a sign that is permanently affixed to a roofed shelter attached to and supported by a building, by columns extending from the ground or by a combination of a building and columns.

*Cash-in-lieu (also known as fee-in-lieu)* means that the payment of funds to the town instead of the dedication of real property interest when the Council determines that the dedication of real property interest is not practical or as beneficial as payment of cash-in-lieu of land dedication. Payment of cash-in-lieu shall comply with the following requirements unless otherwise provided for by this Code:

- (1) Payment shall be based on the fair market value of the entire property based on the per square foot value of the property with the requested development approval that requires dedication of land or cash-in-lieu.
- (2) The value of the land shall be based upon an amount negotiated between the town and the applicant taking into consideration sales of comparable properties. In the event that the town and the applicant are not able to negotiate a mutually acceptable per square foot value for cash-in-lieu of dedication of land, the applicant shall provide an appraisal to the town at the applicant's cost for consideration by the Council. The Council may accept the applicant's proposed appraised value or may reject the applicant's proposed appraised value and commission an independent appraisal which shall be paid by the applicant. The Council shall then use appraised value as set forth by the appraisal commission by the town.
- (3) Combination of dedication and cash-in-lieu:
  - a. The applicant, at the option of the Council, may meet the dedication requirements through a combination of cash-in-lieu and land dedication in those cases where a portion of the dedication of land is not desired.
  - b. The value of the combination of both the land dedication and the cash-in-lieu of land shall not exceed the full market value of the total required dedication of sites and land areas.

*Cemetery* means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including mausoleums and mortuaries when operated in conjunction with, and within the boundaries of, such cemetery.

*Channel* means a natural or artificial watercourse with definite bed and banks which confines or conducts continuously or intermittently flowing water.

*Childcare center* means a facility, by whatever name known, which is maintained for the whole or part of a day for the care of five or more children under the age of 16 years who are not related to the owner, operator or manager, whether such facility is operated with or without compensation for such care and with or without stated education purposes. The term "childcare center" includes, but is not limited to, facilities commonly known as day care centers, day nurseries, nursery schools, preschools, play groups, day camps, summer camps, centers for developmentally disabled children and those facilities which give 24-hour-per-day care for dependent and neglected children, but specifically excludes any family care home as defined in this Code. Childcare centers are also those facilities for children under the age of six years with stated educational purposes which are operated in conjunction with a public, private or parochial college or a private or parochial school, except that the term shall not apply to a kindergarten maintained in connection with a public, private or parochial elementary school system of at least six grades so long as the school system is not also providing extended day services.

*Church or place of worship and assembly* means a building containing a hall, auditorium or other suitable room used for the purpose of conducting religious or other services or meetings of the occupants of such structure. The term "church" or "place of worship and assembly" shall include churches, synagogues or the like, but shall not include buildings used for commercial endeavors, including, but not limited to, commercial motion picture houses or stage productions.

*Clerestory* means a portion of an interior rising above adjacent rooftops and having windows admitting daylight to the interior.

*Clinic* means a building designed and used for the diagnosis and treatment of human patients that does not

include overnight care facilities.

*Clubs and lodges* mean organizations of persons for special purposes or for the promulgation of sports, arts, literature, politics or other common goals, interests or activities, characterized by membership qualifications, dues or regular meetings, excluding clubs operated for profit and/or places of worship or assembly.

*Commercial mineral deposit* mean oil, gas, gravel and other natural deposits that may be extracted from a property for economic benefit.

*Common element* means that portion of a condominium project held in common ownership by the owners or the condominium association or that portion of a project other than a condominium project which is not under the exclusive ownership or possession of the owners or occupants of a limited portion of the project.

*Common equestrian stabling and grazing* means shared pastures and/or common barns for horses in conservation subdivision which is owned and maintained by a homeowner's association.

*Common open space* means open space designed and intended primarily for the use or enjoyment of residents, occupants and owners of a specific property or development.

*Community facility* means a publicly owned facility or office building which is primarily intended to serve the recreational, educational, cultural, administrative or entertainment needs of the community as a whole.

*Compatibility* means the characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access and parking impacts. Other important characteristics that affect compatibility are landscaping, lighting, noise, odor and architecture. The term "compatibility" does not mean the same as; rather, the term "compatibility" refers to the sensitivity of development proposals in maintaining the character of existing development.

*Comprehensive plan* means the town comprehensive plan; the west town center district investment plan; the east town center district plan; the master plan for Harry A. Nottingham Park; the 2016 recreational trails master plan; and the town comprehensive transportation plan, any other document adopted as a supplement or sub-area plan of the town comprehensive plan, as all such documents may be amended from time to time, provided that such amendments or supplemental documents are adopted by ordinance.

*Compressed gravel* means gravel that has 95 percent compaction at standard proctor densities at two percent  $\pm$  optimum moisture content.

*Conditional letter of map revision (CLOMR)* means FEMA's comment on a proposed project which does not revise an effective floodplain map that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

*Condominium* means an individual airspace unit together with the interest in the common elements appurtenant to such unit.

*Connecting walkway* means:

- (1) Any street sidewalk; or
- (2) Any walkway that directly connects a building entrance to the street sidewalk and connects other origins and destinations for pedestrians, including, but not limited to, commercial establishments, schools, parks, dwellings, workplaces and transit stops, without requiring pedestrians to walk across parking lots or driveways, around buildings or following parking lot outlines which are not aligned to a logical route.

*Conservation easement* means an interest in real property that provides the owner of the easement the right to prohibit certain users or acts with respect to the property in order to maintain the property in a manner that will preserve its value for recreation, education, habitat, open space or historical importance. See also ~~Section C.R.S. § 38-30.5-102, C.R.S.~~

*Construction (activity)* means work done on a job site that alters the existing conditions of a property.

*Construction staging plan* means a site plan submitted with final design and building permit plans showing, at the minimum, contractor parking, construction materials storage, limits of site disturbance, snow storage, refuse

storage, sanitation facilities, project signage and construction trailer location, as applicable. The staging plan may be combined on the same plan sheet as the pollution control plan.

*Container (also known as cargo or shipping container)* means a truck trailer body that can be detached from the chassis for loading into a vessel, a rail car or stacked in a container depot. Containers may be ventilated, insulated, refrigerated, flat rack, vehicle rack, open top, bulk liquid or equipped with interior devices.

*Convenience retail store* means a retail store containing less than 5,000 square feet of gross floor area, which sells everyday goods and services which may include, without limitation, ready-to-eat food products, groceries, over-the-counter drugs and sundries.

*Convenience shopping center* means a shopping and service center located in a complex which is planned, developed and managed as a single unit, and located within and intended to primarily serve the consumer demands of adjacent employment areas and residences.

*Cornice* means a continuous, molded projection that crowns a wall or other construction, or divides it horizontally.

*Council* means the governing board of the town.

*Covenants* means private written agreements outlining regulations specific to a development. As private restrictions, they are not enforced by the town. In the event of conflict between the covenants and this Code, this Code controls.

*Critical facility* means a structure or related infrastructure, but not the land on which it is situated, as defined by the state water conservation board, a division of the department of natural resources, rules and regulations for regulatory floodplains—Rule 6: Critical Facilities, dated November 17, 2010, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

*Critical feature of flood control system* means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

*Critical plant community* means vegetation which is essential to the conservation of threatened or endangered species and which may require special management considerations or protection.

*Crosswalk* means a pathway delineated on a street for pedestrians to cross.

*Cul-de-sac* means a local street with only one outlet and having the other end for the reversal of traffic movement.

*Cultural assets* means buildings, locations and their features considered historically or socially significant to the community.

*Dedicated real property interest* means real property interest transferred to the town by platting, title, deed or other legal method approved by the town attorney.

*Dedication* means any grant by the owner of a right to use real property for the public in general, involving a transfer of property rights and an acceptance of the dedicated property by the appropriate public agency.

*Density, dwelling units per acre* means the overall average number of dwelling units located on the gross or net residential acreage (as applicable) contained within the development and calculated on a per-acre basis. Gross density is calculated by dividing the total number of units by the total acreage. Net density is calculated by dividing the total number of units by the total acreage minus all publicly dedicated land.

*Design standard* means any standard that sets forth specific requirements for development improvements.

*Detention basin* means a manmade or natural water collector facility designed to collect surface and sub-surface water in order to impede its flow and to release the same gradually at a rate not greater than that prior to the development of property, into natural or manmade outlets.

*Developer* means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

*Development* means the grading or clearing of land, the erection, construction or alteration of structures, the change of use of a property or the division of property to create two or more separate ownership interests.

(1) The term "development" shall also include:

- a. Any construction, placement, reconstruction, alteration of the size or material change in the external appearance of a structure on land;
- b. Any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development;
- c. Any change in use of land or a structure;
- d. Any alteration within 30 feet of a shore or bank of a river, stream, lake, pond, reservoir or wetland;
- e. The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, storage of equipment or materials, filling or excavation on a parcel of land;
- f. The demolition of a structure;
- g. The clearing of land as an adjunct of construction;
- h. The deposit of refuse, solid or liquid waste or fill on a parcel of land;
- i. The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property; and
- j. The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area.

(2) The term "development" shall not include:

- a. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of way;
- b. Work by any public utility for the purpose of inspecting, repairing, renewing or constructing, on established rights-of-way, any mains, pipes, cables, utility tunnels, power lines, towers, poles or the like; provided, however, that this exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guide way mass transit depots or terminals or any similar traffic generating activity;
- c. The maintenance, renewal, improvement or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure;
- d. The use of any land for an agricultural activity;
- e. A change in the ownership or form of ownership of any parcel or structure; or
- f. The creation or termination of rights of access, easements, covenants concerning development of land or other rights in land.

*District* means a section or sections of the incorporated area of the town for which the regulations and provisions governing the use of building and land are uniform for each class of use permitted therein.

*Dormer* means a projecting structure built out from a sloping roof, usually with a vertical window or vent.

*Downtown* means the central business district of the town. The boundary of downtown may change as the town grows.

*Drainage (system)* means a built system of pipes, channels or trenches or finished grades utilized to convey stormwater runoff.

*Drive aisle* means the lanes in a parking lot devoted to the passage of vehicles, as opposed to the parking stalls. The term "drive aisle" does not include lanes used only or primarily for drive-in customer service.

*Drive-in use* means an establishment which, by design, physical facilities, service or packaging procedures, encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.

*Driveway* means a constructed vehicular access serving one or more properties and abutting a public or private road.

*Dwelling* means a building or portion thereof, used exclusively for residential occupancy, including single-family dwellings, duplex and multifamily dwellings.

*Dwelling, apartment*, means a room or suite of rooms in a multifamily structure that is arranged, designed, used or intended to be used as a housekeeping unit for a single family on a rental basis only.

*Dwelling, duplex*, means a building occupied by two families living independently of each other.

*Dwelling, live/work*, means an attached dwelling unit that contains a commercial component of not more than a specified percentage of the unit's gross floor area.

*Dwelling, multifamily*, means a dwelling containing three or more dwelling units, not including hotels, motels, fraternity houses and sorority houses and similar group accommodations.

*Dwelling, single-family*, means a building designed exclusively for occupancy by one family, but not including mobile home, otherwise provided herein.

*Dwelling, timeshare, interval ownership or fractional fee ownership*, means any parcel or lot of land or condominium unit, whether fee interest, leasehold or contractual right, whereby more than four persons (ownership of an interest in joint tenancy by two persons being considered one person for the purpose of this section) are entitled to the use, occupancy or possession of such lot, parcel or unit according to a fixed or floating time schedule occurring periodically over any period of time (the use, occupancy or possession by each person being exclusive of that by the others). Timesharing unit includes, but is not limited to, a timeshare estate as defined in C.R.S. § 38-33-110.

*Dwelling unit* means one or more rooms and a single kitchen and at least one bathroom designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, duplex or multifamily dwelling or mixed-use building.

*Easement* means an ownership interest in real property entitling the holder thereof to use, but not possession, of that real property for one or more specific purposes, public or private.

*Eave* means the overhanging lower edge of a roof.

*Elevation reference mark-RMI* means the reference mark on the FIRM map at elevation 6,336.539, consisting of a brass disk, stamped "Z27 1933," located 104.0 feet west of northwest corner of the Denver and Salt Lake Railway Station, approximately 53.0 feet from the center of the road leading to the station, 26.5 feet west of an irrigation ditch, and 280 feet south of the south rail of the main tract, and set in the top of a concrete post.

*Engineer* means a professional engineer licensed by the state.

*Entertainment facilities and theaters* mean a building or part of a building devoted to showing motion pictures or dramatic, musical or live performances.

*Environmentally sensitive area* means aquifer recharge areas, significant wildlife habitat and migration corridors, unique vegetation and critical plant communities and ridgelines.

*Exhaust pipe* means a pipe used to guide waste exhaust gases away from a controlled combustion inside an engine or stove.

*Exhaust vent* means a continuous open passageway from the flue collar or draft hood of the appliance to the outside atmosphere for the purpose of removing flue gases.

*Existing manufactured home park or manufactured home 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 the town.

*Exotic animals* means all animals raised or boarded that are not commonly classified as household pets or livestock but are wild in nature and may have the ability to inflict bodily harm on humans, including snakes in excess of four feet in length.



*Expansion to 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).

*Family* means an individual living alone or either of the following groups living together as a single housekeeping unit and sharing common living, sleeping, cooking and eating facilities:

- (1) Any number of persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship;
- (2) Any unrelated group of persons consisting of:
  - a. Not more than three persons;
  - b. Not more than two unrelated adults and their children, if any; or
  - c. Not more than eight developmentally disabled persons and appropriate staff occupying a dwelling unit and living as a single, nonprofit housekeeping unit; or
- (3) Not more than one individual related by blood, marriage or adoption who is required to register as a sexual offender under the provisions of state law.

*Family childcare home* means a facility for childcare in a place of residence of a family or person for the purpose of providing less than 24-hour care for children under the age of 18 years who are not related to the head of such home. The term "family childcare home" may include infant-toddler childcare homes, large childcare homes, experienced provider childcare homes and such other types of family childcare homes designated by rules of the state department of social services pursuant to C.R.S. § 26-6-106(2)(p).

*Farm animal* means animals commonly raised or kept in an agricultural, rather than an urban, environment, including, but not limited to, chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys and mules.

*Feed lot* means any tract of land or structure, pen or corral, wherein cattle, sheep, goats, emus, ostriches or swine are maintained in close quarters for the purpose of fattening such livestock.

*FEMA* means Federal Emergency Management Agency.

*Fence* means enclosing framework for exterior areas, such as yards or gardens.

*FHA* means Federal Housing Administration.

*Fill* means a deposit of materials of any kind placed by artificial means.

*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 hazard area permit* means an official document required by this article for development or construction in an area of special flood hazard.

*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 risk premium zones applicable to the community.

*Flood insurance study (FIS)* means the official report provided by FEMA. The report contains the FIRM as well as flood profiles for studied flooding courses that can be used to determine BFE for some areas.

*Floodplain or floodprone 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 town manager.

*Floodproofing* means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real property, water and sanitary facilities, the structures and their contents.

*Floodway* means the channel of a river or other watercourse and the 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 statewide standard for the designated height used for all newly studied reaches shall be one-half foot.

*Footprint (also called ground level footprint)* means the outline of the total area which is covered by a building's perimeter at ground level.

*Foster care home* means a facility that is certified by the county department of social services or a child placement agency for childcare in a place of residence of a family or person for the purpose of providing 24-hour family care for a child under the age of 18 years who is not related to the head of such home, except in the case of relative care.

*Freestanding sign* means a sign which is supported by one or more columns, uprights, poles or braces extended from the ground, or which is erected on the ground and shall also include a monument sign and pole signs but does not include a sign attached to a structure.

*Frontage* means the portion of a lot that fronts on a public or private street.

*Functional open space* means open space which is large enough to serve a practical purpose such as recreation, wildlife habitat or preservation of areas of agricultural, archeological or historical significance, and shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells or their appurtenances or other hazards to the public.

*Funeral home* means a building used for the preparation of deceased persons for burial or cremation, for the display of deceased persons and/or for ceremonies or services related thereto, including cremation and the storage of caskets, funeral urns, funeral vehicles and other funeral supplies.

*Gable* means the triangular portion of wall enclosing the end of a pitched roof from cornice or eaves to ridge.

*Garage, parking*, means a building or portion thereof, either public or private, used only for parking of motor vehicles.

*Gasoline station* means any building, land area, premises or portion thereof, where gasoline or other petroleum products or fuels are sold and light maintenance activities such as engine tune-ups, lubrication and minor repairs may be conducted. The term "gasoline station" shall not include premises where heavy automobile maintenance activities such as engine overhaul, automobile painting and body and fender work are conducted.

*Geologic hazard* means unstable or potentially unstable slopes, undermining, faulting, landslides, rock falls, flood, wildfire or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development.

*Government services, offices and facilities* means an office or building of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to, employment offices, public assistance offices or motor vehicle licensing and registration services.

*Grade, existing*, means the existing topography of a site prior to construction and may include natural or manmade conditions.

*Grade, finished*, means the final elevation of the ground surface after development.

*Grade, natural*, means the elevation of the ground surface in its natural state, before manmade alterations.

*Grocery store, large*, means a retail establishment which primarily sells food, but also may sell other convenience and household goods and which occupies a space greater than 25,000 square feet. The term "large grocery store" is synonymous with supermarket.

*Grocery store, small*, means a retail establishment primarily selling food, as well as other convenience and household goods, which occupies a space of not more than 25,000 square feet.

*Gross square footage (GSF)* means the total floor area designed for occupancy and use, including basements, mezzanines, stairways and upper floors, if any, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

*Group home, developmentally disabled*, means a group home, licensed by the state, for the exclusive use of not more than eight developmentally disabled persons and the appropriate staff.

*Group home, elderly*, means an owner-occupied or nonprofit group home for the exclusive use of not more than eight persons 60 years of age or older and the appropriate staff.

*Nonprofit group home* means a group home for the aged which is owned and operated by a person or organization as provided by C.R.S. § 31-23-303, ~~C.R.S., 1973~~.

*Owner-occupied group home* means a group home for the aged which is owned and operated by an individuals who actually reside at and maintain their primary place of residence in the group home.

*Group home, mentally ill*, means a group home, licensed by the state, for the exclusive use of not more than eight mentally ill persons and the appropriate staff.

*Growth management area (GMA)*<sup>93</sup>.

*Guest house* means an accessory structure which is physically detached from a single-family dwelling unit, is serviced through the same utility meters or connections as the principal use and is intended for temporary occupancy by visitors to the family residing in the single-family dwelling and has no cooking facilities.

*Hard line drawing* means an architectural or engineering drawing produced by the use of computer-aided graphics or other mechanical implement, that does not represent freehand drawing.

*Health club* means a facility that provides physical fitness services and/or equipment to its members.

*Highest adjacent grade* means the highest natural elevation of the ground surface next to a proposed foundation wall of a structure prior to construction.

*Highway corridor* means the area within 1,500 feet of the rights-of-way of the state highway.

*Hip roof* means a roof having sloping ends and sides meeting at an inclined projecting angle.

*Historic district* means an area related by historical events or themes by visual continuity or character or by some other special feature that helps give it a unique historical identity. Such area may be designated an historic district, by local, state, or federal government and given official status and protection.

*Historic site* means a structure or place of historical significance. Such structure or place may be designated an historic site by local, state, or federal government and given official status.

*Home occupation* means an occupation or business activity which meets the following standards:

- (1) Medical, dental and real estate offices are not permitted as home occupations.
- (2) In addition to the family occupying the dwelling containing the home occupation, there shall not be more than one outside employee working at the site of the home occupation.
- (3) The employee and clients may park in on-street curbside parking spaces.
- (4) The home occupation shall not exceed 1,000 square feet or 30 percent of the total floor area of the dwelling, whichever is less, or can be located in an accessory building not to exceed 500 square feet. The home occupation shall be conducted entirely within the dwelling or designated accessory buildings.
- (5) The home occupation shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and must not change the residential character thereof.

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<sup>93</sup> ATTENTION TOWN: is there a definition to go along with this term?

- (6) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation, including advertising signs or displays or advertising that solicits or directs persons to the address.
- (7) There must be no exterior storage on the premises of material or equipment used as a part of the home occupation, unless it is enclosed and lot coverage requirements for accessory uses are met.
- (8) No equipment or process shall be used in such home occupation which creates any glare, fumes, odors or other objectionable conditions detectable to the normal senses off the lot, if the occupation is conducted in a single-family dwelling, or outside the dwelling unit if conducted in other than a single-family dwelling.
- (9) Proprietors of home occupations shall register annually with the town clerk, which registration shall include a review of compliance with the home occupation standards contained in this Code. If an ordinance exists requiring the issuance of a business license for all businesses and home occupations in the town, compliance with that ordinance will supersede the requirements of this definition.
- (10) The following uses because of their tendency to go beyond the limits permitted for home occupations and thereby impair the use and value of the residential area shall not be permitted as home occupations: auto repair or motorized implement repair; dance, music or other types of instruction (if more than four students being instructed at one time); dental offices; medical offices; the painting of vehicles, trailers or boats; private schools with organized classes; radio and television repair; barber and/or beauty shop; welding shops; nursing homes; massage therapy by a massage therapist; sexually oriented businesses; and, irrespective of whether the use may be categorized as a sexually oriented business, any retail or wholesale sales to consumers upon the premises of any types of materials specified in this chapter which describe or depict specified sexual activities or specified anatomical areas.
- (11) All exterior aspects of the home occupation operation shall not disrupt the residential character of the area.
- (12) The maximum number of vehicle trips per day for clients which may visit the home occupation per day is ten.

*Homeowner's association* means the association set up to enforce the covenants and maintain all common areas and buildings for a development (also known as "owners association").

*Hospital* means an institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training and central services facilities and staff offices.

*Hotel, motel or lodge* means a building, excluding bed and breakfast, containing any room or group of rooms used primarily for short-term transient lodging for a total continuous duration of less than 30 days and which may include accessory uses, such as offices, laundry facilities, recreational facilities, lobbies, lounges, kitchen and dining facilities, meeting rooms, retail and other similar accessory uses commonly associated with hotels, motels and lodges.

*Household pet* means any animal that has been bred or raised to live in or about the habitation of humans and is dependent on people for food and shelter, not including animals defined as livestock, exotic animals or animals capable of inflicting substantial physical harm to humans. The term "household pet" includes dogs, domestic cats, canaries, parrots, hamsters, ferrets, potbellied pigs, guinea pigs and similar rodents, fish, reptiles, rabbits and such other species as would normally be sold at a local pet shop.

*Human scale (pedestrian scale)* means the proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian.

*Illumination, direct*, means lighting by means of an unshielded light source (including neon tubing) which is effectively visible as a part of the sign, where light travels directly from the source to the viewer's eye.

*Illumination, indirect*, means lighting by means of a light source directed at a reflecting surface in a way that illuminates the sign from the front, or a light source that is primarily designed to illuminate the entire building

facade upon which a sign is displayed. The term "indirect illumination" does not include lighting which is primarily used for purposes other than sign illumination, e.g., parking lot lights, or lights inside a building that may silhouette a window sign but are primarily installed to serve as inside illumination.

*Illumination, internal*, means lighting by means of a light source that is within a sign having a translucent background, silhouetting opaque letters or designs, or which is within letters or designs that are made of a translucent material.

*Industrial, heavy*, means uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials or a use engaged in storage of or manufacturing processes using flammable or explosive materials or storage or manufacturing processes that potentially involve hazardous conditions. The term "heavy industrial" shall also mean those uses engaged in the operation, parking and maintenance of vehicles, cleaning of equipment or work processes involving solvents, solid waste or sanitary waste transfer stations, recycling establishments and transport terminals (truck terminals, public works yard, container storage).

*Industrial, light*, means uses engaged in the manufacturing, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of such products. Further, the term "light industrial" shall mean uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories or the like. The term "light industrial" shall not include uses such as mining and extracting industries, petro-chemical industries, rubber refining, primary metal or related industries.

*Infrastructure* means those manmade structures which serve the common needs of the population, such as: potable water systems; wastewater disposal systems; solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.

*Integrate* means to combine or coordinate separate elements (such as housing, recreation, jobs and shopping), so as to provide a harmonious, interrelated whole; organized or structured so that constituent parts function cooperatively.

*Inter-neighborhood connection* means connections (such as trails and roads) between neighborhoods.

*Intra-neighborhood connection* means connections (such as trails and roads) within the same neighborhood.

*Irrigation ditch or canal* means a channel or pipeline designed to transport irrigation water.

*Junk* means scrap brass, iron, lead, tin, zinc; all other scrap metals and the alloys; bones; rags; used cloth, rope, rubber, tinfoil, bottles; old or used machinery of any type; used tools; used appliances; used lumber or crates; building materials; industrial equipment, fabrication of any material; used pipe or pipe fittings; used conduit or conduit fittings; used automobile parts; derelict vehicles, farm and heavy equipment construction vehicles; used tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

*Junkyard* means a building, structure or parcel of land, or portion thereof, used for collecting, displaying, storing, selling or reselling junk. The term "junkyard" shall not include a recycling facility.

*Kennel* means a facility licensed to house dogs, cats or other household pets and/or where grooming, breeding, boarding, training or selling of animals is conducted as business.

*Kitchen* means a room or portion of a room devoted to the preparation or cooking of food for a person or a family living independently of any other family, which contains a sink and a stove, cooktop or oven powered by either natural gas, propane or 220-V electric hook-up.

*Kitchen facility* means an area for cooking which includes a sink, refrigerator and fixture for cooking food.

*Landowner* means any owner of a legal or equitable interest in real property and includes the heirs, successors and assign of such ownership interests.

*Landscape area* means that portion of a parcel of land with any combination of living plants, such as trees, shrubs, vines, ground cover, native grasses, flowers or lawns; natural features and nonliving ground cover, such as

rock, stone and bark; and structural features, such as fountains, reflecting pools, art works, screen walls, fences and benches; but shall not include paved walkways or parking areas.

*Lane* means a private street; or a portion of a roadway delineated for a single line of vehicles; or a secondary means of access to the abutting lots and not intended for general traffic circulation.

*Large retail establishment* means a retail establishment or any combination of retail establishments in a single building, occupying more than 25,000 gross square feet of floor area, except that no supermarket shall be deemed to be a large retail establishment.

*Letter of map revision (LOMR)* means FEMA's official revision of an effective FIRM or flood boundary and floodway map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs or SFHA.

*Letter of map revision based on fill (LOMR-F)* means FEMA's modification of the SFHA shown on the FIRM based on placement of fill outside the existing regulatory floodway.

*Levee* means a manmade structure, usually an earthen embankment, 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.

*Livestock* means farm animals kept or raised for use, pleasure and/or profit.

*Loading space* means an off-street space or berth on the same lot with a building or contiguous thereto, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts upon a street, alley or other appropriate means of access.

*Long-term care facility* means any of the following:

*Convalescent center* means a health institution that is planned, organized, operated and maintained to offer facilities and services to inpatients requiring restorative care and treatment and that is either an integral patient care unit of a general hospital or a facility physically separated from, but maintaining an affiliation with, all services in a general hospital.

*Intermediate health care facility* means a health-related institution planned, organized, operated and maintained to provide facilities and services which are supportive, restorative or preventive in nature, with related social care, to individuals who, because of a physical or mental condition or both, require care in an institutional environment but who do not have an illness, injury or disability for which regular medical care and 24-hour-per-day nursing services are required.

*Nursing care facility* means a health institution planned, organized, operated and maintained to provide facilities and health services with related social care to inpatients that require regular medical care and 24-hour-per-day nursing services for illness, injury or disability. Each patient shall be under the care of a physician licensed to practice medicine in the state. The nursing services shall be organized and maintained to provide 24-hour-per-day nursing services under the direction of a registered professional nurse employed full time.

*Lot* means a parcel of real property as shown with a separate and distinct number or letter on a plat recorded with the county clerk and recorder or when not so platted in a recorded subdivision, a parcel of real property abutting upon at least one public street and held under separate ownership.

*Lot area* means the total horizontal area within the lot lines of a lot, except that beneath the mean waterline of a body of water.

*Lot coverage* means the ratio of the area of the site which is rendered impermeable by buildings compared to the total area of a site, excluding those rendered undevelopable, expressed as a percentage.

*Lot depth* means the average distance between the front lot line and the rear lot line.

*Lot, double frontage*, means lots which front on one public street and back on another.

*Lot, flag*, means a lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes an access strip connecting the main building site with the frontage street.

*Lot line, front*, means the property line dividing a lot from a street.

*Lot line, rear*, means the line opposite the front lot line.

*Lot line, side*, means any lot lines other than the front lot line or rear lot line.

*Lot size* means the total horizontal area within the lot lines of a lot; synonymous with the term "area of lot."

*Lot width* means the distance parallel to the front lot line, measured at the front building setback line.

*Lot width on a curving front lot line* means the distance parallel to the tangent of the front lot line at the building setback line. The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.

*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-resistance enclosure usable solely for parking of 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.

*Machine shop* means a workshop where power-driven tools are used for making, finishing, or repairing machines or machine parts.

*Management agency* means the agency in charge of the "208 Water Quality Plan" in the town area.

*Manager* means the town manager of the town, or the manager's designee.

*Manufactured home* means a single-family dwelling which:

- (1) Is partially or entirely manufactured in a factory;
- (2) Is at least 24 feet wide and 36 feet long;
- (3) Is permanently affixed to and installed on an engineered permanent foundation;
- (4) Has a pitched or cosmetically equivalent roof and brick or wood exterior siding; and
- (5) Complies with HUD or UBC standards, as applicable, or meets or exceeds equivalent requirements and performance engineering standards.

The term "manufactured home," for the purpose of flood regulations 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 attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.

*Manufacturing* means a business which makes products by hand or by machinery.

*Marijuana club* means an establishment that is not open to the general public and permits members of the establishment to consume marijuana at the establishment.

*Marijuana establishment* means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store, and includes further definition of such facilities and store as defined in state constitution article XVIII section 16(2)(i).

*Mean sea level* means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

*Medical and dental office or clinic* means an establishment operated by one or more duly licensed members of the human health care professions, including, but not limited to, physicians, dentists, chiropractors, psychiatrists and osteopaths, where patients are not lodged overnight but are admitted for outpatient examination and/or treatment.

*Medical marijuana business* means the use of a property, or portion thereof, for the cultivation, manufacture, storage, distribution, acquisition or sale of marijuana, including the use of property for medical marijuana centers, manufacturing of medical marijuana-infused products, or optional premises, as such terms are defined by ~~Section 42-43.3-104~~, C.R.S. § 44-10-103, regardless of whether any such use described herein is for profit or not for profit.

*Meeting place and place for public assembly* means a hall, auditorium or other suitable room or rooms used for the purpose of conducting meetings of the membership and guests of the owner of such structure. The same shall not include commercial endeavors such as commercial movie picture houses, stage productions or the like.

*Mini-storage warehouse* means a building or a group of buildings containing separate, individual self-storage units divided from the floor to ceiling by walls, each with an independent entrance from the exterior of the building and that are designed to be rented or leased on a short-term basis to the general public for private storage or personal goods, materials and equipment.

*Mixed use* means the development of a lot tract or parcel of land, building or structure with two or more different uses, including, but not limited to, residential, office, retail, public uses, personal service or entertainment uses, designed, planned and constructed as a unit.

*Mixed-use building* means a building designed, planned and constructed as a unit, used partially for residential use and partly for commercial uses, including, but not limited to, office, retail, public uses, personal service or entertainment uses.

*Mixed-use dwelling unit* means the dwelling unit in a mixed-use building. For purposes of calculating residential density, each dwelling unit shall count as one-half dwelling unit.

*Mobile home* means a home that meets the standards for a mobile home in chapter 10.24. A mobile home does not include a factory built home, manufactured home, or a recreational vehicle (RV).

*Mobile home park* means a property that provides a space for rent for the location and use of a mobile home.

*Mobile home subdivision* means the creation of two or more lots for sale and ownership intended for the location and use of a mobile home.

*Modified grid pattern* means a grid pattern of streets and blocks adapted to the topography, unique natural features, environmental constraints and peripheral open space areas.

*Mullion* means a slender vertical member dividing the opening for a pair of double doors, sometimes removable to permit the passage of large objects, or also, a vertical member between the lights of a window.

*Multiple-family dwelling* means a structure containing three or more dwelling units, including what is commonly known as an apartment building, but not including group, row or townhouses, or hotels, motels or condominiums, fraternity and sorority houses and similar group accommodations.

*Muntin* means a rabbeted member for holding the edges of windowpanes within a sash.

*Natural areas* means floodplains and flood ways, natural drainage and water ways, significant native trees and vegetation, wildlife travel corridors, special habitat features such as raptor nest sites, key nesting, breeding or feeding areas for birds; fox and coyote dens and any wetland area.

*Neighborhood* means a geographical area, the focus of which are residential uses, but also may include a mixture of activities that people need to live. A neighborhood may include a diversity of housing types, schools, parks, shopping and jobs (frequently service-type), and civic buildings.

*Neighborhood commercial center* means a shopping center which contains businesses that are intended to provide goods and services to the immediate neighborhood (within a one-quarter-mile radius).

*New construction* means structures for which the start of construction or remodeling commenced on or after the effective date of this Code.

*Nightclub* means a bar or tavern containing more than 100 square feet of dance floor area.

*Nonconforming building* means a building or structure, or portion thereof, that does not conform to the regulations of this Code, but that was lawfully constructed under the regulations in force at the time of construction.

*Nonconforming use* means a use that does not conform to the use regulations of this Code, but that was lawfully



established under the regulations in force at the time the use was established and has been in regular use since that time.

*Noxious weeds* means plants that are determined by the state, county, or the town as a noxious weed or an alien plant that is aggressively invasive, including, but not limited to, Leafy Spurge, Russian Knapweed, Spotted Knapweed, Diffuse Knapweed, Canada Thistle, Musk Thistle, Field Bindweed, Volunteer Rye, and Jointed Goatgrass.

*Nursing facility* means a facility, or a distinct part of a facility, which meets the state nursing home licensing standards, is maintained primarily for the care and treatment of inpatients under the direction of a physician and meets the requirements in federal regulations for certification as a qualified provider of nursing facility services. The term "nursing facility" includes private, nonprofit, or proprietary intermediate nursing facilities for the ~~mentally retarded or~~ intellectually and/or developmentally disabled.

*Obstruction* means any development, stockpile, refuse or matter in, along, across or projecting into any floodplain which might impede, retard or change the direction of a flow of water, either by itself or by collecting debris carried by such water.

*Official maps* means the FIRM map (see above) and all associated floodplain maps used by the administrator.

*Off-street parking area* means all off-street areas and spaces designed, used, required or intended to be used for the parking, storage, operation of motor vehicles, including driveways or access ways in and to such areas, but not including any outdoor storage area used principally as a recreational vehicle, boat or truck storage use, storage areas for landscaping and other bulk items or public streets and rights-of-way.

*Oil and gas operation* means any structure, facility or activity which is constructed on or disturbs land in association with oil or gas drilling, production or waste treatment and disposal, including, but not necessarily limited to, wells, tanks or tank batteries, pits, access roads for ingress and egress and pipelines.

*Oil or gas well* means a well that produces oil or gas.

*Open space* means any land or water area with its surface open to the sky, which serves specific uses of: providing park and recreation opportunities, conserving natural areas and environmental resources, structuring urban development form and protecting areas of agricultural, archeological or historical significance. The term "open space" shall not be considered synonymous with vacant or unused land but serves important urban functions. Usable open space shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells and their appurtenances or other hazards to the public.

*Outdoor storage* means the keeping, in an unroofed area, of any equipment, goods, junk, material, merchandise or vehicles in the same place for more than 24 hours. Containers and semi-trailers may not be used for residential or storage uses except on construction sites.

*Outlot* means a measured piece of land contained within subdivided land that is not a building lot. An outlot may be conveyed to the public for open space or other public purposes, be retained by the developer for merger with a later subdivision or be conveyed to an owner's association.

*Outparcel* means a parcel of land, generally located on the perimeter of a larger parcel of commercial land, that is subordinate to the larger parcel for access, parking and drainage purposes.

*Owner* means the owner of a real property interest which is the subject of and which would be benefitted by a proposed development application. The term "owner" shall include the fee title owner of record according to the office of the county assessor, by a legal title opinion or by a title insurance commitment. The term "owner" shall also include other persons who, by partnership, joint venture, contractual relationship or other association, have a ten percent or greater equity interest in the property or in the owner of record, or who have a contractual right to receive or obtain a defined portion of the property upon approval of a development application by the town.

*Parapet* means a low, protective wall at the edge of a terrace, balcony or roof, especially that part of an exterior wall, fire wall, or party wall that rises above the roof.

*Parcel* means a tract or plot of land.

*Park* means an area open to the general public and reserved for recreational, educational or scenic purposes.

*Parking, commercial*, means a parking lot, structure or garage that does not provide accessory parking to a specific building or use, is available for parking by the general public for a fee, may include reserved parking spaces and which is owned by a private, nongovernmental entity.

*Parking, public*, means a parking lot, structure or garage that is available for parking by the general public and which is owned by the town or a quasi-governmental entity approved by the town or approved by the county.

*P.E. stamped design* means a design that is stamped, signed and dated by a state-registered professional engineer.

*Pedestrian scale (human scale)* means the proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian.

*Person* means a natural person, association, firm, limited liability company, partnership or corporation trust or other legal entity.

*Phase* means a portion of property that is being platted and engineered for development at the same time.

*Pilaster* means a rectangular support or pier treated architecturally as a column, with a base shaft and capital.

*Plan* means the map and supporting documentation for a development which includes, but is not limited to, lots, blocks, easements, rights-of-way, pedestrian ways, park and school sites, open space areas and conservation areas in accordance with the requirements of this Code.

*Planned unit development (PUD)* means an area of land, controlled by one or more landowners, to be developed under unified control or a unified plan and is developed as a whole in a single development operation or programmed series of development stages. The development may include dwelling units, commercial, educational, recreational or industrial uses or any combination of the foregoing, the plan for which may not correspond in lot size, bulk or type of use, density, lot coverage, open space or other restrictions to the existing land use regulations.

*Planning and zoning commission or planning commission* means the planning and zoning commission formed and appointed by the Council in accordance with chapter 10.12.

*Planning area boundary* means the area surrounding the town that the town will consider annexing and developing. The planning area boundary is delineated on the land use map in the town comprehensive plan.

*Plat* means a map of certain described land prepared in accordance with the requirements of this title and C.R.S. § Section 38-51-106, C.R.S., as an instrument for recording of real estate interests with the county clerk and recorder.

*Prairie dogs* mean small stout-bodied burrowing rodents with shallow cheek pouches native to both North and Central America.

*Prime farmland* means land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor and without intolerable soil erosion, as determined by the secretary of agriculture. The term "prime farmland" includes land that possesses the above characteristics but is being used currently to produce livestock and timber. The term "prime farmland" does not include land already in or committed to urban development or water storage.

*Principal use* means the main use of land or of a structure as distinguished from a subordinate or accessory use.

*Private property right* means the rights of a property owner within the town to use on their property within the legal parameters set forth in this Code and subject to applicable state, federal and constitutional law. Nothing herein guarantees any private property rights to develop in a particular manner except pursuant to a valid vested right.

*Private school* means a school that does not derive its support, in whole or in part, from monies raised by a city, town, state, county or school district tax.

*Professional office* means an office for professionals such as physicians, dentists, lawyers, architects,

engineers, artists, musicians, designers, teachers, accountants and others who through training are qualified to perform services of a professional nature and where no storage or sale of merchandise exists, except as accessory to the professional services.

*Program deficiency* means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the NFIP standards in § 60.3, 60.4, 60.5 or 60.6.

*Proof of ownership* means ownership as specified in a current title insurance commitment or policy or certification of title, issued by a title insurance company licensed by the state.

*Property* means all real property subject to land use regulation by the town.

*Property line* means the boundary of any lot, parcel or tract as the same is described in the conveyance of such property to the owner; and does not include the streets or alleys upon which the said lot, parcel or tract abuts.

*Public area* means streets, parks, open spaces and other property designated or described as for public use on a map or plat of the town and fee title is vested in the town, other public body or a special district as defined in C.R.S. § 32-1-103.

*Public facility* means those constructed facilities, including, but not limited to, transportation systems or facilities, water systems or facilities, wastewater systems or facilities, storm drainage systems or facilities, fire, police and emergency systems or facilities, electric, gas, telecommunication utilities or facilities and publicly owned buildings or facilities.

*Public hearing* means a meeting called by a public body for which public notice has been given and which is held in a place at which the general public may attend to hear issues and to express their opinions.

*Public improvement* means any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree lawn, landscaped open space, off-street parking area, lot improvement or other facility which benefits the public.

*Public open space* means an open space area conveyed or otherwise dedicated to the municipality, state or county or other public body for recreational or conservation uses. Public open spaces are to be unencumbered by oil and gas wells, as well as their appurtenances or other hazards to the public.

*Public school* means a free, tax-supported school that is controlled and operated by the school district of the state.

*Public use* means uses which are owned by and operated for the public by the town, county, state or federal governments or by school districts.

*Public utility* means a common carrier supplying electricity, wire telephone service, natural gas, water, wastewater or stormwater service or similar public services, but shall not include railroads or other forms of rail mass transit or depots or terminals supporting the same or wireless telecommunication facilities.

*Quasi-public* means having the nature or characteristics of being public, but owned by a private, nongovernmental or not-for-profit entity.

*Recreational vehicle (RV)* means a vehicular type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted or drawn by another vehicle. The following shall be considered a recreational vehicle:

*Camping trailer or tent trailer* means a folding structure, constructed of canvas plastic or similar water repellent material designed to be mounted on wheels and designed for travel and recreation.

*Motorized camper, motor home, recreational conversion van or bus* means a recreational vehicle consisting of a portable, temporary dwelling to be used for travel, recreation and vacation uses and constructed as an integral part of a self-propelled vehicle.

*Pick-up camper* means a vehicle designed to be mounted on or loaded into a pick-up truck chassis for use as a temporary dwelling for travel and recreation.

*Tent* means a portable or temporary cover or shelter, with or without side panels, which is supported by poles and is made of canvas, plastic or similar materials.

*Travel trailer* means a towed vehicle designed as a temporary dwelling for travel and recreation.

*Travel trailer, self-contained*, means a trailer which can operate independently of connections to sewer, water and electric systems. It contains a water-flushed toilet, lavatory, shower or bath and kitchen sink, all of which are connected to water storage and sewage holding tanks located within the trailer.

*Recreational vehicle park* means a parcel of land specifically developed for locating only recreational vehicles on lots on a short-term basis.

*Recreational vehicle site* means a plot of ground within a recreational vehicle park intended for the accommodation of a recreational vehicle, tent or other individual camping unit on a temporary basis.

*Recycling facility, drop-off*, means a facility used for the collection and temporary storage of empty beverage containers, aluminum, glass, paper, cardboard, clothing or other materials for recycling purposes conducted totally within an enclosed structure or container. The term "drop-off recycling facility" does not include processing except for can banks that crush cans as they are deposited.

*Reflective surface* means any material or device that has the effect of intensifying reflected light, such as Scotchlite, Day-Glo, glass beads and luminous paint.

*Regulatory flood protection elevation* means the topographic elevation of one foot above the water surface elevation of the base flood.

*Resource extraction, processes and sales*, means removal or recovery by any means whatsoever of sand, gravel, soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, exposed or submerged.

*Restaurant, drive-through*, means any establishment in which the principal business is the sale of foods and beverages to the customer in a ready-to-consume state and in which the design or principal method of operation of all or any portion of the business is to allow food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.

*Restaurant, fast food*, means any establishment in which the principal business is the sale of food and beverages to the customer in a ready-to-consume state and in which the design or principal method of operation includes the following characteristics:

- (1) Food and beverages are usually served in paper, plastic or other disposable containers;
- (2) The consumption of food and beverages is encouraged or permitted within the restaurant building, within a motor vehicle parked upon the premises or at other facilities on the premises outside the restaurant building or for carry-out; and
- (3) Drive-through facilities are allowed, subject to review of traffic patterns, vehicle stacking areas and entrance and exit locations.

*Restaurant, standard*, means any establishment in which the principal business is the sale of food and beverages to customers in a ready-to-consume state; where fermented malt beverages and/or malt, special malt or vinous and spirituous liquors may be produced on the premises as an accessory use; and where the design or principal method of operation includes one or both of the following characteristics:

- (1) Customers are served their food and/or beverages by a restaurant employee at the same table or counter at which the items are consumed; or
- (2) Customers are served their food and/or beverages by means of a cafeteria type operation where the food or beverages are consumed within the restaurant building.

*Re-subdivision* means the changing of any existing lot or lots, street rights-of-way or easements of a subdivision plat previously recorded with the county clerk and recorder.

*Retention basin* means a pond, pool or basin used for permanent storage of water runoff.

*Right-of-way* means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of way established and

shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use on the plat on which such right-of-way is established.

*Risk premium zone* means a zone as specified on the FIRM map as Zones A through A99, X and D.

*Roof gable* means a roof sloping downward in two parts from a central ridge, so as to form a gable at each end.

*Roof hip* means a roof having sloping ends and sides meeting at an inclined projecting angle.

*Salvage or wrecking yard* means a place where motor vehicles and parts are wrecked, disassembled, repaired and resold, a place where secondhand goods including waste paper, bottles, automobile tires, clothing, other scrap materials and salvage are collected to be stored and a place where used lumber and used building materials are stored for sale or resale.

*Sanitary facility* means toilets, urinals, lavatories, showers, utility sinks and drinking fountains and the service buildings containing these units.

*Sanitary waste station* means a facility uses for removing and disposing of waste from self-contained camping vehicle sewage holding tanks.

*Service building* means a structure housing toilet, lavatory, bath, laundry, service sink and other sanitary facilities as may be required for an RV park.

*Setback* means the required unoccupied open space between the nearest projection of a structure and the property line of the lot on which the structure is located, except on properties where the street extends beyond the property line. In these instances, the setback shall be measured from the edge of asphalt or walkway, whichever is more restrictive.

*Setback, front yard*, means the distance a building or structure must be placed from the front lot line.

*Setback, rear yard*, means the distance a building or structure must be placed from the rear lot line.

*Setback, side yard*, means the distance a building or structure must be placed from the side lot line.

*Shopping center* means a group of retail and service establishments located in a complex which is planned, developed, owned or managed as a unit, with off-street parking provided on the property.

*Sidewalk* means the hard surface path within or adjacent to the street right-of-way for use by pedestrians and/or bicyclists.

*Sight distance triangle* means the area at an intersection to be kept free of shrubs, ground covers, berms, fences, structures or other materials or items greater than 30 inches in height. Trees shall not be planted in the triangular area.

*Sign* means any device that is sufficiently visible to persons not located on the lot where the device is located, to accomplish either of the following objectives designed to attract the attention of such persons or to communicate information to them.

*Sign, projecting*, means any sign supported by a building wall and projecting from that wall.

*Sign, wall*, means 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 sign other than the building wall itself.

*Sign, window*, means a sign that is painted on, applied or attached to a window or that can be read through the window from the public right-of-way.

*Significant wildlife habitat and migration corridors* means areas designated by the state division of wildlife and/or the state natural diversity information source as areas of landscape that provide food, cover and water sufficient to meet the needs of a given species to survive and reproduce.

*Site plan* means a scaled drawing of a lot, showing the actual measurements, the size and location of any

existing or proposed buildings, the location of the lot in relation to abutting streets and other details such as parking areas, access points, landscaped area, building areas, setbacks from lot lines, building heights, floor areas, densities, utility locations and easements.

*Site-specific development plan* means the final plat of a subdivision or final development plan of a PUD (planned unit development) when approved by the Council pursuant to all applicable sections of this title.

*Slope* means the relationship of elevation or vertical measure as divided by the horizontal measurement shall be expressed as a percentage as a means of quantifying the term "slope."

*Special flood hazard area (SFHA)* 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.

*Split garages* means having at least two separate garages that are oriented in different directions.

*Staff* means a full- or part-time employee of the town. The term "staff" may also include professional firms and/or persons designated by the town to act within a certain capacity including legal, engineering, planning, code enforcement, inspection and other professional fields.

*Street* means a public thoroughfare which affords the principal means of access to abutting property.

~~*Street, arterial,* means a street as described in Article 2 — Streets.~~

~~*Street, collector,* means a street as described in Article 2 — Streets.~~

~~*Street, local,* means a street as described in Article 2 — Streets.~~

~~*Street, rural,* means a street as described in Article 2 — Streets.~~

*Street furniture* means constructed objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, fountains and telephone booths, that have the potential for enlivening and giving variety to streets, sidewalks, plazas and other outdoor spaces open to and used by the public.

*Streetscape* means the distinguishing character of a particular street, within or adjacent to the public right-of-way, including paved materials and the adjacent space extending along both sides of a street, including landscaping, sidewalks, medians, lighting, street furniture and signage.

*Structure* means a combination of materials to form a construction for use, occupancy or ornamentation, whether installed on, above or below the surface of land or water.

*Subdivision* means the platting of a lot or the division of a lot, tract or parcel of land into two or more lots, plots, sites or airspace units.

*Subsidence* means a local mass movement that involves the downward settling or sinking of the solid earth's surface. The term "subsidence" may be due to natural geologic processes or man's activity such as coal mining.

*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 "substantial improvement" 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 an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

*Survey* means a land plat survey, stamped and signed by a registered state surveyor, showing topographic contour intervals depicted at an engineering scale.

*Swing-in garage* means a garage that is oriented so that the garage doors are perpendicular to the street.

*Tandem garage* means a garage that allows for the parking of one car in front of another.

*Tandem parking* means parking two cars in a driveway or parking space so that one car is right in front of the other and the front car cannot move until the back car is moved.

*Temporary use* means a prospective use intended for limited duration, is to be located in a zoning district not permitting such use and shall not include continuing a nonconforming use or building.

*Title commitment* means formal documentation from a title insurance company licensed by the state listing the name of the owner of the property under consideration, the legal description of the property and any encumbrances of the property such as easements, rights-of-way, liens or mineral interests.

*Tourist facility* means an establishment set up to primarily provide local tourist information to visitors.

*Town* means the Town of Hayden, a municipal corporation of the state. The town may act through the Council or an official of the town specifically authorized to perform the act.

*Tree lawn* means a strip of landscaping within the right-of-way, generally between the street and an adjacent sidewalk.

*Trip, vehicle*, means a single or one-way vehicle movement to or from a property or study area. Trips can be added together to calculate the total number of vehicles expected to enter and leave a specific land use or site over a designated period of time.

*Truck stop* means an establishment engaged primarily in the fueling, servicing, repair or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers or restaurant facilities primarily for the use of truck crews.

*Undermining* means land that has been mined under the surface of the ground.

*Use* means the purpose for which land or a building is designated, arranged or intended or for which it either is or may be occupied or maintained.

*USGS datum* means United States Geological Survey basis of elevations.

*Vacation club* means a partnership, corporation, limited liability company or other legal entity that is the record owner, as reflected in the records of the county tax assessor, of a building containing one or more units which meet the definition of dwelling, timeshare, interval ownership or fractional fee ownership, and it permits possession of such dwelling by its members and/or guests of its members on a periodic basis in consideration of such member's fractional ownership interest in the building or property or membership in the entity.

*Vegetation* means plants growing in a place, including, but not limited to, trees, shrubs, vines, grasses and groundcover.

*Vehicle major repair, servicing and maintenance* means any building or portion thereof, where heavy maintenance activities such as engine overhauls, automobile/truck painting, body or fender work, welding or the like are conducted. Such use shall not include the sale of fuel, gasoline or petroleum products.

*Vehicle minor repair, servicing and maintenance*, means the use of any building, land area, premises or portion thereof, where light maintenance activities such as engine tune-ups, lubrication, carburetor cleaning, brake repair, car washing, detailing, polishing or the like are conducted.

*Vehicle rental facility* means the rental of automobiles, light trucks, sport utility vehicles and vans including offices and the incidental parking and servicing of vehicles for rental or lease.

*Vehicle trip* means a single or one-way vehicle movement to or from a property or study area. Vehicle trips can be added together to calculate the total number of vehicles expected to enter and leave a specific land use or site over a designated period of time.

*Vested property right* means the right to undertake and complete the development and use of property under the terms and conditions of a site-specific development plan, pursuant to section 10.16.180.

*Veterinary facilities, small animal clinic*, means any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases wherein the animals are limited to dogs, cats or other comparable household pets and wherein the overnight care of said animals is prohibited except when

necessary in the medical treatment of the animal.

*Veterinary hospital* means any facility which is maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases.

*Walkable* means a distance of one-quarter mile or within a five- to ten-minute walk.

*Walkway* means:

- (1) A right-of-way or easement dedicated to public use that is not within a street right-of way, to facilitate pedestrian access through a property by means of a hard surface path.
- (2) Any portion of a parking area restricted to the exclusive use of pedestrian travel.

*Walkway, connecting*, means:

- (1) Any street sidewalk; or
- (2) Any walkway that directly connects a building entrance to a sidewalk adjoining a street sidewalk, and connects other origins and destinations for pedestrians, including, but not limited to, commercial establishments, schools, parks, dwellings, work places and transit stops, without requiring pedestrians to walk across parking lots or driveways, around buildings or following parking lot outlines which are not aligned to a logical route.

*Warehouse and distribution* means storage, wholesale, and distribution of manufactured products, supplies or equipment, including accessory offices or showrooms, including incidental retail sales, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

*Warehousing* means a business which stores or stocks merchandise or commodities.

*Water surface elevation* means the height, in relation to the NGVD of 1988 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

*Watercourse* means a natural or artificial channel, depression, dry wash, slough, gulch, arroyo, stream, creek or drainageway, pond, reservoir or lake in which water flows either continuously, intermittently or periodically.

*Wetland* means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.

*Wireless telecommunication equipment* means any equipment used to provide wireless telecommunication service, but which is not affixed to or contained within a wireless telecommunication facility but is instead affixed to or mounted on an existing building or structure that is used for some other purpose. The term "wireless telecommunication equipment" also includes a ground-mounted base station used as an accessory structure that is connected to an antenna mounted on or affixed to an existing building.

*Wireless telecommunication facility* means any freestanding facility, building, pole, tower or structure used to provide only wireless telecommunication services and which consists of, without limitation, antennae, equipment and storage and other accessory structures used to provide wireless telecommunication services.

*Wireless telecommunication service* means services providing for the transmission of wireless communications utilizing frequencies authorized by the Federal Communications Commission for paging systems, enhanced specialized wireless telecommunication, personal communication services or cellular telephone.

*Workshop and custom small industry* means a facility wherein goods are produced or repaired by hand, using hand tools or small-scale equipment, including small engine repair, furniture making and restoring, upholstering, restoration of antiques and other art objects, or other similar uses.

*Yard* means that portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the zone district in which the lot is located.

*Yard, front*, means a yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.

*Yard, front setback*, means the distance a building or structure must be placed from the front property line.



*Yard, rear*, means a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.

*Yard, rear setback*, means the distance a building or structure must be placed from the rear property line.

*Yard, side*, means a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

*Yard, side setback*, means the distance a building or structure must be placed from the side property line.

*Zone A* means a zone on the FIRM map containing areas of 100 year flood where base flood elevations and flood hazard factors have not been determined.

*Zone AE* means areas of 100-year shallow flooding where depths are between one and three feet and base flood elevations are shown but no flood hazard factors are determined.

*Zone AH* means areas of 100-year shallow flooding where depths are between one and three feet where average depths of inundation are shown but no flood hazard factors are determined.

*Zone AO* means a zone on the FIRM map containing areas of 100-year flood where base flood depths of one to three feet average depths have been determined. For areas of alluvial fan flooding, velocities are also determined.

*Zone AR* means a zone on the FIRM map containing areas of special flood hazard formerly protected by a flood control system that was subsequently decertified. The term "Zone AR" indicates that the former flood control system is being restored to provide protection from the one percent annual chance or greater flood event.

*Zone A99* means area to be protected from one percent annual chance flood event by a federal flood protection system under construction; no base flood elevations determined.

*Zone D* means areas in which flood hazards are undetermined, but possible.

*Zone district* means a zone district of the town as established in chapter 10.20, unless the term is used in a context that clearly indicates that the term is meant to include both the zone districts of the town and the zone districts of an adjoining governmental jurisdiction, also referred to as "zoning district."

*Zone X* means areas of 0.2 percent annual chance flood; areas of one percent annual chance flood with average depths of less than one foot or with drainage areas less than one square mile; areas protected by levees from one percent annual chance flood.

*Zoning map* means the official zoning map adopted by the town by ordinance, as amended.

(Code 1999, § 7.08.010; Ord. No. 679, § 2(exh. A), 11-16-2017)

## **CHAPTER 10.12. DEVELOPMENT APPLICATION REVIEW AUTHORITY**

### **Sec. 10.12.010. Purpose.**

The purpose of this chapter is to define the delegation of authority and responsibilities for review of development applications.

(Code 1999, § 7.12.010; Ord. No. 679, § 2(exh. A), 11-16-2017)

### **Sec. 10.12.020. Summary table of review authority.**

Table 10.16-1 summarizes the development application procedures in this title and identifies the bodies that have review and decision-making responsibilities for each procedure. See chapter 10.16 for details on each procedure.

(Code 1999, § 7.12.020; Ord. No. 679, § 2(exh. A), 11-16-2017)

### **Sec. 10.12.030. Town council.**

In addition to other authority granted by charter, ordinance or state law, the Council shall have the following functions and duties related to this title:

- (1) Application review and decision-making authority as defined in chapter 10.16;
- (2) Negotiation and approval of development agreements; and

- (3) The authority to render a final decision which may be subject to any legal challenge, whether directly or by an appeal of a decision by the manager, planning commission, historic commission or other commission, committee or agency on all land use and development application decisions pursuant to this title.

(Code 1999, § 7.12.030; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.12.040. Planning and zoning commission.**

(a) *Establishment and purpose.* There is hereby established the town planning commission. The purposes of the commission are as follows:

- (1) To implement the goals and policies of the comprehensive plan; and
- (2) To implement the purposes set out in this title.

(b) *Duties.* The planning commission shall have the following functions and duties:

- (1) Review development applications, amendments to the comprehensive plan and amendments to this title, provide recommendations to the Council and render decisions as such authority is indicated in this chapter;
- (2) Upon request and direction by the Council, make and recommend plans for the physical development of the town, including any areas outside its boundaries, subject to the approval of the legislative or governing body having jurisdiction thereof;
- (3) Upon request and direction of the Council, conduct research, prepare studies, review other matters which are related to the present conditions and future growth of the town, and provide comments and recommendations thereon to the Council; and
- (4) Review and make recommendations to the Council about the design of proposed development, with due regard for design standards of this title and other design criteria and guidelines adopted by the town, code text amendments that address design review procedures and criteria and any design review guidelines for the town relating to bulk and design regulations to be imposed or that establish design standards for specific uses, types of uses, parking standards, streetscapes or other similar items.

(c) *Membership and qualifications.* The planning commission shall be composed of seven members who shall be appointed as follows:

- (1) One member of the planning commission shall be an ex-officio member selected by the Council from the members of the Council.
- (2) One member of the commission shall be an ex-officio member selected by the mayor from the administrative officials of the town.
- (3) Five members shall be registered electors residing in the town who shall be appointed by the mayor and who shall hold no other municipal office of the town, except that one such member (and not more than one) may be a member of the zoning board of adjustment.

(d) *Term.*

- (1) The term of the members provided in subsections (c)(1) and (c)(2) of this section shall correspond to their respective official tenures.
- (2) The term of each appointed member shall be six years or until his successor takes office. Council shall determine the staggering of terms by resolution.

(e) *Quorum.* Three members of the planning commission shall constitute a quorum for the transaction of business, but in the absence of a quorum, a lesser number shall adjourn any meeting to a later time or date. In the absence of all members, any staff member shall adjourn any meeting to a later time or date.

(f) *Vacancies.* A vacancy on the planning commission shall occur whenever a member of the planning commission is removed by the Council, dies, becomes incapacitated and unable to perform the required duties for a period of 90 days, resigns, ceases to be a qualified member or is convicted of a felony. In the event a vacancy occurs, a new member shall be appointed in accordance with subsection (c) of this section and such appointed

member shall serve the remaining term of the position.

(g) *Removal from office.* A member of the planning commission may be removed for inefficiency, neglect of duty, malfeasance in office, misconduct, conduct unbecoming of a town official, violation of the town's code of ethics, or more than two unexcused absences within a 12-month period. Prior to removal, Council shall conduct a hearing and shall provide written notice to the planning commission member stating the grounds for removal at least three days prior to the hearing.

(h) *Officers.* The commission shall appoint its own chairperson from among the non ex-officio members and shall create and fill such other of its offices as it may determine. The chairperson shall be the presiding officer of its meeting. The term of the chairperson shall be one year, with eligibility for re-appointment by the planning commission. In the absence of the chairperson, the members present shall appoint a member to serve as acting chair at the meeting.

(i) *Compensation.* Members of the planning commission shall serve with compensation at a rate established annually by the Council and be reimbursed for all authorized personal expenses incurred while performing duties as a planning commission member.

(j) *Staff.* The manager shall serve as the staff of the planning commission and shall provide for the service of a recording secretary who shall act in the capacity of secretary for the planning commission to receive applications and other material for consideration for the planning commission.

(k) *Rules and regulations.* The planning commission shall operate in accordance with its own rules of procedure as provided for in section 11-2 of the town Charter. The rules shall be filed with the town clerk and maintained in the records of the town and shall be subject to public inspection. The planning commission may provide for certain variances, exceptions and exemptions from the requirements of its rules and regulations.

(l) *Records.* The planning commission shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.

(m) *Meetings.* The planning commission shall meet in accordance with the rules of procedure governing the planning commission and otherwise upon the call of the chairperson. All meetings shall be held at the offices of the town, unless otherwise specified, with adequate notice given to all interested parties.

(n) *Agenda.* The planning commission may schedule the review of a development application on the next available agenda when the next meeting agenda is full and will likely result in an overly long meeting.

(o) *Authority to retain consultants.* The planning commission is authorized to retain the services of one or more consultants, provided that funds have been appropriated by the town for said purpose or paid as part of the application fee by the applicant, to advise and assist the planning commission in performing the functions prescribed in this section. The consultants may be retained to advise the planning commission on a single project, on a number of projects or on a continuing basis.

(Code 1999, § 7.12.040; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.12.050. Manager.**

The manager is authorized and directed to do the following:

- (1) Review applications, provide recommendations and render administrative decisions as indicated in this title;
- (2) Establish application submittal requirements, including content and quantities of materials to be submitted;
- (3) Render interpretations of this title;
- (4) Enforce all provisions of this title, for which purpose the manager shall have the powers of a law enforcement officer; and
- (5) Delegate any duty set forth in this title to another official within the community development department when determined appropriate and efficient by the manager.

(Code 1999, § 7.12.050; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.12.060. Board of adjustment.**

(a) *Purpose.* The board of adjustment shall hear and decide appeals from any order, requirement, decision, or determination made by any administrative official charged with the enforcement of this title. In addition, the board of adjustment shall hear and decide all requests for a variance from the requirements of this title. The board of adjustment shall also perform such other duties as may be set forth in this title.

(b) *Membership.*

- (1) The membership of the board of adjustment must consist of five residents of the municipality, appointed by the Council. Their terms of office are three years and must be fixed so that the terms of office expire in different years. Appointments to fill vacancies are to be made only for the unexpired portion of the term. The Council may remove any member of the board of adjustment for cause upon written charges and after a public hearing.
- (2) The board of adjustment shall elect from its own membership a chairperson and vice-chairperson, who shall serve annual terms and who may succeed themselves. For the conduct of any hearing or the taking of any action, a quorum of three members is required. An affirmative majority vote shall be necessary to authorize any action of the board of adjustment.

(Code 1999, § 7.12.060; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.12.070. Historic commission.**

(a) *Establishment.* There is hereby established the historic commission of the town. The town planning commission shall serve as the historic commission.

(b) *Intent.* It is hereby declared to be a matter of public policy that the protection, enhancement, perpetuation and use of structures, land and districts of historical, architectural or geographic significance, located within the town, is in the public interest.

(c) *Purpose.* The purposes of the historic commission are as follows:

- (1) Promote the health, safety and welfare of the residents of the town through the regulation of historic and/or cultural sites and structures;
- (2) Foster civic pride in the beauty and accomplishments of the past;
- (3) Protect and enhance the attraction to tourists and visitors and increase the quality of life of the residents;
- (4) Promote the use of historical or architectural sites, structures and objects for the education and welfare of the residents of the town;
- (5) Promote and encourage private ownership, stewardship and utilization of such sites, structures and objects;
- (6) Integrate historic and/or cultural preservation with the comprehensive plan;
- (7) Maintain the town's unique character by recognizing the importance of preservation and renewing the town's legacy for present and future generations;
- (8) Discourage the unnecessary demolition of historic and/or cultural resources;
- (9) Provide incentives for the continued use of historic and/or cultural resources and facilitate their appropriate stewardship and reuse;
- (10) Encourage the conservation of historic settings and landscapes; and
- (11) Promote retention of historical integrity in the context of proposed land use.

(d) *Powers and duties.* The historic commission shall have the following powers and duties:

- (1) The historic commission shall review from time-to-time the criteria for designation of historic sites as set forth in this title and shall make recommendations to the Council for amendments.
- (2) The historic commission shall prepare application forms, shall review applications for designation of historic sites pursuant to this title, shall review alterations of historic sites and shall make

recommendations to the Council concerning the designation and revocation of historic sites.

(Code 1999, § 7.12.070; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.12.080. Other departments and agencies.**

The Council may request review and input of applications from other councils, commissions, departments, other governmental agencies and nongovernment agencies, as determined appropriate considering the nature of the application.

(Code 1999, § 7.12.080; Ord. No. 679, § 2(exh. A), 11-16-2017)

**CHAPTER 10.16. DEVELOPMENT REVIEW PROCEDURES**

**Sec. 10.16.010. Purpose.**

This chapter contains regulations and the procedures for development applications. Section 10.16.020 contains regulations that are generally applicable to all development application review procedures, described in a series of sequential steps. The purpose is to establish uniform procedures for application types to the extent possible. Subsequent sections identify the applicability of the common steps to specific procedures, noting any differences between the common procedures and those for the specific procedure. Specific procedure provisions supplement, rather than replace, provisions of the common steps, unless the provisions conflict, in which case the provisions of the specific procedure control. Table 10.16-1 indicates the specific review and approval procedures of this chapter, with section references.

Table 10.16-1: Development Review Procedures and Review Authority

<i>Procedure</i>		<i>Manager</i>	<i>PC</i>	<i>TC</i>
Comprehensive plan amendment (section 10.16.030)		R	H-R	H-D
Code text amendment (section 10.16.040)		R	H-R	H-D
Rezoning (section 10.16.050)		R	H-R	H-D
Conditional use (section 10.16.060)		R	H-R	H-D
Temporary use (section 10.16.070)		D		A (C)
Planned unit development (section 10.16.080)	Administrative PUD	D		A (C)
	Preliminary PUD	R	H-R	H-D
	Final PUD	R	H-R	H-D
	Minor PUD amendment	R	H-R	H-D
	Major PUD amendment	R	H-R	H-D
	Revocation of PUD	R	H-R	H-D
Subdivision (section 10.16.090)	Administrative subdivision	D		A (C)
	Minor subdivision	D		A (C)
	Sketch plan	R	H-D	A (C)
	Preliminary plan	R	H-R	H-D
	Final plan	R		H-D
Site plan (section 10.16.100)	Minor site plan	D—A		
	Major site plan	R	D—A	
Historic site designation (section 10.16.110)		R	H-R	H-D

Location, character and extent (section 10.16.120)	R	H-D	A (C)
Wireless telecommunication (section 10.16.130)	R	H-R	H-D
Appeal and variance (section 10.16.140)	R		D (BOA)
Alternative design (section 10.16.150)	R	R-D or R	A (C) or R-D
Right-of-way vacation (section 10.16.160)	R		H-D
Annexation (section 10.16.170)	R	H-R	H-D
Vested property right (section 10.16.180)	R	H-R	H-D
Appeal (section 10.16.190)	R		D

R = Review/recommendations.

H = Public hearing.

D = Decision.

D-A = Decision with appeal to board of adjustments.

A = Appeal to board of adjustments.

A(C) = Appeals to council.

(Code 1999, § 7.16.010; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.020. General procedures and requirements.**

The following procedures shall apply to all development applications which are reviewed under this chapter:

- (1) *Step 1, pre-application conference.* A pre-application conference is required for all development applications unless waived by the manager. The pre-application conference serves to assist the applicant with identifying information which must be provided for a complete development application, understanding the development application review process, identifying appropriate referral agencies for review and comment, achieving compliance with development standards, understanding relevant planning issues and determining appropriate fees. The manager may include other town representatives in the pre-application conference as deemed appropriate. The applicant shall provide sufficient information to the manager at least five business days prior to a scheduled pre-application conference unless such time frame is waived by the manager. Minimum information shall include applicant information, property description, description of the proposed development or nature of the development application and conceptual site plans or drawings which illustrate the nature of the development application. The manager may determine that the information provided is insufficient and request additional information. If the applicant fails to provide sufficient information for a pre-application meeting and seeks to proceed with the application process, the manager may notify the planning commission and Council of the lack of adequate information submitted at the pre-application conference. The manager may provide a written letter after the pre-application conference summarizing application submittal requirements, review procedures, development standards, planning issues and required fees. The informal evaluation of the manager and staff provided at the pre-application conference are not binding upon the applicant or the town. Critical issues relevant to a development application may not be apparent at the pre-application conference and may require additional review, submissions or studies later in the application process.
- (2) *Step 2, application submittal.*
  - a. *Applicant.* The owner of real property or authorized representative of the owner with a properly acknowledged power of attorney, may submit a development application. No development application shall be received for processing or approved and no application for a building permit shall be granted, when the applicant is in default under any related or unrelated agreement or obligation to the town.

- b. *Application submittal requirements.* The applicant shall submit the application to the manager. Application submittal requirements for every application type shall be established by the manager on submittal forms available in the administrative manual from the town or on the town's website. The manager may adopt standards and requirements for three-dimensional electronic and graphic information for application submittal requirements. The manager may waive submission requirements where appropriate to specific applications; however, the waiver of any submission requirement shall not preclude the planning commission or Council from requiring such information, where deemed necessary for evaluation of the development application with the applicable review criteria. The minimum submittal requirements for all applications shall include:
    - 1. Completed application form;
    - 2. Owner's signature or an acknowledged power of attorney if the owner has authorized an agent or representative to act as the applicant;
    - 3. Title insurance commitment which has been updated within 60 days of the application submittal along with copies of all documents listed in the exceptions;
    - 4. Legal description of the property subject to the development application;
    - 5. Development application review fees; and
    - 6. Survey no more than three years old stamped by a surveyor licensed in the state.
  - c. *Required studies and reports.* Reports or studies may be necessary to adequately evaluate the development application for compliance with the review criteria. Such reports include, but are not limited to, studies of soils, geological hazards, fiscal impacts, market analysis, traffic impacts and/or environmental impacts. The applicant shall furnish the reports or studies needed at the applicant's sole expense. The town may require independent peer review of any report or study provided by the applicant. The applicant and the town may agree to retain a mutually acceptable consultant to prepare a report or study, which cost shall be paid by the applicant. All required reports or studies shall be executed by professionals or other persons qualified to provide the requested reports. The form and content of reports or studies may be established by the manager and set forth in the administrative manual.
  - d. *Concurrent review permitted.* Where multiple development applications concern the same property, the manager may permit concurrent review of the development applications for efficiency and practicality.
  - e. *Multiple applications.* A single property shall not be permitted to have more than one application of the same type being processed concurrently.
  - f. *Fees.* Fees shall be paid in accordance with section 10.04.100.
- (3) *Step 3, application processing.*
- a. *Determination of completeness.* A development application shall be reviewed for completeness by the manager within ten business days after receipt. If the application is determined to not be complete, then a written communication shall be promptly provided to the applicant indicating the specific deficiencies in the application. The determination that an application is complete or the failure to determine an application is incomplete within ten days shall not preclude the town from requiring information which is necessary and relevant to evaluate the development application for compliance with the review criteria. A determination by the manager that the application is incomplete may be appealed to the Council in accordance with the procedures in section 10.16.140.
  - b. *Referral to other agencies.* Development applications may be referred to other agencies for review and comment. The manager shall attempt to identify appropriate referral agencies and shall consider the comments from referral agencies as part of the staff review and report. The planning and zoning commission and Council may determine that referral of a development application to an agency for review and comment is appropriate where such referral agencies may provide comments relevant to evaluating the development application for compliance with the review criteria. Referral of

development applications to other agencies shall provide a minimum time frame for review and comment of 14 days for site plans, variances, amendments to text of this title and minor subdivisions; and 21 days for preliminary subdivision, planned unit development, planned unit development amendments, and rezoning; however, the time frame for review and comment may be extended if the development application presents technical issues which require additional review, if additional information is provided by the applicant or the application is modified. Referral agencies may include, but are not limited to:

1. Any utility, local improvement or service district or ditch company, when applicable;
  2. The state department of transportation when the proposed development is adjacent to or in sufficient proximity to affect a right-of-way, interchange or other facility;
  3. The state geological survey for findings and recommendations pertaining to geologic factors, including geologic hazards, mineralized areas and sand and gravel areas that would have a significant impact on the proposed use of the land; and
  4. Any other agency concerned with a matter or area of local interest that could be affected by the application.
- c. *Staff review and report.* The manager shall review the application in accordance with the criteria established in this chapter and shall prepare written findings of fact. If authorized as the decision-making authority, the manager shall inform the applicant in writing of the findings and determination. If not authorized as the decision-making authority, the manager shall prepare a recommendation and submit the recommendation and findings to the appropriate review and decision-making authority.
- d. *Required processing.* Applicants shall be required to continuously and diligently pursue their development applications, which shall include responding in a timely manner to staff comments and requests. An applicant which fails to respond to staff comments or requests for a period of four months shall be administratively withdrawn by the manager unless the manager determines that good cause exists to extend the application time frame and approves such extension in writing.
- (4) *Step 4, notice.* Notice shall be required for all public hearings conducted by the planning commission and Council.
- a. *Published and posted notice.* Notice shall be published in a newspaper of general circulation within the town and posted in the designated official places of posting by the town at least ten days prior to the hearing date.
  - b. *Mailed notice.* For procedures that require mailed notice, notice shall be sent by first-class mail to all real property owners within 150 feet of the property which is the subject of a development application, as measured from the boundary of the property. If a property within 150 feet that requires notification is a condominium project, notice may be mailed to the managing agent, registered agent or any member of the board of directors of the project. Mailed notice shall be postmarked at least ten days prior to the meeting. Mailed notice shall be sent by the town at the applicant's expense. The county assessor's records may be used to determine the addresses of real property owners. The town shall include a certificate of mailing in the public record. Mailed notice shall be required for annexation, major subdivision, planned unit development, special review use, rezoning, right-of-way vacation, variance and vested property right applications.
  - c. *Notice content.* Every required form of notice shall state the time and place of the hearing, the name of the applicant, a general description of the subject property indicating its location (which shall be shown by map), a brief summary of the subject matter of the hearing, a description of the proposed development, a statement that the application or information relating to the proposed change or amendment is available in the manager's office during regular business hours for review or inspection by the public and a statement that written comments may be submitted to the town. All required notices shall be approved by the manager prior to posting or distributing.
  - d. *Constructive notice.* Minor defects in any notice shall not impair the notice or invalidate



proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. In all cases, however, the requirements for the timing of the notice and for specifying the time, date and place of a hearing shall be strictly construed. Any person who appears at a public hearing is deemed to have received constructive notice and waived any grounds to challenge defective notice. If a question arises at the hearing regarding the adequacy of notice, the reviewing or decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this title. When the records of the town document the publication, mailing and posting of notices, as required by this section, it shall be presumed that notice was given as required by this section. If the reviewing or decision-making body takes action to continue a hearing to a future specified date, time and location, then constructive notice is deemed to have been provided for such continued hearing date and additional notices shall not be required.

- (5) *Step 5, public hearings.* The manager shall schedule a public hearing date before the planning commission and/or Council after a complete application has been received, town staff has completed town staff review and referral agencies have had an opportunity to provide comments. The manager may delay the scheduling of a public hearing to a subsequent meeting where an agenda of the planning commission or Council is full. A complete application shall be scheduled for an initial public hearing within 75 days after the date that the application is determined to be complete unless the applicant consents to scheduling the public hearing on a later date. The planning commission or Council may continue a public hearing on its own initiative for a maximum of 65 days after the date of the initial public hearing without the consent of the applicant. The planning commission or Council may continue a public hearing for a maximum of 95 days with the consent of the applicant. The reviewing authority shall have 35 days after the close of a public hearing to issue written findings in accordance with subsection (6)c of this section and adopt a written final record of decision.
- (6) *Step 6, review and decision.* The following rules shall apply to review, recommendations and decisions conducted at public hearings:
  - a. *Review criteria.* The reviewing authority shall be manager when the manager has the authority to administratively approve a development application. The reviewing authority shall be the planning commission and/or Council for all development applications which are subject to public hearing. The reviewing authority shall review development applications for compliance with all relevant standards and criteria as set forth in the specific procedures for the particular application in this title, as well as the following general criteria which shall apply to all development applications:
    1. The development application is complete;
    2. The development application provides sufficient information to allow the reviewing authority to determine that the development application complies with the relevant review criteria;
    3. The development application complies with the goals and policies of the comprehensive plan; and
    4. The demand for public services or infrastructure exceeding current capacity is mitigated by the development application.
  - b. *Authority to require additional studies.* If the reviewing authority finds that the submittal materials are not adequate to evaluate the development against the review criteria, it may require additional studies as necessary. In doing so, the reviewing authority shall indicate the specific consequences or concerns for which the standard submittal requirements fail to provide adequate means of evaluation and the data or information needed for proper evaluation. The results of any study or analysis shall not dictate either approval or disapproval of the proposed project.
  - c. *Findings.* The reviewing authority shall adopt written findings which document that a recommendation or decision is based upon a determination of whether the development application complies with the applicable review criteria. The written findings shall state the conditions or mitigation.

- d. *Conditions.* The reviewing authority may recommend approval or may approve a development application with conditions where such conditions are deemed necessary to ensure compliance with the applicable review criteria and the purpose and intent of this title. Conditions shall be in written form and attached to the approved plan, plat or permit. Conditions may include specific time limits for performance of any condition. Conditions may include financial performance guarantees from the applicant where the condition requires improvements for mitigation, where deemed necessary to public health, safety or welfare or where deemed necessary to protect adjacent property or public infrastructure. Financial performance guarantees shall be in the form of an agreement which is acceptable to the town and shall be executed by the applicant.
  - e. *Final decision.* A decision by the manager or the planning commission shall become final unless a written appeal is timely submitted to the town in accordance with section 10.16.140. The date of the decision shall be the date that the reviewing authority renders a decision. The Town shall mail the written findings and notification of decision to the applicant within five working days of the decision of the reviewing authority. The Council reserves the authority to render a final decision on all decisions rendered under this title, and only a decision of the Council may be subject to legal challenge. The failure to timely submit a written appeal of a decision of the manager or the planning commission shall be deemed to be a waiver of any right to legally challenge such decision.
- (7) *Termination of approval.* All development approvals shall expire and become void two years after the date of the approval if a building permit has not been issued prior to the expiration date, except when a different duration is specified in the development approval, a different duration is specified in the specific procedures for the development approval or a request for extension is approved by the reviewing authority which granted the original development approval. The owner shall submit a written request for an extension to the manager prior to the expiration date and shall state the reasons and circumstances for such extension request. The manager and the planning commission may provide one extension for a maximum of one year. The Council may provide multiple extensions and may provide extensions greater than one year.

(Code 1999, § 7.16.020; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.030. Comprehensive plan amendment.**

This section sets forth procedures for reviewing proposed amendments to the texts and maps of the comprehensive plan. The amendment process is established to provide flexibility in response to changing circumstances, to reflect changes in public policy and to advance the general welfare of the town.

- (1) *Review procedures.* Applications to amend the comprehensive plan shall follow the general review procedures set forth in section 10.16.020. Applications to amend the comprehensive plan may be initiated by the Council, any registered voter of the town or any property owner in the town.
- (2) *Review authority.* The planning commission shall review applications for amendments to the comprehensive plan and shall provide a recommendation to the Council after conducting a public hearing. The Council shall render the final decision on an application to amend the town comprehensive plan after conducting a public hearing. Amendments to the town comprehensive plan shall be approved by ordinance of the Council.
- (3) *Review criteria.* The planning commission and Council shall use the following review criteria as the basis for recommendations and decisions on applications to amend the comprehensive development plan:
  - a. The surrounding area is compatible with the land use proposed in the plan amendment or the proposed land use provides an essential public benefit and other locations are not feasible or practical;
  - b. Transportation services and infrastructure have adequate current capacity or planned capacity, to serve potential traffic demands of the land use proposed in the plan amendment;
  - c. Public services and facilities have adequate current capacity or planned capacity to serve the land use proposed in the plan amendment;

- d. The proposed land use in the plan amendment will result in a better location or form of development for the town, even if the current plan designation is still considered appropriate;
- e. Strict adherence to the current plan would result in a situation neither intended nor in keeping with other key elements and policies of the plan;
- f. The proposed plan amendment will promote the purposes stated in this title; and
- g. The proposed plan amendment will promote the health, safety or welfare of the town community and will be consistent with the general goals and policies of the comprehensive plan.

(Code 1999, § 7.16.030; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.040. Code text amendment.**

The Council may amend the text of this title, including the adoption, modification or replacement of appendices to this title, pursuant to this section. The purpose of a code text amendment is to address changed conditions, unintended consequences or changes in public policy, to advance the general welfare of the town.

- (1) *Review procedures.* Applications to amend the text of this title shall follow the general review procedures set forth in section 10.16.020. Applications to amend the text of this title may be initiated by the Council, town staff, planning commission, or any property owner or resident within the town.
- (2) *Review authority.* The planning commission shall review applications to amend the text of this title and shall provide a recommendation to the Council after conducting a public hearing. The Council shall render the final decision on an application to amend the text of this title after conducting a public hearing. Amendments to the text of this title shall be approved by ordinance of the Council.
- (3) *Review criteria.* The planning commission and Council shall use the following review criteria as the basis for recommendations and decisions on applications to amend the text of this title:
  - a. The text amendment promotes the health, safety and general welfare of the community;
  - b. The text amendment promotes or implements the goals and policies of the comprehensive plan;
  - c. The text amendment promotes or implements the purposes stated in this title; or
  - d. The text amendment is necessary or desirable to respond to changed conditions, new planning concepts or other social or economic conditions.

(Code 1999, § 7.16.040; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.050. Rezoning.**

The boundaries of any zone district may be changed or the zone classification of any parcel of land may be changed pursuant to this section. The purpose is not to relieve particular hardships nor to confer special privileges or rights on any person, but only to make adjustments to the official zoning map that are necessary in light of changed conditions or changes in public policy or that are necessary to advance the general welfare of the town.

- (1) *Review procedures.* Applications for a rezoning shall follow the general review procedures set forth in section 10.16.020. Applications to rezone property may be initiated by the Council, town staff, planning commission, or any property owner or resident within the town.
- (2) *Review authority.* The planning commission shall review applications for rezonings and shall provide a recommendation to the Council after conducting a public hearing. The Council shall render the final decision on an application for rezonings after conducting a public hearing. Rezoning shall be approved by ordinance of the Council.
- (3) *Review criteria.* The planning commission and Council shall use the following review criteria as the basis for recommendations and decisions on applications for rezonings:
  - a. Correction of an error in an ordinance establishing the zoning for a specific property (if applicable);
  - b. Evidence of substantial compliance with the purposes of this title;
  - c. Consistency with the comprehensive plan;

- d. Physical suitability of the land for the proposed development or subdivision;
  - e. Compatibility with surrounding land uses;
  - f. Whether the proposed rezoning is justified by changed or changing conditions in the character of the area proposed to be rezoned;
  - g. Whether there are adequate facilities available to serve development for the type and scope suggested by the proposed zone compared to the existing zoning, while maintaining adequate levels of service to existing development;
  - h. Whether the rezoning is consistent with the stated purpose of the proposed zoning district;
  - i. That, compared to the existing zoning, the rezoning is not likely to result in adverse impacts upon the natural environment, including air, water, noise, stormwater management, wildlife and vegetation, or such impacts will be substantially mitigated;
  - j. That, compared to the existing zoning, the rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract; and
  - k. Adequate mitigation is required for rezoning applications which result in greater intensity of land use or increased demands on public facilities and infrastructure.
- (4) *Mitigation.* Rezoning applications which propose a greater intensity of land use or increased demands on public services or infrastructure shall be required to provide adequate mitigation of such impacts. Greater intensity of land use or increased demands on public facilities and infrastructure shall include, but are not limited to, transportation, water, sewer, schools, emergency services, police, parks and recreation, medical and library. Adequate mitigation may include providing dedications of land or cash-in-lieu for the proportionate share of capital investment in public facilities and infrastructure related to the potential incremental increase of demand created from the existing zoning classification to the proposed zoning classification.

(Code 1999, § 7.16.050; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.060. Conditional use.**

In order to provide flexibility and to help diversify uses within a zoning district, specified uses are permitted in certain districts subject to the granting of a conditional use permit. Specific conditional uses for each zone district are listed in the table of permitted and conditional uses by zoning district. Because of their unusual or special characteristics, conditional uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed in this section is intended to ensure compatibility and harmonious development between conditional uses, surrounding properties and the town at large. Conditional uses may be permitted subject to such conditions and limitations as the town may prescribe to ensure that the location and operation of the conditional uses will be in accordance with the conditional use criteria. The scope and elements of any conditional use may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for conditional use permits shall be denied.

- (1) *Review procedures.* Applications for a conditional use shall follow the general review procedures set forth in section 10.16.020, except that mailed notice shall be sent to all property owners within 300 feet and to appropriate referral agencies no less than 30 days before a hearing. Notice shall also be posted on the property and published in the newspaper at least ten days prior to the hearing. Applications for conditional use may be initiated by the property owner and may not be initiated by any other person.
- (2) *Review authority.* The planning commission shall review applications for conditional uses and shall provide a recommendation to the Council after conducting a public hearing. The Council shall render the final decision on an application for conditional uses after conducting a public hearing. Conditional uses shall be approved by resolution of the Council.
- (3) *Review criteria.* The planning commission and Council shall use the following review criteria as the basis for recommendations and decisions on applications for conditional uses:

- a. The proposed conditional use is consistent with the comprehensive plan and all applicable provisions of this title and applicable state and federal regulations;
  - b. The proposed conditional use is consistent with the purpose and intent of the zoning district in which it is located and any applicable use-specific standards in this title;
  - c. The proposed conditional use is compatible with adjacent uses in terms of scale, site design and operating characteristics;
  - d. The proposed conditional use will not substantially alter the basic character of the district in which it is in or jeopardize the development or redevelopment potential of the district;
  - e. The proposed conditional use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site;
  - f. Any significant adverse impacts (including but not limited to hours of operation, traffic generation, lighting, noise, odor, dust and other external impacts) anticipated to result from the conditional use will be mitigated or offset to the maximum extent practicable;
  - g. Facilities and services (including sewage and waste disposal, water, gas, electricity, police and fire protection and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development;
  - h. Adequate assurances of continuing maintenance have been provided;
  - i. The proposed conditional use meets all the applicable standards in chapter 10.24 of this title.
- (4) *Authority to impose conditions on permit.* The Council may approve conditional use permit that have the following conditions or limitations: The conditional use permit may be revocable; may be granted for a limited time period; or may be granted subject to conditions as the Council may determine appropriate to mitigate adverse impacts, promote compatibility with surrounding uses, or otherwise necessary to meet the review criteria. Conditions may include, but shall not be limited to, requiring special setbacks, open spaces, fences or walls, landscaping or screening, street dedication and improvement, regulation of vehicular access and parking, signs, illumination, hours and methods of operation, control of potential nuisances, prescription of standards for maintenance of buildings and grounds, and prescription of development schedules.

(Code 1999, § 7.16.060; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.070. Temporary uses.**

Temporary uses are uses established for a limited duration with the intent to discontinue the temporary use upon the expiration a particular time period. Concrete or asphalt batch plants and gravel or mineral mining are prohibited from applying to the town as temporary uses. Any temporary use shall not involve the construction or alteration of any permanent structure and may be located in any zoning district.

- (1) *Temporary use categories.* There are three categories of temporary uses: special event, site location and camping.
  - a. Special event temporary uses can be for a time period of no more than 30 days and include: bike or running races, conventions, seasonal sales, sports tournaments, circuses, yard sales, fairs, etc.
  - b. Site location temporary use permits are for the placement of construction or sales trailers at commercial, residential or industrial construction sites. Site location temporary use permits expire upon the issuance of a certificate of occupancy for the associated permanent structure or substantial completion of site development work for an approved subdivision.
  - c. Camping temporary uses are allowed within the residential districts of the town. Camping may include RV, travel trailer, "pop-up" camper or tents and must be located on a site associated with a permitted residential structure. Only one camping permit per residential lot or site is allowed at any one time and permits are allowed for a maximum of 14 consecutive days, renewable three times per calendar year, for a maximum of 42 days in any calendar year.

- (2) *Review process.* Approval of any temporary use will be an administrative matter. Staff will review the temporary use application based upon compliance with the requirements of this section.
- (3) *Duration and extension of time.* Special event temporary use permits expire no more than 30 days after issuance with one administrative renewal (30-day maximum) possible if requested at least seven days prior to expiration. For a site location temporary use, the permit may be for a period to be determined by the town with one administrative extension allowed if requested at least 30 days prior to expiration.
- (4) *Expiration of permit.* Upon the expiration of any temporary use permit, the location of the use must be returned to its condition prior to the issuance of the permit by the town.
- (5) *Appeal.* The decision of the town staff may be appealed pursuant to section 10.16.140.

(Code 1999, § 7.16.070; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.080. Planned unit development.**

(a) *Purpose.* This section is intended to allow flexible development patterns that are not specifically provided for in this title. It is the purpose of this section:

- (1) To promote and permit flexibility that will encourage innovative and imaginative approaches in land development and renewal that will result in a more efficient, aesthetic, desirable and economic use of land while maintaining density and intensity of use consistent with the applicable adopted plans, regulations and policies of the town;
- (2) To promote development within the town that can be conveniently, efficiently and economically served by existing local utilities and services or by their logical extension;
- (3) To promote design flexibility, including placement of buildings, use of open space, pedestrian and vehicular circulation systems to and through the site and off-street parking areas in a manner that will best utilize potential on-site characteristics such as, topography, geology, geography, size and proximity;
- (4) To provide for the preservation of historic or natural features where they are shown to be in the public interest, including, but not limited to, such features as: drainageways, floodplains, existing topography or rock outcroppings, unique areas of vegetation, historic landmarks or structures;
- (5) To provide for compatibility with the area surrounding the project site;
- (6) To provide for usable and suitably located open space, such as, but not limited to, bicycle paths, playground areas, courtyards, tennis courts, swimming pools, planned gardens, outdoor seating areas, outdoor picnic areas and similar open space;
- (7) To minimize adverse environmental impacts of development;
- (8) To improve the design, quality and character of new development; and
- (9) To provide compensating community benefits to offset any impacts of the development and in recognition of design flexibility.

(b) *Eligibility criteria.* All of the following criteria must be met for a property to be eligible to apply for PUD approval.

- (1) *Property eligible.* Properties within the town must include a gross land area of not less than 35 acres, except in the MH zone district where the gross land area shall not be less than five acres, to be eligible to apply for PUD approval.
- (2) *Consistency with comprehensive plan.* The proposed development shall be consistent with the comprehensive plan.
- (3) *Consistent with PUD intent.* The proposed development shall be consistent with the intent and spirit of the PUD purpose statement in subsection (a) of this section.
- (4) *Compatibility with existing uses.* The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in this title or planned for in the comprehensive plan.

- (5) *Public benefit.* A recognizable and material benefit will be realized by both the future residents and the town as a whole through the establishment of a PUD, where such benefit would otherwise be infeasible or unlikely.
- (6) *Preservation of site features.* Long-term conservation of natural, historical, architectural or other significant features or open space will be achieved, where such features would otherwise be destroyed or degraded by development as permitted by the underlying zoning district.
- (7) *Sufficient land area for proposed uses.* Sufficient land area has been provided to comply with all applicable regulations of this title, to adequately serve the needs of all permitted uses in the PUD projects and to ensure compatibility between uses and the surrounding neighborhood.

(c) *Dimensional and development standards.* The following dimensional and development standards shall apply to all PUDs.

- (1) *Overlay district.* A PUD shall be an overlay district and shall be applied over an underlying zone district. If there is no underlying zone district, one shall be established prior to or concurrently with a PUD approval. The rezoning process set forth in section 10.16.050 shall be used to establish the underlying zone district.
- (2) *Permitted uses.* PUD uses shall be limited to those allowed either as permitted, accessory or special review uses in the underlying zone district.
- (3) *Development standards.* Chapter 10.24 of this title shall apply to PUD projects.

(d) *General procedures.* All PUDs are processed in two stages: the preliminary PUD; and the final PUD unless consolidation of PUD review is approved by the town. The final PUD can only be filed with the town for review and processing after the preliminary PUD has been approved or conditionally approved by the Council. The filing of a PUD with the shall not constitute the effective dedication of easements, rights-of-way or access control, nor shall the filed PUD plan neither be the equivalent of nor substitute for the final platting of land. Specific procedures for preliminary PUD and final PUD are outlined below.

Coordination with subdivision review. It is the intent of this title that subdivision review required under section 10.16.090, if applicable, be carried out concurrently with the review of PUD development plans under this section. If subdivision approval is required for the subject property, the PUD plans required under this section shall be submitted in a form that satisfies the requirements for preliminary and final subdivision plat approvals. If any provisions of this section conflict with the subdivision procedures or standards of this title, the more restrictive or detailed requirements shall be met, unless specifically altered by the Council.

(e) *Procedures for preliminary planned unit development.* The general procedures set forth in section 10.16.020 shall apply to preliminary PUD applications. Where subdivision approval will be required to implement development in a proposed PUD, the applicant shall file a single preliminary PUD plan incorporating the application requirements of both the PUD and subdivision preliminary plans. The provisions and procedures for public notice, hearing and review for a PUD as prescribed in this section shall apply to the application.

- (1) *PUD master plan and guide required.* The application for PUD rezoning shall include a preliminary PUD plan. The manager shall require sufficient detail in the preliminary PUD plan to provide an opportunity for the approving bodies to make informed decisions and evaluate compliance with the applicable approval criteria. The plan shall include, at a minimum:
  - a. A quantitative summary of existing conditions on the subject property;
  - b. A list of uses to be allowed within the PUD by right, a list of uses to be allowed only with a special review use permit and a list of temporary uses;
  - c. Parking analysis based on proposed uses;
  - d. Density of uses proposed;
  - e. Location of public and private open space;
  - f. Location of existing and proposed buildings on the site;

- g. Road, street and pedestrian networks proposed;
  - h. Drainage facilities;
  - i. Existing or proposed utilities and public services;
  - j. If development is to be phased, a description of the phase components and timing;
  - k. A statement that development on the site will meet applicable standards of the underlying zoning district and this title or a statement specifying the standards of the underlying district and this title to which modifications are proposed and the justification for such modifications; and
  - l. A statement specifying the public benefits to be contained in or associated with the PUD.
- (2) *Notice.* Where subdivision approval will be required to implement development in a proposed PUD, the public hearing notice requirements for preliminary subdivision plan approval shall be combined and shall run concurrently with the PUD public notice and hearing requirements.
- (3) *Reviewing authority.* The planning commission shall review a preliminary PUD applications and shall provide a recommendation to the Council after conducting a public hearing. The Council shall review and render a final decision on a preliminary PUD application after conducting a public hearing. Unless otherwise approved by the Council, approval of a preliminary PUD application shall vest no rights to the applicant other than the right to submit a final PUD development plan.
- (4) *Review criteria.* The planning commission and Council shall consider the following criteria as the basis for a recommendation or decision to rezone a property to PUD overlay, approve a preliminary PUD plan or process a PUD amendment:
- a. The PUD addresses a unique situation, confers a substantial benefit to the town and/or incorporates creative site design such that it achieves the purposes of this title and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to, improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads and other utilities and services; or increased choice of living and housing environments;
  - b. The PUD rezoning will promote the public health, safety and general welfare;
  - c. The PUD rezoning is consistent with the comprehensive plan, the purposes of this title and the eligibility criteria outlined in section 10.16.060(3);
  - d. Facilities and services (including roads and transportation, water, gas, electric, police and fire protection and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
  - e. Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, stormwater management, wildlife and vegetation, or such impacts will be substantially mitigated;
  - f. Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract; and
  - g. Future uses on the subject tract will be compatible in scale with uses or potential future uses on other properties in the vicinity of the subject tract.
- (5) *Submission deadline for final PUD master plan.* Within six months following approval of the preliminary PUD plan, the applicant shall initiate the second stage of the application process by filing with the manager a final PUD plan and subdivision plat if necessary, containing in final form all the information required in the preliminary PUD plan, along with such other documents as may be necessary to implement the plan or to comply with all applicable requirements of this title. Upon written request by the applicant prior to the application lapsing, the planning commission, for good cause, may extend the period for filing the final PUD plan for a period not to exceed six months.



(f) *Procedures for final planned unit development approval.* The general procedures set forth in section 10.16.020, shall apply to final planned unit development applications subject to the following exceptions and additions:

- (1) *Pre-application conference.* A pre-application conference shall be required, unless waived by the manager.
- (2) *Contents of the final PUD master plan.* The final PUD master plan shall contain all of the materials included in the preliminary PUD development plan, together with revisions, if any, that may be approved by the planning and zoning commission without an additional public hearing, as described in subsection (f)(2)b of this section. In addition to the materials required in the administration manual, the final PUD master plan shall include the following:
  - a. *Phasing program.* A document describing any proposed phasing program of the development for all structures, recreational and other common facilities and open space improvements, including time schedule for commencement and completion dates of construction of each phase. Intermediate phases shall not exceed overall project density, and a pro rata allocation of common open space shall be made as each phase is developed.
  - b. *Common open space agreement.* A copy of the formal agreement with a public agency or private association for the ownership and maintenance of the common open space is required.
  - c. *Plats for recording.* A copy of any subdivision plat, plat of dedication or plat of vacation that may be a necessary part of the PUD rezoning is required.
  - d. *Covenant.* A restrictive covenant in a form acceptable to the town attorney limiting development of construction upon the tract as a whole to such development and construction as shall comply with the final PUD development plan as approved by the Council, which document shall include a provision granting the town a right to enforce the same.
- (3) *Permitted minor changes from a preliminary PUD master plan.* Minor changes in the location, siting and height of structures, streets, driveways and open spaces may be authorized by the planning commission to be included in the final PUD master plan in accordance with the following procedure without additional public hearings, if such changes are required by engineering or other circumstances not foreseen at the time the preliminary PUD development plan is approved. No change authorized by this subsection may cause any of the following:
  - a. A change in the use or character of the development;
  - b. An increase by more than one percent in the overall coverage of structures;
  - c. An increase in the density or intensity of use;
  - d. An increase in the impacts on traffic circulation and public utilities; and
  - e. A reduction of not more than one percent in approved common open space.
- (4) *Reviewing authority.* The planning commission shall review all final PUD applications and shall provide a recommendation to the Council after conducting a public hearing. The Council shall review and render a final decision on a final PUD application after conducting a public hearing.
- (5) *Review criteria.* The planning commission and the Council shall review the final PUD development plan and PUD rezoning according to the same approval criteria listed above for preliminary PUD development plans.

(g) *Recordation.* The applicant shall record the approved final PUD, as approved, in the office of the county clerk and recorder within 30 days after the date of approval. If the final PUD is not recorded, the approval of the Council shall be deemed to have been withdrawn and the approval shall be null and void.

(h) *Amendments to a final PUD.* Unless a final PUD contains different amendment procedures, amendments to a final PUD are governed by this subsection. The PUD amendment process is dependent on the type of amendment.

- (1) *PUD amendment categories.* Categories of PUD amendments are established and defined as follows for the purpose of determining the appropriate review procedure:
  - a. *Administrative amendment.* A proposed PUD amendment is considered administratively if it provides for the correction of any errors caused by mistakes that do not materially alter the substance of the PUD development plan as represented to the Council.
  - b. *Minor amendment.* A proposed PUD amendment is considered minor if it meets the following criteria for decision and has been determined as such by the manager:
    1. The PUD amendment does not increase density, increase the amount of nonresidential land use or significantly alter any approved building scale and mass of development.
    2. The PUD amendment does not change the character of the development and maintains the intent and integrity of the PUD.
    3. The PUD amendment does not result in a net decrease in the amount of open space or result in a change in character of any of the open space proposed within the PUD.
  - c. *Major amendment.* A PUD amendment that is not classified as an administrative amendment or minor amendment is considered a major amendment.

(2) *Reviewing authority.*

- a. *Administrative amendments.* The manager shall review and render decisions on administrative amendments. A decision of the manager may be appealed to pursuant to section 10.16.140.
- b. *Minor amendments.* The general procedures set forth in section 10.16.020 shall apply to minor PUD amendment applications. The planning commission shall review all minor PUD amendment applications and shall provide a recommendation to the Council after conducting a public hearing. The Council shall review and render a final decision, through a resolution, on a minor PUD amendment application after conducting a public hearing.
- c. *Major amendments.* The general procedures set forth in section 10.16.020 shall apply to major PUD amendment applications. All major PUD amendment applications shall be processed as preliminary PUD and final PUD applications.

(3) *Review criteria.* The planning commission and Council shall review a PUD amendment according to the same approval criteria listed above for a preliminary PUD development plan.

(i) *Lapse.* Unless otherwise provided by the Council, development of an approved PUD shall commence within 12 months from the approval of the final PUD plan. If development has not commenced within 12 months, the manager shall initiate a public hearing process for the purpose of considering whether to rezone the property back to its prior zoning classification or, in light of other conditions, to another zoning classification and revocation of all permits issued and action taken.

(j) *Revocation of a final PUD.* A final PUD may be revoked pursuant to the procedures and criteria set forth in this section.

(1) *Initiation of revocation proceedings.* Revocation of a PUD may occur if:

- a. The landowner or a majority of the owners of property within the subject PUD, petition for revocation of such PUD plan in whole or in part;
- b. The project falls more than three years behind the phasing plan or schedule filed with the final PUD;
- c. Construction and/or application for building permits have not commenced within one year of approval of the final PUD by the Council; or
- d. The construction and provision of landscaping, buffers, open space and public streets and facilities that are shown on the final development plan are proceeding at a substantially slower rate than other project components.

(2) *Public notice requirements.* Prior to the planning commission meeting and the Council meeting, notice

shall be given in accordance with the provisions of section 10.16.020(4).

(3) *Review authorities.*

- a. *Planning public hearing.* The planning commission shall hold a public hearing and make a recommendation to revoke the final PUD, keep the final PUD in force or postpone the application. The planning commission shall not recommend revocation of the final PUD to the Council unless the planning commission makes the findings required for revocation. The planning commission may impose reasonable conditions on such revocation in order to advance the health, safety and welfare of the citizens, such as vacation of the underlying final plat.
- b. *Council public hearing.* The Council shall hold a public hearing and determine whether to revoke, postpone or keep the final PUD in force. The Council shall not revoke the final PUD unless it makes the findings required for revocation. The Council may impose reasonable conditions on such revocation in order to advance the health, safety and welfare of the citizens, such as vacation of the underlying final plat.

(4) *Required findings for revocation.* The planning commission shall not recommend revocation and the Council shall not revoke any final PUD unless the following findings are made:

- a. Revocation proceedings were initiated pursuant to this section;
- b. The property owners were notified no less than 60 days prior to planning commission action on the revocation;
- c. Public notice was mailed prior to the planning commission hearing on the revocation and prior to the Council hearing on the revocation pursuant to the provisions of section 10.16.020(4);
- d. The PUD is not compatible with the surrounding area;
- e. There is not a need for the uses in the area included within the PUD plan;
- f. The PUD will have adverse impacts on future development of the area;
- g. The traffic generated by the PUD plan will have adverse impacts on the neighborhood and the surrounding area;
- h. The PUD will have adverse impacts on community facilities in the neighborhood and on the surrounding area, including, but not limited to, schools, library, police and fire protection, recreation facilities, park lands and open space;
- i. The PUD will have adverse impacts on municipal infrastructure in the area, including, but not limited to, water service, wastewater service, stormwater service, transportation systems and street systems;
- j. The PUD will not comply with the standards and specifications for design and construction of public improvements in force at the time of the public hearing;
- k. The owner or applicant has not met all dates established in the PUD plan for the commencement of construction of the PUD or for a phase of the PUD plan; or
- l. The revocation is in conformance with the provisions contained in applicable sections of this Code, consistency with the adopted comprehensive plan for the town and applicable specific plans and relevant town policies.

(Code 1999, § 7.16.080; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.16.090. Subdivisions.**

(a) *Purpose.* (1) The purpose of the subdivision review procedures is to ensure compliance with all the standards and requirements in this title and encourage quality development consistent with the goals, policies and objectives in the comprehensive plan and purposes of this title.

(2) *Applicability.* The procedures of this section and the standards in chapter 10.24 shall apply to all subdivisions or re-subdivisions that result in the portioning, dividing, combining or altering of any lot,

parcel or tract of land, including land used for condominiums, apartments or any other multiple dwelling units or creation of an estate in airspace, except any subdivisions that are specifically excluded by state law. If a tract of land that has been created or subdivided in the past is later described as a single tract in deeds or plat by the legal or equitable owners, any later subdivisions of that tract, even if along the lines of the earlier subdivision, shall be subject to the requirements of these regulations. If any tract of land or airspace has been subdivided as one type of subdivision and thereafter is subdivided so as to create a different type of subdivision (for example, conversion of a condominium subdivision to a timesharing subdivision), the conversion shall be subject to the requirements of this title. Unless the method of disposition is adopted for the purpose of evading the requirements of this title, this procedure shall not apply to any division of land that:

- a. Is created by a lien, mortgage, deed of trust or any other security instrument;
- b. Is created by any interest in an investment entity;
- c. Creates cemetery lots;
- d. Creates an interest or interests in oil, gas, minerals or water that are severed from the surface ownership of real property;
- e. Is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common of such interest. For the purpose of this section, any interest in common owned in joint tenancy shall be considered a single interest;
- f. Creates a leasehold interest with a term of less than 20 years and involves no change in use or degree of use of the leasehold estate.

(b) *Subdivision categories.* Categories of subdivisions are established and defined as follows for the purpose of determining the appropriate subdivision review procedure:

(1) *Major subdivision.* Major subdivisions include all subdivisions which:

- a. Create six or more separate parcels of land;
- b. Subdivide a parcel greater than six acres; or
- c. Involve the dedication of public rights-of-way or construction of public improvements.

(2) *Minor subdivisions.* Minor subdivisions include all subdivisions which would create less than six separate parcels of land, which subdivide a parcel six acres or less size; and, which do not require or propose public right-of-way dedications or public improvements; but shall not include subdivisions which are administrative subdivisions.

(3) *Administrative subdivisions.* Administrative subdivisions are subdivisions which include dividing a parcel of land for a duplex, subdivisions for the purpose of correcting survey errors, and subdivisions which adjust lot lines by five feet or less and which do not change the number of lots. The manager shall have the authority to determine that an administrative subdivision application shall be processed as a minor subdivision where the character of the subdivision application or multiple applications presents issues which warrant review and approval by the Council. All administrative subdivisions are exempt from notice requirements outlined in section 10.16.020(4).

(4) *Homestead subdivision.* Homestead subdivisions are processed according to the minor subdivision procedures. Homestead subdivisions include all subdivisions which:

- a. Subdivide a parcel greater than six acres;
- b. Create three or fewer lots;
- c. Result in the preservation or creation of a "homestead" on the property; and
- d. Subdivides property that has not been previously subdivided as a homestead subdivision.

(c) *Review procedures.* Applications for a subdivision shall follow the general review procedures set forth in section 10.16.020. Applications for subdivision must be initiated by the owner of real property. The manager may combine sketch plan, preliminary plan and/or final plat review where the subdivision application can be

reviewed efficiently and effectively with a combined process. Where subdivision approval will be required to implement development in a proposed PUD, the applicant shall file a single preliminary plan incorporating the application requirements of both the PUD and subdivision preliminary plans. The provisions and procedures for public notice, hearing and review for a PUD as prescribed in this title shall apply to the application.

(d) *Review authority.* The review authority for a subdivision application shall be determined by the subdivision category.

- (1) *Major subdivision.* Major subdivisions shall be required to obtain approval for a sketch plan, preliminary plan and a final plat. The planning commission shall review a sketch plan and preliminary plan for a major subdivision application and shall provide a recommendation to the Council after conducting a public hearing. The Council shall render the final decision on a preliminary plan for a major subdivision application after conducting a public hearing. The Council shall review the final plat for major subdivision applications and render a final decision after conducting a public hearing. The preliminary plan and final plat for major subdivisions shall be approved by resolution or ordinance of the Council.
- (2) *Minor subdivision.* Minor subdivisions shall require final plat review and approval only where no public improvements are proposed; however, the review criteria for a preliminary plan shall apply to review of minor subdivision final plats in addition to the review criteria for a final plat.
- (3) *Administrative subdivisions.* Administrative subdivisions shall require final plat review and approval only; however, the review criteria for a preliminary plan shall apply to review of administrative subdivisions in addition to the review criteria for a final plat. The manager shall review and render decisions on administrative subdivisions. A decision of the manager may be appealed to the Council pursuant to section 10.16.190.

(e) *Sketch plan review criteria.* The reviewing authority will use the following review criteria as the basis for recommendations and decisions on applications for preliminary plan subdivision applications:

- (1) The land use mix within the project conforms to official zoning map and/or comprehensive plan future land use map and furthers the goals and policies of the comprehensive plan;
- (2) The sketch plan represents a functional system of land use and is consistent with the rationale and criteria set forth in this title and the comprehensive plan;
- (3) The utility and transportation design is adequate given existing and planned capacities of those systems;
- (4) Negative impacts on adjacent land uses have been identified and proposed mitigation is adequate; and
- (5) There is a need or desirability within the community for the applicant's development and the development will help achieve a balance of land use and/or housing types according to the comprehensive plan goals and purposes of this title.

(f) *Preliminary plan review criteria.* The reviewing authority will use the following review criteria as the basis for recommendations and decisions on applications for preliminary plan subdivision applications:

- (1) The preliminary plan is consistent with the approved sketch plan and incorporates the planning commission recommendations and conditions of approval;
- (2) The proposed subdivision shall comply with all applicable use, density, development and design standards set forth in this title that have not otherwise been modified or waived pursuant to this chapter and that would affect or influence the layout of lots, blocks and streets and the proposed subdivision does not create lots or patterns of lots that will render compliance with such development and design standards difficult or infeasible;
- (3) The subdivision application shall comply with the purposes of this title;
- (4) The subdivision application and proposed land use mix shall be consistent with official zoning map, the comprehensive plan and other community planning documents;
- (5) The land shall be physically suitable for the proposed development or subdivision;
- (6) The proposed subdivision shall be compatible with surrounding land uses;

- (7) There are adequate public facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection and roads and will be conveniently located in relation to schools, police, fire protection and emergency medical services;
  - (8) The proposed utility and road extensions are consistent with the utility's service plan and are consistent with the comprehensive plan;
  - (9) The utility lines are sized to serve the ultimate population of the service area to avoid future land disruption to upgrade under-sized lines;
  - (10) The subdivision is compatible with the character of existing land uses in the area and shall not adversely affect the future development of the surrounding area;
  - (11) A proposed subdivision for an existing PUD shall be consistent with the relevant PUD master plan as reflected in the approval of that PUD;
  - (12) Appropriate utilities, including water, sewer, electric, gas and telephone utilities, shall provide a conditional capacity to serve letter for the proposed subdivision;
  - (13) That the general layout of lots, roads, driveways, utilities, drainage facilities and other services within the proposed subdivision shall be designed in a way that minimizes the amount of land disturbance, minimize inefficiencies in the development of services, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat and otherwise accomplishes the purposes of this title;
  - (14) Evidence that all areas of the proposed subdivision that may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the applicant and that the proposed use of these areas are compatible with such conditions or that adequate mitigation is proposed;
  - (15) The subdivision application addresses the responsibility for maintaining all roads, open spaces and other public and common facilities in the subdivision and that the town can afford any proposed responsibilities to be assumed by the town;
  - (16) Adverse impacts on adjacent or nearby land uses have been identified and appropriate and effective mitigation is proposed;
  - (17) If applicable, the declarations and owners' association are established in accordance with the law and are structured to provide adequate assurance that any site design standards required by this title or conditions of approval for the proposed subdivision will be maintained or performed in a manner which is enforceable by the town; and
  - (18) As applicable, the proposed phasing for development of the subdivision is rational in terms of available infrastructure capacity and financing.
- (g) *Final plat review criteria.* After approval of a preliminary plan, the applicant may submit an application for a final plat. The following criteria shall apply to review of a final plat subdivision application:
- (1) The town engineer shall compare the legal description of the subject property with the county records to determine that:
    - a. The property described contains all contiguous single ownership and does not create a new or remaining unrecognized parcel of less than 35 acres in size;
    - b. The lots and parcels have descriptions that both close and contain the area indicated; and
    - c. The plat is correct in accordance with surveying and platting standards of the state;
  - (2) The final plat conforms to the approved preliminary plan and incorporates all recommended changes, modifications and conditions attached to the approval of the preliminary plan;
  - (3) The final plat conforms to all preliminary plan criteria;
  - (4) The development will substantially comply with all sections of this title;
  - (5) The final plat complies with all applicable technical standards adopted by the town; and

- (6) Appropriate utilities shall provide an ability to serve letters, including, but not limited to, water, sewer, electric, gas and telecommunication facilities.
- (h) *Public improvements guarantee.* Guarantees for public improvements shall comply with section 10.24.290.
- (i) *Revocation.* An approval of a final plat is revoked pursuant to this section.
- (1) *Recording.* The applicant shall cause the final plat and restrictive covenants, if any, to be recorded within 90 days from the date of approval and acceptance of the Council. In the event that the plat is not recorded, the approval of the Council shall be deemed to be void and such plat shall not thereafter be recorded, unless and until the mayor executes a written authorization for recording the final plat.
- (2) *Vacation.* The final plat approval shall include a determination of a reasonable time by which the project should be completed. All plats given final approval shall contain a notation indicating the date by which a project is expected to be completed, that shall be prima facie evidence of a reasonable time by which the project should have been completed. A plat or any portion thereof that has been finally approved by the Council and has been recorded shall be subject to vacation proceedings if the project that is the subject of the subdivision is not completed within the time set by the Council.
- (3) *Extension.* Extensions of the time limit for project completion may be obtained from the Council for good cause shown, upon request by the applicant or owner of the tract, if made before vacation proceedings are instituted.

(Code 1999, § 7.16.090; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.100. Site plan.**

This section sets forth procedures and criteria for the review and approval of site plans.

- (1) *Applicability.* The site plan is a prerequisite to obtaining a building permit for any building or structure. The site plan shows improvements on the lot, utilities, drainage, grading, access and other features required to demonstrate compliance with applicable design standards in this title and other applicable town regulations. site plans are defined as follows:
  - a. *Minor site plan.* Applications for any building, structure or improvement on a single-family home or duplex lot.
  - b. *Major site plan.* Applications for any building, structure or improvement for multifamily, commercial and industrial development.
- (2) *Review procedures.* Applications for a Minor site plan and Major site plan shall follow the general review procedures set forth in section 10.16.020. Minor site plans shall be reviewed administratively, and no public notice is required and no public hearing shall be held for a minor site plan. Major site plans shall be reviewed by the planning commission and shall include a visit to the property prior to the public hearing. Notice for Major site plan review shall include mailed, posted, and published notice.
- (3) *Review authority.* Minor site plan applications shall be reviewed administratively by the manager who shall issue a final decision on the application. Major site plan applications shall be reviewed by the planning commission who shall issue a final decision on the application.
- (4) *Review criteria.* The following review criteria applies to review of site plans:
  - a. All required information is shown on the site plan;
  - b. The lot size and lot dimensions are consistent with the approved final plat;
  - c. No building, structures, or other improvements encroach or infringe upon any easements, including, but not limited to, access, utility and drainage easements;
  - d. The proposed site grading is consistent with the requirements of any applicable adopted storm drainage criteria or master drainage plans;
  - e. The density and dimensions of proposed improvements conform to the zone district standards or the approved PUD requirements; and

- f. An acceptable public improvements agreement is provided for any public improvements to be constructed by the applicant as a condition to site plan approval.
- (5) *Duration of approval.* An approved site plan shall be effective for a period of three years from the date of approval, unless otherwise stated on the approved site plan. Building permits shall not be issued based on site plans that have an approved date more than three years old. For multi-phased plans, building permits shall not be issued based on an approval date more than three years from the date of Phase I approval.
- (6) *Amendments to approved site plans.*
  - a. Amendments to minor site plans shall be processed and reviewed administratively.
  - b. Minor Amendments to Major site plans shall be processed administratively. Major amendments to major site plans shall be processed and reviewed according to the same procedures for a major site plan application. Minor amendments shall include changes that do not exceed ten percent of any measurable standard (such as building size, footprint, relocation of access points, parking, etc.) and which do not modify the use, character or density of an approved site plan. Any other amendments shall be considered major amendments.
- (7) *Appeals.* The final decision of the manager or planning commission may be appealed to the BOA.

(Code 1999, § 7.16.100; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.110. Historic site designation.**

This section sets forth procedures for designation of historic, architectural or cultural significance for preservation.

- (1) *Process for historic site designation.* Applications for historic site designation, include amendments to historic site designations, and revocation of historic site designation, shall follow the general review procedures set forth in section 10.16.020. Applications under section 10.16.120 may be made only by the owner of a property for which the application is submitted, except that the historic commission may apply for revocation of an historic site designation.
- (2) *Review authority.* The historic commission shall review applications under section 10.16.120 and provide a recommendation to the Council after conducting a public hearing. The Council shall review applications under section 10.16.120 and make a final decision after conducting a public hearing. Public hearing notice shall be by publication. Council shall act by adoption of a resolution to approve an historic sites designation, approve amendments to an historic site designation, or revoke an historic site designation. The Council resolution shall be recorded in the county clerk and recorder's office after adoption.
- (3) *Criteria for historic site designation.* To qualify for designation as an historic site the application must meet the following criteria:
  - a. The applicant must agree to the recording of a resolution in the county clerk and recorder's office which contains findings that serve as the basis for the historic site designation, contains requirements for prior notification to the town of any alteration of the historic site set forth in subsection (6) of this section, contains recommended standards for any alteration of the historic site, and contains disclosure of potential revocation of the historic site designation; and
  - b. The reviewing authority must determine that the site has historic significance due to one or more of the following factors:
    - 1. It has character, interest or value, as part of the historical development, heritage or culture of the community, state, or nation;
    - 2. Its location is a site of a significant historic event;
    - 3. Its identification with a person or persons who significantly contributed to the culture and development of the town;



4. Its exemplification of the cultural, economic, social, or historic heritage of the town;
  5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
  6. Its embodiment of distinguishing characteristics of an architectural type or specimen;
  7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the town;
  8. Its embodiment of the elements of architectural design, detail, materials, or craftsmanship that represent a significant architectural innovation;
  9. Its relationship to other distinctive areas that are eligible for preservation according to a plan based on an historic, cultural, or architectural motif; and
  10. Its unique location or singular physical characteristic represents an established familiar visual feature of a neighborhood or of the town.
- (4) *Amendments.* An historic site designation may be amended to add features or property to the site in accordance with the application procedures for a new application set forth in section 10.16.120.
- (5) *Alteration of a designated historic site.* All modifications to designated historic sites should be done in conformance with the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, as published by the U.S. Department of the Interior, National Park Service. Any modifications to a designated historic site which are not in conformance with such standards may result in revocation of the historic site designation.
- (6) *Notice of intent to alter designated historic site.* The historic site designation resolution shall include an agreement by the property owner that the owner shall provide written notice to the town clerk of the owner's intention to alter, demolish, move or remove the historic site and shall provide plans for such work at least 30 days prior to beginning such work. The clerk shall, upon receipt, forward the notification and plans to the historic commission for review. The historic commission shall review the plans and may advise the owner on the potential affect of the plans on the historic designation. Based on the proposed alteration, the historic commission may make a recommendation to the Council to amend or revoke the historic site designation.
- (7) *Revocation of historic site designation.* If the designated historic site is altered, then the Review Authority may consider action to revoke the historic site designation based on the following criteria:
- a. If any owner of a designated historic site fails to provide notification as required in this title, or if alterations to the site will significantly alter the historic character of the historic site;
  - b. If an owner of a designated historic site submits a written request to the town for revocation of an historic designation;
  - c. If the historic commission makes a recommendation for modification or revocation based on an owner's written intent to alter a designated historic site; or
  - d. If modifications are made to an historic site that are found by the historic commission to not be in accordance with the standards specified in this section.

(Code 1999, § 7.16.110; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.120. Location, character and extent.**

This section implements and sets forth procedures for the regulation of the location, character and extent of public facilities as provided by C.R.S. § 31-23-209, Legal Status of Official Plan, as amended. It is the intent of this section to conform to the provisions of C.R.S. § 31-23-209 to define the factors to be considered in the location, character and extent process and to prescribe procedures for the orderly consideration of location, character and extent applications in order to effectuate the purposes of the state statute.

- (1) *Applicability.* No road, park, public way, ground or space, no public building or structure and no major facility of a public utility shall be constructed or authorized, and no building permit for the same shall be

issued, in the town unless and until the proposed location, character and extent thereof has been submitted to and approved by the town. Routine extensions of public utility lines and minor modifications to existing facilities shall not be subject to this procedure.

- (2) *Review procedures.* Applications for location, character and extent shall follow the general review procedures set forth in section 10.16.020. Applications for location, character and extent may be initiated by the owner or the governmental body having jurisdiction over the public facility. Applications for location, character and extent may be combined with other application procedures and submittal requirements, including, but not limited to, development plan, design review and subdivision. The failure of the planning commission and Council to act within 60 days from and after the date of official submission of a complete application to the town shall be deemed approval of such application.
- (3) *Review authority.* The planning commission shall review applications for location, character and extent after conducting a public hearing. The planning commission may approve, approve with conditions or deny an application for location, character and extent. In case of disapproval or approval with conditions which are not acceptable to the applicant, the planning commission shall communicate its reasons to the Council. The Council shall review such decision of the planning commission as soon as practical after conducting a public hearing and shall have the power to overrule or modify such decision by a majority vote. The public hearing by Council shall only require posted notice three days prior to the hearing. If the public way, ground space, building, structure or utility is one the authorization or financing of which does not, under the law or charter provisions governing the same, fall within the province of the municipal governing body, the submission to the planning commission shall be by the governmental body having jurisdiction. The decision by the Council to disapprove or approve with conditions which are not acceptable to the governmental body having jurisdiction may be overruled by said governmental body by a vote of not less than two-thirds of its membership.
- (4) *Review criteria.* The planning commission and Council shall use the following review criteria as the basis for recommendations and decisions on applications for location, character and extent:
  - a. Evidence of substantial compliance with the purpose of this title;
  - b. Consistency with the comprehensive plan;
  - c. Physical suitability of the land for the public way, place, structure, facility or utility;
  - d. Compatibility with surrounding land uses; and
  - e. Adequate mitigation of adverse impact on nearby properties or neighborhoods, including, but not limited to, traffic, noise, odors, vibrations and property values.

(Code 1999, § 7.16.120; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.130. Wireless telecommunication services, facilities and equipment.**

(a) *Permitted zoning district.* Wireless telecommunication services facilities shall be permitted only in the industrial zoning districts (I-1 or I-2).

(b) *Use permitted by conditional review.* It is unlawful for any person to install or operate such a wireless telecommunication services facility unless a use by conditional review has first been approved by the Council as provided in this chapter. The approval of such use by conditional review does not relieve the operator from otherwise complying with all applicable regulatory requirements of the town, state and federal governments.

(c) *Review criteria.* The recommendation of the planning commission and the decision of the Council shall be based on whether the applicant has demonstrated that the proposed wireless telecommunication services facility meets the following standards:

- (1) The site plan, vicinity map, and narrative for the application all comply with the applicable standards in chapter 10.24;
- (2) When applicable, compliance with the setback and height requirements with the applicable standards in chapter 10.24;
- (3) When applicable, compliance with the accessory building requirements with the applicable standards in

chapter 10.24; and

- (4) When applicable, compliance with conditional mitigation co-location requirements as set forth below.

(d) *Conditional mitigation measures co-location.* The following considerations are additional review criteria:

- (1) The town encourages co-location of wireless telecommunication facilities to minimize the number of sites.
- (2) No wireless telecommunication facility owner or operator shall unfairly exclude a competitor from using the same facility or location. Unfair exclusion of use by a competitor may result in the revocation of the use by conditional review or site development plan.

(e) *Abandonment.* At the request of the town, the operator must furnish a statement to the town indicating the operational status of the facility. If the use has been discontinued, the date on which the facility was last used shall also be provided. Commercial mobile radio service facilities not used for a continuous period of six months shall be disassembled within 12 months of the last use.

(Code 1999, § 7.16.130; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.140. Appeal and variance.**

In order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this title as would result from strict or literal interpretation and enforcement, variances from certain regulations may be granted. A practical difficulty or unnecessary physical hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon; from topographic or physical conditions on the site or in the immediate vicinity; or from other physical limitations, street locations or traffic conditions in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance. It is not the intent of this section to allow variances in the classification of uses of property.

- (1) *Review procedures.* Applications for an appeal or variance shall follow the general review procedures set forth in section 10.16.020. Appeals and applications for variance may be initiated by the owner of property for which a variance is desired.
- (2) *Review authority.* The board of adjustments (BOA) shall review and render a decision on an appeal or application for a variance, including a minor variance, after conducting a public hearing. Notification of the public hearing shall be provided by mailing, publishing and posting. The decision of the BOA may be appealed to district court.
- (3) *Appeal procedures.* This section sets forth the procedures to appeal a decision of the manager which is made pursuant to this title. Only a final decision of the manager may be appealed. Recommendations to a decision-making authority are not subject to appeal.
  - a. An appeal may be submitted by an applicant for a development approval or by a Councilmember.
  - b. The appellant must provide a written request for appeal of a decision of the manager to the town clerk within ten days after the date of the decision. The appellant shall file the notice of appeal on a form provided by the town clerk and shall pay the adopted fee for the notice of appeal. Failure to file a complete and timely notice of appeal shall be considered a waiver of the appellant's rights to appeal to the BOA.
  - c. The BOA shall conduct a public hearing within 45 days of receipt of a written request for appeal.
  - d. Written notice of the public hearing date, time and location shall be mailed to the appellant via first-class U.S. mail at least five days prior to the public hearing, unless the appellant agrees to a shorter time frame and a different notification method.
- (4) *Appeal review criteria.* The BOA, in hearing an appeal from an interpretation of this title or decision of the manager, shall consider:
  - a. The technical meaning of the provision being appealed;

- b. Evidence of the manner in which the provision has been interpreted in the past;
- c. The positive or negative impact of the requested appeal on the achievement of stated town development goals and objectives and purposes of this title; and
- d. The intent of the provision in implementing the comprehensive plan.

In approving a requested interpretation, the board of adjustment shall provide a written record of its findings and the town staff shall use it to propose amendments that address future interpretation problems.

- (5) *Variance application limitations.* The BOA shall not grant a variance which:
  - a. Permits a land use not allowed in the zoning district in which the property is located;
  - b. Is in the public right-of-way or on a public property;
  - c. Alters any definition of this title;
  - d. Is other than the minimum variance that will afford relief with the least modification possible to the requirements of this title;
  - e. Is based on physical conditions or circumstances of the property so general or recurring in nature as to reasonably make practicable the formulation of a general regulation to be adopted as an amendment to this title (in which case the BOA will recommend a text amendment to this title);
  - f. Is based exclusively on findings of personal or financial hardship (convenience, profit or caprice shall not constitute undue hardship);
  - g. The variance will neither result in the extension of a nonconforming situation, use, building or lot, nor authorize the initiation of a nonconforming use of land, nor conflict with the goals and policies of the comprehensive plan.
- (6) *Variance review criteria and required findings.* The BOA shall make the following written findings before granting a variance:
  - a. That there are unique physical circumstances or conditions of the land such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical condition of the land particular to the affected property;
  - b. That because of these unique physical circumstances or conditions, the property cannot be reasonably developed or used in compliance with the provisions of this title;
  - c. That such unique physical circumstances or conditions are unique and unusual or nearly so, rather than one shared by many surrounding properties;
  - d. That due to such unique physical circumstances or conditions of the land, the strict application of the Code would create a demonstrated hardship;
  - e. That the demonstrable hardship is not self-imposed;
  - f. That the hardship or poor land use of which the applicant complains is one suffered by the applicant alone and not by neighbors or the general public;
  - g. That the variance, if granted, will not adversely affect the proposed development or use of adjacent property or neighborhood;
  - h. That the variance, if granted, will not change the character of the zoning district in which the property is located;
  - i. That the variance, if granted, is consistent with the purposes of this title;
  - j. That the variance, if granted in a floodplain or floodway, meets the requirements of floodplains and floodways of this Code and any other applicable law; and
  - k. That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of town.

- (7) *Minor variance.* A request may be made for the award of a minor variance to certain provisions of this title.
- a. *Applicability.* A minor variance is limited to the following situations:
    1. The location of fences or sheds (outbuildings) on a particular lot; and
    2. The construction of open or closed porch additions to residential properties. Porch additions designed as sleeping rooms (bedrooms) are specifically excluded from this category.

All requests, other than those listed above, must meet comply with the limitations and review criteria set forth in subsections (3) and (4) of this section.
  - b. *Review criteria.* Criteria for granting a minor variance shall include meeting all of the following conditions:
    1. The variance being requested meets the predominant setback line established on the basis of the average of existing front yard setbacks within the block frontage of the request, and the opposite block frontage;
    2. That the variance, if granted, will not adversely effect the proposed development or use of adjacent properties or the neighborhood; and
    3. That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of the town.
- (8) *Variance conditions.* A variance granted by the BOA may contain limitations as to time or disposition or use of the tract in question in order to ensure that the stated purpose of the variance request is realized.
- (9) *BOA review and action.* The following requirements apply to BOA review and decision of appeals and variance applications:
- a. The appellant, or the applicant for a variance, has the burden of proof to establish the necessary facts to warrant favorable action of the BOA.
  - b. The BOA shall have all the powers of the applicable town administrative official on the action appealed. The BOA may in whole or in part affirm, reverse or amend the decisions of the applicable town administrative official.
  - c. The BOA may impose reasonable conditions in its order to be complied with by the appellant in order to further the purposes and intent of this title.
  - d. The BOA may impose any reasonable conditions on the issuance of a variance and may amend the variance from that requested. A variance may be granted for indefinite duration or a specified period of time.
  - e. No single decision of the BOA sets a precedent. The decision of the BOA shall be made on the particular facts of each case.
  - f. Variances granted by the BOA shall be recorded with the county clerk and recorder at the expense of the applicant.
  - g. Any appeal of the decision of the BOA may be made to the district court as provided by law; provided, however, that such appeal must be made prior to 28 days following the date of the final action taken by the BOA, as provided by Rule 106, Colorado Rules of Civil Procedure.
- (10) *Action notice.* The manager shall notify the appellant or applicant for a variance in writing of the BOA's action within five days after a decision has been rendered.
- (11) *Expiration.* The variance approval expires if a building permit is not obtained within one year of the approval.

(Code 1999, § 7.16.140; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.16.150. Alternative design.**

Alternative design is a procedure that allows development to meet the intent of the design-related provisions of this chapter through an alternative design. It is not a general waiver or weakening of regulations; rather, this application procedure permits a site-specific plan that is equal to or better than the strict application of a design standard in chapter 10.24. This procedure is not intended as a substitute for a variance or administrative modification or a vehicle for relief from standards in this title. Alternative design shall apply only to the specific site for which it is requested and does not establish a precedent for ensured approval of other requests.

- (1) *Applicability.* The alternative design procedure shall be available for any design, development or engineering standard set forth in chapter 10.24.
- (2) *Review procedures.* Applications for alternative equivalent compliance shall be processed concurrently with the underlying development application for which alternative design with the applicable design standards is desired and shall follow the procedures for such underlying development application. Applications for alternative design may be initiated by the owner of property for which alternative design is desired.
- (3) *Review authority.* The review authority shall be the review authority as set forth for the underlying development application. The planning commission shall review all alternative design applications that have a concurrent minor development plan application.
- (4) *Review criteria.* The review authority shall use the following review criteria as the basis for a decision on an application for alternative design:
  - a. The proposed alternative achieves the intent of the subject design or development standard to the same or better degree than the subject standard;
  - b. The proposed alternative achieves the goals and policies of the comprehensive plan to the same or better degree than the subject standard;
  - c. The proposed alternative results in benefits to the community that are equivalent to or better than compliance with the subject standard; and
  - d. The proposed alternative imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this title.
- (5) *Conditions.* The reviewing authority may recommend or impose conditions on an approval for alternative design provided that such conditions are related to ensuring the performance of the alternative design to meet or exceed the subject standard. Such conditions may include performance guarantees, required timeframes or the ability to revoke an approval for alternative design.
- (6) *Effect of approval.* Alternative design shall apply only to the specific site for which it is requested and shall not establish a precedent for approval of other requests.

(Code 1999, § 7.16.150; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.16.160. Right-of-way vacation.**

The purpose of this section is to provide procedures and standards for the vacation of rights-of-way in the town. The procedures and authority set forth in C.R.S. § 43-2-301 et seq. shall apply unless in conflict with any specific provision set forth in this section. The vacation of public easements are also considered rights-of-way in this section.

- (1) *Definitions incorporated.* The definitions set forth in C.R.S. § 43-2-301, are incorporated in this section.
- (2) *Review procedures.* Applications for the vacation of a right-of-way shall follow the general review procedures set forth in section 10.16.020. Applications for vacation of a right-of-way may be initiated by the Council or by a property owner abutting the right-of-way proposed for vacation. Applications to move or alter a right-of-way shall be processed as a subdivision application concurrently with a right-of-way vacation application, in which case the ordinance approving the vacation of a right-of-way or portion thereof shall also approve a final plat which results in the dedication of the moved or altered right-of-way or portion thereof. Public easement vacations can be processed as part of a major or minor

subdivision application.

- (3) *Review authority.* The Council shall review and render the final decision on an application to vacate a right-of-way after conducting a public hearing. Vacation of a right-of-way shall be approved by ordinance of the Council.
- (4) *Review criteria.* The Council shall use the following review criteria as the basis for a decision on an application to vacate a right-of-way:
  - a. No right-of-way shall be vacated so as to leave any land adjoining the vacated right-of-way without an established public road or private-access easement connecting said land with another established public road;
  - b. The right-of-way is determined to be platted on terrain which is not practical for the construction of a right-of-way due to terrain, topography, natural features or other constraints and the right-of-way does not provide any other potential benefit to the public, including, but not limited to, utility connections, pedestrian or recreation connections, drainage or public landscaping;
  - c. Sufficient easements for utilities, access or other purposes are retained;
  - d. Compensation may be required for the area of vacated right-of-way based upon the fair market value per square foot of the area vacated and the applied zoning; and
  - e. The vacated area of right-of-way shall be included in the same zone district as the abutting property to which the vacated right-of-way vests.
- (5) *Recording, deed.* The ordinance vacating a right-of-way shall be recorded in the office of the county clerk and recorder. The ordinance shall authorize the mayor or other designee to execute a quit claim deed on behalf of the town, which quit claim deed shall reference any exceptions, easements or reservations of the vacation and shall be recorded in the office of the county clerk and recorder.

(Code 1999, § 7.16.160; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.170. Annexation.**

(a) *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 (Act), as amended. This chapter, in part, provides supplemental requirements for annexation pursuant to the Act, and is not to be construed as altering, modifying, eliminating or replacing any requirement set forth in that Act, or any requirements set forth in other portions of the town code. In the event of a conflict between the Act, the provisions of this article or any requirements set forth in other portions of the Town Code, it is the expressed intent of the Council that the more stringent provision shall control.

(b) *Statement of policy and review criteria.* It shall be the general policy of the town with respect to annexations, the annexation application, and the consideration of annexation petitions that:

- (1) Annexation is a discretionary act. With the exception of a petition initiated by the town for the annexation of an enclave, the Council shall exercise its sole discretion in the annexation of territory to the town.
- (2) The land to be annexed and the uses proposed for the land shall conform to the goals, policies and strategies of the comprehensive plan and to the land uses depicted on the proposed land use map, as amended.
- (3) Certain public facilities and amenities are necessary and must be constructed as part of any territory annexed to the town in order that the public needs may be served by such facilities. These facilities include, but not by way of limitation, arterial streets, bridges, public parks and recreation areas, water and sanitary sewer facilities, school sites, fire and police station sites, and storm drainage facilities. The annexation of lands to the town shall be shown not to create any additional cost or burden on the then-existing residents of the town to provide such public facilities in any newly annexed area.
- (4) The petitioner for annexation shall be responsible for paying the town's full cost for processing the annexation applications and petition, from initial discussion with town staff before submittal of the petition, through the approval and recording of the final annexation documents.

- (5) Annexed areas will not divide tracts of land to prevent further annexation of adjoining parcels. (For example, leaving a gap or a strip of land between property to be annexed and the adjoining property.)
- (6) All subsurface (non-tributary) water rights shall be deeded to the town at the time of annexation.
- (7) The property owner shall have complied with the annexation application requirements of this article prior to submitting an annexation petition.
- (c) *Procedure.* Annexation applications shall be processed and considered as follows:
  - (1) *Step 1, annexation pre-application conference.* The application process begins with a pre-application conference with town staff to determine the feasibility of the annexation request. Following this informal meeting, the applicant may submit a letter of intent requesting annexation, the annexation application as described in this article, the completed annexation application form, maps and supporting documents.
  - (2) *Step 2, town evaluation of annexation application.* Town staff shall analyze the feasibility of annexing the proposed property, including, but not limited to, the ability to serve with streets, water, sanitary sewer, storm sewer, parks and recreation, schools, police and fire protection; compliance with the comprehensive plan; sources of revenue from the property; the town's costs to serve the proposed development; and any other related matters.
  - (3) *Step 3, annexation agreement.* The town staff and the property owner shall negotiate an annexation agreement addressing the items of concern in the staff evaluation and other applicable requirements of this title. The draft agreement acceptable to the property owner shall accompany any annexation petition filed with the town.
- (d) *Annexation petition.* Annexation petitions shall be processed and considered as follows:
  - (1) *Step 1, annexation petition certification and completion.* The petition for annexation or petition for election, annexation agreement, proposed annexation impact report, and all other documents submitted shall be reviewed by staff for completeness and compliance with the provisions of the Act and the Town Code. The applicant shall be notified within a reasonable time of any deficiencies or inadequacies in the materials submitted. An incomplete submission shall not be processed, nor referred to the Council for a determination of substantial compliance.
  - (2) *Step 2, annexation petition referral to board.* Upon staff's determination that the petition and supporting documentation are complete and in compliance with provisions of the Act, and the Town Code, the town clerk shall refer the petition to the Council.
  - (3) *Step 3, board determination of substantial compliance.* The Council shall take the appropriate steps to determine if the petition is in substantial compliance with the Act.
    - a. If the petition is found to be in substantial compliance with the Act, the Council may, by the adoption of a resolution of substantial compliance, set the annexation (and zoning if requested) for public hearing on a specified date, time, and place, not less than 30 days nor more than 60 days from the effective date of the resolution, subject to compliance with C.R.S. § 31-12-108.
    - b. If the petition is found to not be in compliance with the Act, no further action shall be taken, except that the determination shall be made by resolution adopted by the Council.
  - (4) *Step 4, planning commission review and recommendations.* The planning commission shall consider the petition for annexation at a regular or special meeting to be held prior to the date of the public hearing before the Council. If zoning of the property is requested at the time of annexation, the planning commission shall hold a public hearing on the zoning of the property at the same meeting. Notice of the public hearing on zoning shall be given in accordance with the requirements for an amendment to the zoning map. The planning commission, upon the conclusion of the meeting at which they consider the petition, shall recommend approval of the petition for annexation with or without conditions, or recommend denial. If zoning of the property is requested at the time of annexation, the planning commission shall recommend to the Council approval with or without conditions or recommend denial of the requested zoning.
- (5) *Step 5, council public hearing and action on the annexation.*



- a. The Council shall hold the public hearing on the petition for annexation, and zoning, if requested in conjunction with the annexation. The petitioners shall present evidence in support of the petition and zoning if applicable. Town staff shall testify as to the elements required by statute to be present for annexation and any comments received from governmental entities affected by the annexation. Any person may appear at the hearing and present evidence on any matter related to the annexation petition as determined by the Council. The Council may continue the hearing to another date without additional notice as provided by applicable law. At the conclusion of the public hearing, the Council shall adopt a resolution containing the findings of fact and conclusions, including:
  1. Whether or not the requirements of C.R.S. §§ 31-12-104 and 31-12-105 and this article have been met;
  2. Whether or not the annexation agreement is acceptable to the town;
  3. Whether or not additional terms and conditions are to be imposed; and
  4. Whether or not an election is required, either as result of a petition for election or the imposition of additional terms and conditions.
- b. If the Council finds that the area proposed for annexation does not comply with the requirements of C.R.S. §§ 31-12-104 and 31-12-105, the annexation proceeding will be terminated.
- c. If the Council finds the following:
  1. The annexation is in compliance with the requirements of C.R.S. §§ 31-12-104 and 31-12-105;
  2. That an election is not required under C.R.S. § 31-12-107(2);
  3. No additional terms and conditions are to be imposed;

Council may annex the land by ordinance without election and approve the annexation agreement. The zoning of the property, if requested with annexation, shall be approved by separate ordinance. If the Council, in its sole discretion, finds that the annexation is not in the best interest of the town, it may deny the petition by resolution.

(e) *Post approval actions.*

- (1) After final passage of the annexation ordinance, the applicant shall file with the town final versions of all applicable documents including two mylars of the annexation map.
- (2) In the event that zoning was requested with the annexation, zoning shall be granted by ordinance and the official zoning map shall be amended accordingly. In the event that zoning was not requested with annexation, the town shall bring the area annexed under the zoning ordinance and map within 90 days after the effective date of the annexation ordinance in the manner provided by this Code. In the event that the property owner does not request and process it's zoning request within such 90-day period, the zoning of the annexed property shall be deemed to be open district as defined in this Code.

(f) *Public hearing notice section.*

- (1) Notice of the public hearing for annexation set by the resolution of substantial compliance shall be published and given to the county and to any special district or school district having territory within the area to be annexed in accordance with state law.
- (2) A copy of the published notice, together with the letter of intent provided with the application, the annexation map and the concept plan for the development of the property shall be sent by the town by certified mail, return receipt requested, to the owners of real property within 150 feet of the boundaries of the proposed annexation, irrigation ditch companies whose rights-of-way traverse the property to be annexed and to the mineral estate owners and their lessees of the property to be annexed. Notice provided by the town to the owners of the minerals estate and their lessees shall not relieve the petitioner from the responsibility of providing notice as required by C.R.S. § 24-65.5-101 et seq. In the case of a flagpole annexation, the town shall also provide notice to abutting property owners as specified in C.R.S. § 31-12-105 as amended.

- (3) Petitioner's responsibilities; mailing labels, notice to mineral estate owners and lessees.
- a. The petitioner shall provide the town with a set of mailing labels (matching Avery 8160) containing the owners of real property within 150 feet of the property to be annexed, the mineral interest owners and lessees for the property to be annexed, the irrigation ditch companies whose rights-of-way traverse the property to be annexed and the special districts encompassing the property to be annexed. The petitioner shall also certify that the required address list of owners of real property is complete.
  - b. The petitioner shall provide a set of mailing labels (matching Avery 8160) for all special districts encompassing the property to be annexed, the board of county commissioners and the county attorney, special districts and school districts with territory within the property to be annexed, and referral agencies of the town, as directed by the town. The petitioner shall also provide a sufficient number of labels to mail notice to the owners of real property and mineral interest owners and lessees identified in the mailing list.
  - c. The petitioner shall be responsible for providing notice of each public hearing (planning commission and/or Council) to the owners of the mineral estate on the property to be annexed, and to their lessees, as required by C.R.S. § 24-65.5-101 et seq. The petitioner shall certify to the town clerk not less than ten days prior to the date of the public hearing, the petitioner's conformance with this notice requirement.

(Code 1999, § 7.16.170; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.180. Vested property right.**

The purpose of this section is to provide procedures necessary to implement the provisions of C.R.S. § 24-68-101 et seq. ~~Article 68 of Title 24, C.R.S.~~, as amended.

- (1) *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:

*Community planning document* means the comprehensive plan, any other planning documents adopted by the town through a public hearing process and any planning document adopted by other governmental and quasi-governmental entities that provide public services or facilities to the town or which include the town within their service or planning boundaries.

*Site-specific development plan* means a planned unit development plan or any amendment thereto, approved pursuant to section 10.16.060, together with a development agreement approved pursuant to section 10.16.140 site-specific development plan that creates vested property rights may also include other development approvals if approved at the discretion of the Council upon request by a property owner; however, such request shall not result in an application for a development approval other than a planned unit development plan to be treated as a site-specific development plan for the purposes of C.R.S. § 24-68-102.5(1).

*Vested property right* means the right to undertake and complete the development and use of property under the express terms and conditions of a site-specific development plan.

- (2) *Vested property right created.*

- a. A vested property right shall be deemed to have been created only upon the approval of a site-specific development plan in accordance with this chapter.
- b. A vested property right shall only be created if approved by ordinance which may be combined with an ordinance approving a site-specific development plan and an accompanying development agreement. Amendments to any site-specific development plan shall be subject to this chapter and shall have a new vested property right as determined by the Council. Any approval of a site-specific development plan or amendment to an existing site-specific development plan that creates vested property rights shall be adopted by ordinance as a legislative act and shall be subject to referendum. When creating a vested property right, Council may expressly exempt, in whole or in part, administrative amendments to site-specific development plans from additional review and approval by Council under this chapter.

- c. The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and which are applicable to all properties or a similarly situated class of properties subject to land use regulation by the town, including, but not limited to, the regulations contained in title 6 of this Code, regulations concerning subdivision improvements and right-of-way dedications and regulations establishing requirements and specifications for any public infrastructure or public facility improvements. Ordinances or regulations which are general in nature and which are applicable to all properties or a similarly situated class of properties subject to land use regulation by the town shall not be deemed to alter, impair, prevent, diminish, impose a moratorium on development or otherwise delay the development or use of a property with vested property rights regardless of the financial impact of such ordinance or regulation.
  - d. The establishment of a vested property right shall not preclude the application of any legislatively adopted fees which are general in nature, uniform in character and applicable to all properties or a similarly situated class of properties.
- (3) *Notice and hearing.* No site-specific development plan shall be approved until after providing notice and conducting public hearings in compliance with section 10.16.020(4).
- (4) *Notice of approval.*
- a. Each map, plat, site plan or other document constituting a site-specific development plan shall contain the following language:
    - 1. Approval of this plan constitutes a vested property right pursuant to C.R.S. § 24-68-101 et seq. ~~Article 68 of Title 24, C.R.S.~~, as amended, and chapter 10.16, as amended.
  - b. The failure of the document constituting a site-specific development plan to contain the language specified in subsection (4)a.1 of this section shall invalidate and void the creation of the vested property right. A notice stating that a vested property right has been created shall be published once by the town in a newspaper of general circulation in the town not more than 14 days after final adoption of the ordinance approving the site-specific development plan. The notice shall include the following information:
    - 1. A statement advising the public of the site-specific development plan approval, including the name of the project, the type and intensity of the use approved and the specific property or development parcels affected;
    - 2. A statement that a vested property right has been created in accordance with C.R.S. § 24-68-101 et seq. ~~Article 68 of Title 24, C.R.S.~~, and chapter 10.16, including the duration of the vested property right; and
    - 3. A statement that the citizen's rights of referendum shall run from the date of publication.
- (5) *Duration of vested right.*
- a. A property right vested pursuant to this chapter after June 1, 2006, shall remain vested for a period of three years. The Council may approve a period of vested property rights exceeding three years by approval of a development agreement, which shall be part of the site-specific development plan.
  - b. The guidelines in this subsection shall be considered when determining whether to grant vested property rights for a period greater than three years, provided that site-specific development plans that are granted vested property rights for a period greater than three years because of the size, phasing or absorption rate of such site-specific development plan should have separate vesting created for the various phases of the development, as set forth in this subsection. It shall be the burden of the applicant to propose appropriate reasons for granting a vested property right that is greater than three years.
    - 1. The size and phasing of the development, specifically, but not limited to, whether the development can be reasonably completed within the vested rights period;
    - 2. Economic cycles and specifically but not limited to resort community economic cycles, regional and state economic cycles and national economic cycles;

3. Market conditions and specifically but not limited to absorption rates for leasing and sales of similar development projects;
  4. Compliance with the comprehensive plan and other community planning documents;
  5. Proposed public amenities and benefits that enhance the project and the overall attractiveness of the community, including the degree to which such public amenities and benefits are defined in terms of design, timeframe and phasing with development;
  6. Projected public financial benefits or costs estimated to be caused by the development project, including the timeframe for realization by the town or other public entities and potential costs for operation and maintenance of any new public amenities or infrastructure dedicated to the town or other public entities;
  7. The breadth and scope of the requested vested property right, including, but not limited to, the extent to which such vested property right restricts the town's ability to apply future legislatively adopted fees and regulations for the purpose of providing public infrastructure, public services and public facilities and for the purpose of meeting evolving community needs;
  8. The terms of any existing site-specific development plans with development agreements for the applicant's property that specify the duration of vested property rights;
  9. Any proposed modifications to previously approved vested property rights to address changed conditions within the community, compliance with the comprehensive plan and other community planning documents or performance of previously approved site-specific development plans; and
  10. Any other factors deemed relevant by the Council when determining to grant a vested property right for a period greater than three years.
- c. The town may approve a site-specific development plan subject to such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare of the community.
  - d. Any site-specific development plan for a multiple-phase development approved after November 16, 2017, may have separate vesting created for each phase. The vesting for any subsequent phase may be contingent upon completion of the preceding phase and review by the Council. Such review shall include, but not be limited to, whether the landowner, developer, successors or assigns are in compliance with its obligations to the town, including, but not limited to, the terms and conditions of a site-specific development plan, a development agreement and any other agreements between the landowner, developer, successor and assigns and the town, as they may have been amended from time to time.
- (6) *Disclosure of previously granted vested property rights and hazards.*
- a. Any petition for annexation to the town shall describe all vested property rights approved by any local government in effect at the time of the petition, if any, and shall be accompanied by all site-specific development plans approved by any local government. Failure to so identify any previously approved vested property right and provide all approved site-specific development plans shall constitute a waiver of the vested rights created by any other local government upon annexation to the town unless specifically provided otherwise in the ordinance of annexation adopted by the town.
  - b. The applicant shall be required to include with any plans submitted for approval as a site-specific development plan notice of any natural or manmade hazards on or in the immediate vicinity of the subject property which are known to the applicant or could reasonably be discovered at the time of submission of the plan. Should a hazard on, or in the immediate vicinity of, the property be discovered subsequent to the approval of a site-specific development plan which would impose a serious threat to the public health, safety and welfare and is not corrected by the applicant, the vested property right created by such site-specific development plan shall be forfeited by the applicant.

- (7) *Extension of vested property rights.* A landowner may request an extension of vested property rights by submitting an application for extension of vested property rights at least six months prior to the expiration of the vested property rights. No application for extension of a vested property right shall be approved until after providing notice and conducting public hearings in compliance with section 10.16.020(5). The guidelines in subsection (5)b of this section shall be considered when determining whether to grant an extension to a vested property right. An extension of a vested property right shall be approved by ordinance. The notice of approval provisions in subsection (4)a of this section shall apply to any approval for extension of vested property rights.
- (8) *Forfeiture of vested property rights.*
- a. Failure to abide by the terms and conditions of a vested property right will result in a forfeiture of the vested property rights in accordance with the procedures set forth herein.
  - b. The process to consider forfeiture of vested property rights shall be initiated by passage of a resolution by the Council stating the grounds therefor.
  - c. No vested property right shall be deemed forfeited until after providing notice and conducting a public hearing. Notice shall be provided by publishing notice in a newspaper of general circulation, posting notice in the designated official places of posting and mailing notice to the property owner sent to the address of record according to the county assessor's records via first class United States mail at least 30 days prior to the date of a hearing. A copy of the resolution initiating the process to consider forfeiture of the vested property right shall be included with the mailed notice to the property owner.
  - d. At the hearing, the Council shall consider all evidence and testimony presented concerning any failure to abide by the terms and conditions of a vested property right. The Council may continue the public hearing to allow additional evidence to be gathered and presented.
  - e. If the Council finds a failure to abide by the terms and conditions of the vested property right, the Council may take action by ordinance to declare the vested property rights forfeited. The forfeiture of a vested property right shall have no effect upon public streets, alleys, rights-of-way or other lands or easements previously dedicated or conveyed to the town or other public entities pursuant to the terms of a site-specific development plan. Upon forfeiture of vested property rights, the site-specific development plan shall be subject to all zoning, land use and general regulations in effect at the time of forfeiture and as such may be amended from time to time thereafter.

(Code 1999, § 7.16.180; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.16.190. Appeal.**

This section sets forth the procedures to appeal the decision of the manager or planning commission, where such appeal right to Council is identified in table 10.16-1 or elsewhere in this title.

- (1) *Review procedures.* Applications for an appeal shall follow the general review procedures set forth in section 10.16.020. Appeals may be initiated by the owner of property.
- (2) *Review authority.* The Council shall review and render a decision on an appeal after conducting a public hearing. Notification of the public hearing shall be provided by mailing, publishing and posting. The decision of the Council may be appealed to district court.
- (3) *Appeal procedures.* Only a final decision of the manager or planning commission may be appealed. Recommendations to a decision-making authority are not subject to appeal.
  - a. An appeal may be submitted by an applicant for a development approval or by a Councilmember.
  - b. The appellant must provide a written request for appeal of a decision of the manager to the town clerk within ten days after the date of the decision. The appellant shall file the notice of appeal on a form provided by the town clerk and shall pay the adopted fee for the notice of appeal. Failure to file a complete and timely notice of appeal shall be considered a waiver of the appellant's rights to appeal to the BOA.

- c. The Council shall conduct a public hearing within 45 days of receipt of a written request for appeal.
  - d. Written notice of the public hearing date, time and location shall be mailed to the appellant via first class U.S. mail at least five days prior to the public hearing, unless the appellant agrees to a shorter timeframe and a different notification method.
- (4) *Appeal review criteria.* The Council shall use the applicable review criteria to the decision that is appealed. The Council shall review decisions de novo.
  - (5) *Council decision final.* A decision of the Council is final. An aggrieved person may appeal a decision of the Council to the district court or to another state or federal court of competent jurisdiction.
  - (6) *Decision.* The Council shall, in writing, confirm, modify or reverse the decision within 35 days of holding the public hearing on the appeal. Any decision by the Council that results in action modifying or reversing the decision of a town body or officer shall describe the specific reasons for the modification or reversal. Action of the Council shall become final immediately. Failure of the Council to act within the 40 additional days shall be deemed action confirming the decision unless the applicant consents to an additional time extension.

(Code 1999, § 7.16.190; Ord. No. 679, § 2(exh. A), 11-16-2017)

## **CHAPTER 10.20. ZONE DISTRICTS AND OFFICIAL ZONING MAP**

### **Sec. 10.20.010. Chapter purpose.**

This chapter establishes the zoning districts and contains basic information pertaining to the districts, including statements of purpose and dimensional standards. ~~Chapter 7.24, Use Regulations.~~ This chapter identifies the uses allowed within the districts. Chapter 10.24 contains the site layout and building design standards that apply to development in the districts.

(Code 1999, § 7.20.010; Ord. No. 679, § 2(exh. A), 11-16-2017)

### **Sec. 10.20.020. Zoning districts established.**

In order to carry out the provisions of this title, the town is divided into the following zoning districts:

- (1) O Open District.
- (2) AO Airport Overlay District.
- (3) RLD Residential Low Density District.
- (4) RHD Residential High Density District.
- (5) MHR Mobile Home Residential District.
- (6) CBD Central Business District.
- (7) C Commercial District.
- (8) I-1 Light Industrial District.
- (9) I-2 Industrial District.

(Code 1999, § 7.20.020; Ord. No. 679, § 2(exh. A), 11-16-2017)

### **Sec. 10.20.030. Official zoning map.**

(a) The location and boundaries of the zoning districts established in section 10.20.020 are set forth on the zoning district map of the town. The official zoning map, along with all of the notations, references and other information shown on the map, is incorporated in and made part of this title.

(b) If changes are made in district boundaries or other items portrayed on the official zoning district map in accordance with the procedures established in this Code, the changes shall be entered on the map.

(c) A copy of the official zoning map shall be available and on display at the town hall during normal business hours. In addition, one copy of the official zoning map, and all prior official zoning maps that have been adopted, shall be held in a secure place by the town clerk, who shall act as custodian thereof, and the maps shall not

be amended, changed, updated or otherwise modified or let out of direct control of the town for any reason whatsoever. The secured map is to be released for inspection only upon authorization of the town clerk.

(Code 1999, § 7.20.030; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.20.040. Zoning map interpretation.**

When there is any uncertainty, contradiction or conflict about the intended location of any zoning district boundary on the zoning map, the manager shall provide an interpretation of the map or refer the request to the planning commission. The manager and planning commission, in interpreting the map or deciding any appeal, shall apply the following standards:

- (1) The zoning district boundary lines are intended to follow lot lines, subdivision lines, incorporation lines or centerlines of rights-of-way.
- (2) Where zoning district boundary lines approximately follow lot lines, subdivision lines or incorporation lines, such lines shall be construed to be the boundary lines.
- (3) Where the zone district cannot be determined from the map, it shall be determined from the comprehensive plan and surrounding properties, subject to rezoning according to the provisions of this title.

(Code 1999, § 7.20.040; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.20.050. General application of uses.**

Uses designated as permitted uses are allowed in a zone district as a matter of right. Uses classified as conditional uses are permitted upon the Council's approval of a conditional use permit. Unless a use is designated as a permitted use or conditional use or is classified as a legal nonconforming structure or use, it is not permitted. Land uses not otherwise identified in this title may be proposed for development. In order to provide for such uses, the classification of any new or unlisted land use shall be made by the town to determine if the use can be reasonably interpreted to fit into a similar use category described in this title. Unless such determination is made, the use is not permitted.

(Code 1999, § 7.20.050; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.20.060. O Open District.**

(a) *Intent.* The intent of this district is to define and preserve the town's agricultural heritage; and to provide for larger public uses such as parks, open spaces, schools and the county fairgrounds. This district is not intended for residential development. The owner of any property in the O Open District may at any time petition to rezone the property consistent with the rezoning procedures of this article.

(b) *Principal uses.* Permitted principal uses in the O district shall be as follows:

- (1) Accessory buildings and accessory uses;
- (2) Accessory dwelling when associated with a permitted use;
- (3) Ranching, farming and general agriculture, except feed lots and animal sale barns;
- (4) Parks and outdoor recreation facilities;
- (5) Public and semipublic uses except as enumerated in conditional uses below;
- (6) Operation of the county fair and all uses generally and historically consistent therewith, including, but not limited to, livestock showing; judging and sale; rodeos; food; beverage; farm products and clothing display and judging; and the sale of food and beverages;
- (7) Accessory buildings and uses customarily incident to the uses permitted by right in this district;
- (8) Cultivation, storage and sale of crops, vegetables, plants, flowers, and nursery stock produced on the premises;
- (9) Farming, including, but not limited to, gardening, horticulture, fruit growing, growing of vegetables, trees, shrubs, plants, turf and sod;

- (10) Golf courses;
- (11) Home occupations;
- (12) Open air farmers' markets;
- (13) Plant nurseries and greenhouses;
- (14) Single-family detached dwellings;
- (15) Structures for storage of agricultural products produced on the premises.
- (c) *Conditional uses; general.* Permitted conditional uses in the O district shall be as follows:
  - (1) Cemeteries and mausoleums;
  - (2) Electric substations and gas regulator stations;
  - (3) Fire stations and police stations;
  - (4) Water reservoirs, water storage tanks, water pumping stations, and sewer lift stations;
  - (5) Commercial outdoor recreation facilities;
  - (6) Commercial and public parking lots;
  - (7) Hospitals and sanitariums, penal or mental institutions, nursing homes and senior care facilities;
  - (8) Childcare center;
  - (9) Gas, oil and other hydrocarbon well drilling and production (as permitted by the state and this title);
  - (10) Public and private schools for elementary, intermediate and high school education;
  - (11) Public facilities provided that business offices and repair and storage facilities are not included;
  - (12) Resource extraction, processes and sales establishments;
  - (13) Small animal boarding (kennels);
  - (14) Large animal boarding (riding stables).
- (d) *Table of uses for county fairgrounds.*

<i>Event</i>	<i>Use-By-Right</i>	<i>Routt County Fair, Use-by-Right<sup>1</sup></i>	<i>Special Event Permit from Council</i>	<i>Administrative Approval by Manager and With Appropriate License</i>	<i>Limitation on Hours<sup>2</sup></i>
4-H/FFA awards banquet	X				
Carnival		X	X		X
Circus		X	X		X
Outdoor concerts		X	X		X
Equestrian events	X <sup>3</sup>		X <sup>3</sup>		X
Snowmobile races			X		X
Demolition derbies			X		X
Motocross events			X		X
Motorized shows		X	X		X
Trade shows		X	X		
Horse racing		X	X		



Tractor pulls		X	X		X
Camping <sup>4</sup>	X		X <sup>4</sup>	X <sup>6</sup>	
Livestock housing	X				
Archery and shooting sports		X <sup>5</sup>	X	X <sup>6</sup>	X
Dances	X				
Dances with alcohol sales				X <sup>6</sup>	
Wedding receptions	X				X <sup>2</sup>
Wedding				X <sup>6</sup>	
Receptions with alcohol sales					
Funeral dinners	X				
Private parties	X				X <sup>2</sup>
Private parties with alcohol sales				X <sup>6</sup>	
Livestock sales	X <sup>3</sup>				
Tool sales				X <sup>6</sup>	
Automobile sales				X <sup>6</sup>	
Auctions, excluding livestock (indoor and outdoor)				X <sup>6</sup>	
Seminars	X <sup>3</sup>				
Public meetings	X <sup>3</sup>				
Workshops	X <sup>3</sup>				
Livestock competitions	X <sup>3</sup>	X			

<sup>1</sup> These are a use by right for the county fair only. If the item is not fair related, please refer to the other designated use.

<sup>2</sup> Hours are limited to 9:00 p.m. on weeknights and 11:00 p.m. on weekends. Any event not ending by the specified time would have to obtain a special event permit from the Council.

<sup>3</sup> Use-by-right for events with fewer than 250 participants (combination of people and livestock). Events not qualifying would require a special event permit from the Council.

<sup>4</sup> Limited to 20 sites other than during the county fair and 14 consecutive days unless a special event permit is issued.

<sup>5</sup> Use-by-right for 4-H/FFA events with fewer than 250 participants (combination of people and livestock). Events not qualifying would require a special event permit from the Council.

<sup>6</sup> Manager reserves the right to refer special event requests to Council for approval; denial of special events requests may be appealed to Council.

(e) *Conditional uses; rock crushers.* Rock crushers, concrete and asphalt mixing plants, sand and gravel pits or any other such excavation or surface mining shall be allowed, provided they meet the following requirements:

- (1) When the application is filed, the applicant shall provide a plan showing the land proposed for excavation. This plan shall show the contours of the land on at least two-foot contour intervals, any

improvements thereon and to a distance of 300 feet in all directions from the subject. The commission may set out additional conditions under which these operations may be permitted and those conditions may vary by location.

- (2) Concurrent with the above, the applicant shall also provide a plan showing the contemplated changed condition of the land due to the excavation. This plan must include the contemplated re-use of the land, what restoration or curing of the land is planned and the contours on at least two-foot intervals.
- (3) No excavation or processing of excavated materials shall be permitted nearer than 30 feet to the boundary of adjacent property nor nearer than 125 feet to any existing residence unless, by written agreement, the owner of such adjacent property consent to a lesser distance and the Council approves such lesser distance. The Council may set a greater distance than mentioned above when, in their opinion, its justified.
- (4) The commission shall specify the degree of slopes of banks for all excavations, the depth of and the distance from any public structures when excavations are made in or near streambeds. When excavations are near or adjacent to irrigation canals and ditches, the applicant shall secure a written agreement from the ditch company or from officials responsible for the canals and ditches indicating their determination as to setbacks from public rights-of-way when excavation is contemplated near such rights-of-way.
- (5) Sand and gravel shall be excavated in such a manner so as to ensure the convenient restoration of the land and to hold to a minimum any adverse effects to adjacent land as a result of piling or storing the overburden material.
- (6) The sand and gravel shall be excavated in such a manner so as to leave an average of two feet of undisturbed sand or gravel as evenly as possible, over the entire excavation tract, to provide a water-bearing strata for any existing groundwater, and more if the commission deems necessary.
- (7) After an excavation has been completed, the operator shall spread evenly over the bottom of the excavation the excess waste materials. He then shall spread evenly the topsoil to a minimum depth of 18 inches. The topsoil shall be spread last so as to produce a new surface for the purpose of growing crops, trees, shrubs, etc. Operations shall be conducted in such a manner that excavated areas will not collect or permit stagnant water to remain therein.
- (8) An excavation operation shall maintain haulage roads within the premises covered by the permit and such roads shall be kept in a reasonable dust free condition when such dust would be injurious to bordering premises. The commission shall specify the conditions in each instance to ensure this requirement. The hours of operation, unless otherwise specified by the commission shall be from 6:00 a.m. to 10:00 p.m. or unless a national emergency arises or special permission is granted by the commission.
- (9) Rock crushers, concrete and asphalt mixing plants may be permitted providing the Council finds that the use is accessory to the sand and gravel operation.
- (10) The applicant shall furnish evidence of a bank commitment of credit in favor of the town or bond or certified check in an amount calculated by the planning commission to secure the site restorations as required in subsections (1) through (9) of this section. Guidelines for calculating the amount of such bank commitment of credit, bond or certified check could be a sum equal to the number of acres covered by the permit, multiplied by \$500.00. The minimum amount of such should be one thousand dollars and the maximum amount \$25,000.00. The commission shall have the power and authority to provide for an alternative method of indemnifying the town in lieu of the above-mentioned methods.
- (11) Prior to granting of a permit, the property shall be posted for a period of 30 days. This posting shall consist of a sign or signs, the number of which shall be determined by the building inspector. Such signs shall be placed in conspicuous locations visible from the public rights-of-way.
- (12) At least 30 days prior to the public hearing, the building inspector shall advertise, by legal publication, in the official newspaper the time and place of the public hearing.
- (13) Upon the granting of a permit by the commission the fee schedule shall apply as set forth in the town

Municipal Code.

- (14) All permits shall be in full force for a period of five years from the date of issuance, thereof, unless a shorter time is set by the commission. Such temporary permits may be renewable by the commission for the same period of time or less, without further notice, hearing or posting of the property involved; provided, however, that the operator has complied with all the terms and conditions of the original permit. A renewal of a permit shall be considered as a new permit with respect to fees.
- (15) The commission shall have the power to cancel permits upon proof of violation of any of the regulations.
- (16) Rock crushers, concrete and asphalt mixing plants, sand and gravel operations or any other such excavations which are temporary operations (six months or less) shall not be subject to any of the regulations of this chapter, except, they shall be required to obtain a permit from the commission.
- (f) *Building height limit.* 2 1/2 stories or 25 feet in height.
- (g) *Area regulations.* The area regulations are as follows:
  - (1) Minimum lot area shall be:
    - a. One acre per dwelling unit;
    - b. One-half acre for all other uses permitted by right;
    - c. For all conditional uses, one acre unless otherwise specified by the planning commission.
  - (2) Minimum lot frontage shall be:
    - a. 125 feet for each dwelling unit;
    - b. 100 feet for other principal structures.
  - (3) Minimum front yard or set back. Measured from the front property line, there shall be a front yard or setback of not less than 50 feet for all principal structures.
  - (4) Minimum rear yard or set back. Measured from the rear property line, every principal structure shall have a rear yard of not less than 20 feet.
  - (5) Minimum side yard or set back. Measured from the side property lines, there shall be side yards or set backs of not less than ten feet.

(Code 1999, § 7.20.060; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.20.070. AO Airport Overlay Zone District.**

(a) *Intent.* The intent of this overlay district is to define permitted and conditional uses on property related to the Yampa Valley Regional Airport. This district must have a base zoning category of O Open. Further, the intent is to allow land uses in the immediate vicinity of Yampa Valley Regional Airport such as light industrial, commercial or business uses related to airport operations that are located, designed, constructed, and maintained in a manner that does not impair the safe operation of the Yampa Valley Regional Airport.

- (b) *Principal uses.* Permitted principal uses in the AO district shall be as follows:
  - (1) Terminals.
  - (2) Runways and taxiways.
  - (3) Fixed base operations (FBO).
  - (4) Hangers.
  - (5) Fueling operations.
  - (6) Airport security operations.
  - (7) Airport parking lots and support operations.
  - (8) Airport related industrial, commercial and business uses.
  - (9) Accessory buildings and uses customarily incident to the uses permitted by right in this district.

(c) *Conditional uses.* Permitted conditional uses in the AO district shall be as follows:

- (1) Electric substations and gas regulator stations;
- (2) Fire stations and police stations;
- (3) Water reservoirs, water storage tanks, water pumping stations, and sewer lift stations;
- (4) Public facilities.

(d) *Building height limit.* The height regulations are as follows:

- (1) No structure, except for airport buildings and associated structures, shall exceed 2 1/2 stories or 25 feet in height.
- (2) Maximum height regulations lesser than those provided herein may be set by special airport zoning regulations for buildings in an airport approach zone.
- (3) Airport buildings and structures shall not exceed 50 feet in height, provided that a particular building, or buildings, may be permitted to exceed such height limit only upon the approval of a conditional use permit.

(e) *Area regulations.* All buildings and structures located in the airport overlay shall meet the minimum setback requirements of the underlying zoning district and any other applicable setback requirements set forth elsewhere in this chapter.

(f) *Prohibited lighting.*

- (1) Any moving, pulsating, flashing, rotating, or oscillating light, other than navigational markings or lights marking potential obstructions in accordance with Federal Aviation Administration requirements;
- (2) Floodlights, spot lights, or other lighting devices which are not shielded so as to prevent illumination in an upward direction;
- (3) Any lights which make it difficult for pilots to distinguish between airport lights and others, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport or otherwise in any way endangers or interferes with the landing, takeoff or maneuvering of aircraft intending to use the airport.

(g) *Prohibited electronic signals.* Any electronic impulse or signal which interferes with radio communications between aircraft and the airport, or which interferes with established navigation aids, is prohibited in the airport overlay district.

(Code 1999, § 7.20.070; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.20.080. RLD Residential Low-Density District.**

(a) *Intent.* The intent of this district is to build a traditional residential area of single-family units on single lots with a mixture of lot sizes and building types. The district will incorporate tree-lined local streets and a network of alleys tied to the existing street grid when possible. The RLD district encourages the creation of viable neighborhoods that connect with each other and integrate into the existing community with new streets, bikeways, sidewalks, paths and trails. RLD district residents shall have convenient access to parks, schools, open space, trails and services. The optimum size of a neighborhood in this district is one-quarter mile from center to edge.

(b) *Principal uses.* Permitted principal uses in the RLD district shall be as follows:

- (1) Single-family detached dwellings.
- (2) Accessory buildings and accessory uses.
- (3) Accessory dwelling when associated with a permitted use.
- (4) Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced on the premises.
- (5) Home occupations.
- (6) Group homes for up to eight developmentally disabled persons, ~~handicapped~~ physically disabled

individuals, children or senior citizens.

- (7) Parks and open space.
- (8) Domestic animals provided such animals are household pets. Kennels are not allowed.
- (9) Safe house for battered or abused adults or children of up to eight persons.
- (c) *Conditional uses.* Permitted conditional uses in the RLD district shall be as follows:
  - (1) Public facilities provided that business offices and repair and storage facilities are not included.
  - (2) Cemeteries.
  - (3) Family childcare homes.
  - (4) Church or place of worship and assembly.
  - (5) Community facilities.
  - (6) Limited outdoor recreation facilities.
  - (7) Public and private schools for elementary, intermediate and high school education.
- (d) *Building height limit.* Three stories or 30 feet in building height.
- (e) *Area regulations.* The area regulations are as follows:
  - (1) Minimum floor area shall be 800 square feet per dwelling unit. Maximum floor area of any accessory dwelling unit shall be less than eight hundred square feet.
  - (2) Minimum lot area shall be:
    - a. Six thousand square feet per dwelling unit (up to six units per gross acre);
    - b. For all conditional uses, 6,000 square feet unless otherwise specified by the planning commission.
  - (3) Gross density per acre is one to six units.
  - (4) Minimum lot frontage shall be 50 feet.
  - (5) Minimum front yard or setback: Measured from the front property line, there shall be a front yard or setback of not less than 25 feet for all principal structures.
  - (6) Minimum rear yard or setback: Measured from the rear property line, every principal structure shall have a rear yard or setback of not less than 20 feet.
  - (7) Minimum side yard or setback: Measured from the side property lines, there shall be side yards or setbacks of not less than ten feet: Accessory uses may have a side yard setback of five feet for a distance not to exceed 30 feet.

(Code 1999, § 7.20.080; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.20.090. RHD Residential High-Density District.**

- (a) *Intent.* This is a single-family residential district of greater than six units per acre provided:
  - (1) Up to 30 percent of the total number of lots within the project may utilize the RLD district if the dwelling units are distributed throughout the overall development.
  - (2) The site must integrate a minimum of 20 percent of the gross acreage into a combination of public and private open space and/or parks, common areas and common elements within the RLD district as an integral part of the site design. Cluster homes, zero lot line homes, and attached single-family homes may be designed as an alternative to individual lots provided the intent and development standards as specified in this district are adhered to. This is a higher-density residential zone that is also intended for multifamily dwellings on individual lots. Multi-family buildings are generally encouraged near neighborhood commercial centers. Street and open space designs in these areas shall be used to encourage pedestrian interaction and discourage high automobile speeds. Multi-family residential developments shall also be designed around, or adjacent to, open space.

- (b) *Principal uses.* Permitted principal uses in the RHD district shall include:
  - (1) All permitted principal uses in the RLD zone.
  - (2) Multiple-family dwellings with no more than 24 units per building, provided that the density and dimensional standards for the RHD zone district are met and the lot upon which any such dwelling is located is of sufficient size so that 20 percent thereof shall be devoted to functional open space.
  - (3) Senior housing provided that the density and dimensional standards for the RHD district are met and the lot upon which any such dwelling is located is of sufficient size so that 20 percent thereof shall be devoted to functional open space. Senior housing is exempted from the maximum number of 24 units per building requirement for multifamily dwellings.
  - (4) Two-family dwellings.
  - (5) Cluster, zero lot line and attached single-family dwellings.
- (c) *Conditional uses.* Permitted conditional uses in the RHD district shall be as follows:
  - (1) All permitted conditional uses in the RLD district.
  - (2) Boardinghouses and roominghouses.
  - (3) Childcare centers.
  - (4) Long-term care facilities.
- (d) *Development standards.*
  - (1) *Detached dwelling unit.* Minimum open space on each lot: At least one-third of each lot shall be devoted to outdoor living areas, including, but not limited to, landscaped areas, patios, walkways, fences, gardens and similar features, but excluding driveways and parking spaces.
  - (2) *Attached cluster home.*
    - a. Minimum lot area: none.
    - b. Minimum lot width and depth: none.
    - c. Minimum common areas and elements: a minimum of 20 percent of the total project area shall be devoted to common areas and elements, including, but not limited to, landscaped areas, walkways, swimming pools, tennis courts, play areas, fountains, and patio areas, but excluding driveways, and all off-street parking facilities.
- (e) *Building height limit.* Three and one-half stories or 35 feet in height.
- (f) *Area regulations.* The area regulations are as follows:
  - (1) Minimum floor area shall be 400 square feet per dwelling unit, except for single-family detached dwellings the minimum floor area shall be 800 square feet.
  - (2) Gross density is greater than six units per acre.
  - (3) Minimum lot frontage shall be 50 feet.
  - (4) Minimum front yard or setback. Measured from the front property line, there shall be a front yard or setback of not less than 20 feet for all principal structures.
  - (5) Minimum rear yard or setback. Measured from the rear property line, every principal or accessory structure shall have a rear yard or setback of not less than ten feet.
  - (6) Minimum side yard or setback. Measured from the side property lines, there shall be side yards or setbacks of not less than ten feet. Multi-family, cluster, zero lot line or attached single-family dwelling setbacks will be per an approved site plan.

(Code 1999, § 7.20.090; Ord. No. 679, § 2(exh. A), 11-16-2017)

### **Sec. 10.20.100. MHR Mobile Home Residential District.**

(a) *Intent.* It is the intent of this district to be composed of two sub-districts: mobile home parks and mobile home subdivisions. Mobile homes are to be restricted to this district. This district is designed to provide orderly development of single-family residential mobile home parks having rented lots and/or mobile home subdivisions having home-owner lots. New development shall provide neighborhood park facilities or impact fees-in-lieu. Parks should be centrally located and pedestrian accessible on land that is improved as part of the development process. Additionally, pedestrian trails that connect major destinations (shopping, schools) with parks and open space corridors shall be incorporated and designed and located to coordinate with the town's master trails plan.

(b) *Principal uses.* Permitted principal uses in the MHR district shall include:

- (1) Mobile homes designed for occupancy by one family;
- (2) Manufactured homes;
- (3) Home occupations;
- (4) Domestic animals provided such animals are household pets. Kennels are not allowed;
- (5) Accessory buildings and uses customarily incidental to the uses permitted by this district.

(c) *Conditional uses.* Permitted conditional uses in the MHR district shall include:

- (1) Electric substations and gas regulator stations;
- (2) Fire stations and police stations;
- (3) Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.

(d) *Building height limit.* Two and one-half stories or 25 feet in building height.

(e) *Area regulations.* The area regulations are as follows:

- (1) Minimum floor area: 406 square feet per mobile home.
- (2) Minimum lot area:
  - a. 5,000 square feet per mobile home;
  - b. 3,000 square feet per truck camper or travel trailer;
  - c. Any newly created freestanding mobile home residential district shall be at least five acres of land in area.
- (3) Minimum lot frontage: 40 feet.
- (4) Minimum front yard or setback: Measured from the front property line, there shall be a front yard or setback of not less than 25 feet for all principal structures. For mobile home park lots fronting on a state or federal highway, the required front yard or setback shall be 50 feet.
- (5) Minimum rear yard or setback: Measured from the rear property line every principal or accessory structure shall have a rear yard or setback of not less than ten feet.
- (6) Minimum side yard or setback: There shall be 20 feet between mobile homes or accessory buildings, or if measured from the side property line, every mobile home shall have a side yard or setback of not less than ten feet on each side of the lot. Where the side yard or property line abuts a state or federal highway, the required setback shall be 50 feet.
- (7) Maximum gross density: Ten units per acre.
- (8) There shall be a minimum setback of 20 feet between any service facility or mobile home development permanent building and any mobile home.

(f) *Accessory buildings and structures.* Accessory buildings and structures shall be constructed in accordance with the Uniform or International Building Code as adopted. Accessory buildings and structures shall include steps, attached or detached patios that are open on three sides, attached or detached decks that are open on three sides, attached or detached storage units, attached or detached garages, and attached or detached carports.

Accessory buildings or structures may be located adjacent to a mobile home space line provided, however, that a minimum of six feet of separation is provided between a garage and any other structure on an adjoining space. Any other building or structure shall provide a minimum of ten feet between it and any structure on an adjoining space.

(g) *Mobile home lots.* The limits of each mobile home lot shall be clearly marked on the ground by permanent monuments set pursuant to C.R.S. § 38-51-~~40~~104.

(Code 1999, § 7.20.100; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.20.110. CBD Central Business District.**

(a) *Intent.* It is the intent of this district to encourage the redevelopment and expansion of the existing downtown commercial district; provide a concentration and mixture of civic, office, retail, restaurant, housing and cultural land uses; maintain and enhance the historic character of the original downtown; create a pedestrian oriented district; develop and promote small scale businesses; and promote shared or cooperative parking within or adjacent to the district. It is the intent of this district to allow retail uses on the first floor and businesses and residences or services on upper floors of buildings where appropriate. The district will allow continued use of property that is within the district until a change in land use category occurs. For example, a residential use changing to a service, commercial or retail use would constitute a change. At that time the new use must be in compliance with the provisions of this district.

(b) *Principal uses.* Permitted principal uses in the CBD district shall be as follows:

- (1) All permitted principal uses in the residential districts.
- (2) Artisan and photography studios and galleries.
- (3) Bed and breakfasts.
- (4) Boardinghouses and roominghouses.
- (5) Childcare centers.
- (6) Community facilities.
- (7) Convenience shopping and retail establishments.
- (8) Health and membership clubs.
- (9) Limited indoor recreation establishments.
- (10) Lodging establishments.
- (11) Medical and dental offices and clinics.
- (12) Mixed use dwelling units.
- (13) Open air farmers' market.
- (14) Personal and business service shops.
- (15) Professional offices, financial services.
- (16) Public and private schools, including colleges, vocational training, and technical training.
- (17) Public facilities with business offices, no repair or storage facilities.
- (18) Restaurants; standard and fast food without drive-through facilities.
- (19) Small grocery stores.
- (20) Tourist facilities.
- (21) Transit facilities without repair or storage.
- (22) Funeral homes.
- (23) Catering.
- (24) Print shops.



(c) *Conditional uses.* Permitted conditional uses in the CBD district shall be as follows:

- (1) Licensed bars and taverns.
- (2) Church or place of worship and assembly.
- (3) Clubs and lodges.
- (4) Entertainment facilities and theaters.
- (5) Long-term care facilities.
- (6) Limited outdoor recreation facilities.
- (7) Motor vehicle service and repair (minor).
- (8) Parking lots and parking garages as a principal use.
- (9) Public facilities with business offices without repair and storage facilities.
- (10) Workshops and custom small industry uses.

(d) *Building height limit.* Three and one-half stories or 35 feet in building height.

(e) *Area regulations.* The area regulations are as follows:

- (1) Minimum floor area: no minimum requirements.
- (2) Minimum lot area: no minimum requirements.
- (3) Minimum lot frontage: no minimum requirements.
- (4) Minimum front setback: no minimum requirements.
- (5) Minimum rear setback: no minimum requirements except for a ten-foot setback if the property has contiguity to a residential zone district property line or property used solely for residential uses. Alleys and roadways prevent contiguity in this case.
- (6) Minimum side setback: no minimum requirements except for a ten-foot setback if the property has contiguity to a residential zone district property line or property used solely for residential uses. Alleys and roadways prevent contiguity in this case.

(Code 1999, § 7.20.110; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.20.120. C Commercial District.**

(a) *Intent.* The C Commercial District is intended to support current residential land uses, redevelopment of existing commercial properties, and the development of new mixed-use, retail, service and related development projects. This district supports auto-oriented and auto-dependent uses as well as uses which provide a wide range of general retail goods and services for residents of the community. This C commercial zone includes lands within the town that are both open undeveloped lands, and small parcels nestled within thriving residential areas. Proposals for development in this zone district must meet all design standards in this title in order to mitigate impact on these residential areas. While commercial and mixed uses are encouraged across this zone district, those uses cannot negatively impact the nearby properties that wish to remain in residential use.

(b) *Principal uses.* Permitted principal uses in the C Commercial District shall be as follows:

- (1) Residential.
  - a. All permitted principal uses in the residential districts.
  - b. Bed and breakfast establishments.
  - c. Boardinghouses and roominghouses.
  - d. Group homes.
  - e. Mixed-use dwelling units.
  - f. Motels, hotels and lodging establishments.

- (2) Commercial or public.
- a. Artisan and photography studios and galleries.
  - b. Auto, recreational vehicle, boat, and truck sales.
  - c. Childcare centers.
  - d. Church or place of worship and assembly.
  - e. Clubs and lodges.
  - f. Community facilities.
  - g. Entertainment facilities and theaters.
  - h. Equipment rental without outdoor storage.
  - i. Funeral homes.
  - j. Family day care facilities or home day care businesses.
  - k. Grocery stores.
  - l. Health and membership clubs.
  - m. Home occupations.
  - n. Hospitals.
  - o. Limited indoor recreation establishments.
  - p. Long-term care facilities.
  - q. Medical and dental offices and clinics.
  - r. Motor vehicle service and repair (minor).
  - s. Motor vehicle fueling stations.
  - t. Motor vehicle washes.
  - u. Open air farmers' market.
  - v. Personal and business service shops.
  - w. Professional offices, financial services.
  - x. Public and private schools, including colleges, vocational training, and technical training.
  - y. Public facilities with business offices, no repair or storage facilities.
  - z. Retail establishments.
  - aa. Restaurants with or without drive-through facilities.
  - bb. Tourist facilities including museums, recreational uses, etc.
  - cc. Transit facilities without repair or storage.
  - dd. Veterinary facilities, small animal clinics.
  - ee. Workshops and custom small industry uses.
- (3) Conditional uses. Permitted conditional uses in the C district shall be as follows:
- a. Licensed bars, nightclubs, and taverns.
  - b. Retail and supply yard establishments with outdoor storage.
  - c. Small or large animal boarding (kennels).
  - d. Parking lots and parking garages as a principal use.
  - e. Public facilities with repair and storage facilities.

- (4) Building height limit: Three and one-half stories or 35 feet in building height.
- (5) Area regulations. The area regulations are as follows:
  - a. Minimum floor area: No minimum requirements.
  - b. Minimum lot area: No minimum requirements.
  - c. Minimum lot frontage: No minimum requirements.
  - d. Minimum front setback: No minimum requirements.
  - e. Minimum rear setback: No minimum requirements except for a ten-foot setback if the property has contiguity to a residential zone district property line or property used at the time of application solely for residential uses. Alleys and roadways prevent contiguity in this situation.
  - f. Minimum side setback: No minimum requirements except for a ten-foot setback if the property has contiguity to a residential zone district property line or property used at the time of application solely for residential uses. Alleys and roadways prevent contiguity in this situation.
  - g. Minimum setback for larger lots: For lots over 1.5 acres in size, setbacks on all sides of the property are a minimum of 25 feet.

(Code 1999, § 7.20.120; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.20.130. I-1 Light Industrial District.**

(a) *Intent.* This district is intended to provide locations for a variety of workplaces including light industrial uses, research and development offices and institutions. This district is also intended to accommodate secondary uses that complement and support the primary workplace uses, such as hotels, restaurants, convenience shopping, and childcare. Additionally, this district is intended to encourage the development of planned office and business parks and to promote excellence in the design and construction of buildings, outdoor spaces, transportation facilities and streetscapes.

(b) *Principal uses.* Permitted principal uses in the I-1 district shall be as follows:

- (1) Accessory buildings and accessory uses.
- (2) Licensed bars and taverns.
- (3) Motor vehicle washes.
- (4) Clubs and lodges.
- (5) Community facilities.
- (6) Convenience shopping and retail establishments.
- (7) Enclosed mini-storage facilities.
- (8) Equipment rental establishments without outdoor storage.
- (9) Motor vehicle fueling stations.
- (10) Health and membership clubs.
- (11) Light industrial uses.
- (12) Parking lots and parking garages (as principal use).
- (13) Parks and open space.
- (14) Plant nurseries and greenhouses.
- (15) Professional offices, financial services.
- (16) Public and private schools, including colleges, vocational and technical training.
- (17) Restaurants without drive-through facilities.
- (18) Tourist facilities.

- (19) Veterinary facilities, small animal clinics.
- (20) Warehouse, distribution and wholesale uses.
- (21) Wireless telecommunication facilities.
- (22) Workshops and custom small industry uses.
- (23) Print shops.
- (c) *Limitations.* Any use in this district shall conform to the following requirements:
  - (1) All manufacturing and similar uses shall be carried on entirely within a completely enclosed structure.
  - (2) Dust, fumes, odors, smoke, vapor and noise shall be confined to the site.
  - (3) All emissions from the manufacturing or similar uses shall comply with the federal and state air pollution laws.
  - (4) Outdoor storage, equipment and refuse areas shall be concealed from view from abutting rights-of-way and from adjoining residential districts.
  - (5) Travel and parking portions of the lot shall be surfaced with asphalt, concrete, compressed gravel or equivalent, maintainable surfacing with erosion control.
  - (6) Light fixtures in parking areas shall be hooded and mounted not more than 25 feet above the ground level and oriented in such a manner as not to shine into residential areas. Lighting shall conform to the requirements of this Code.
- (d) *Conditional uses.* Permitted conditional uses in the I-1 district shall be as follows:
  - (1) Accessory dwelling when associated with a permitted use.
  - (2) Artisan and photography studios and galleries.
  - (3) Auto, recreational vehicle, boat and truck sales.
  - (4) Bed and breakfasts.
  - (5) Boardinghouses and roominghouses.
  - (6) Childcare centers.
  - (7) Entertainment facilities and theaters.
  - (8) Funeral homes.
  - (9) Gas, oil and other hydrocarbon well drilling and production.
  - (10) Golf courses.
  - (11) Group homes.
  - (12) Hospitals.
  - (13) Limited indoor recreation facilities.
  - (14) Limited outdoor recreation facility.
  - (15) Lodging establishments.
  - (16) Long-term care facilities.
  - (17) Manufacturing, assembly or packaging of products from previously prepared materials.
  - (18) Manufacturing of electric or electronic instruments and devices.
  - (19) Medical and dental offices and clinics.
  - (20) Motor vehicle service and repair (minor repairs).
  - (21) Open-air farmers' markets.
  - (22) Personal and business service shops.

- (23) Research, experimental or testing laboratories.
- (24) Restaurants with drive-through service.
- (25) Retail and supply yard establishments with outdoor storage.
- (26) Small animal boarding (kennels).
- (27) Small grocery stores.
- (28) Veterinary hospitals (large animals).
- (e) *Building height limit.* Three and one-half stories or 35 feet in building height.
- (f) *Area regulations.* The area regulations are as follows:
  - (1) Minimum floor area: No minimum requirements.
  - (2) Minimum lot area: No minimum requirements.
  - (3) Minimum lot frontage: No minimum requirements.
  - (4) Minimum front setback: A 20-foot front yard setback is required.
  - (5) Minimum rear setback: A 20-foot rear yard setback is required.
  - (6) Minimum side setback: A 15-foot side yard setback is required.

(Code 1999, § 7.20.130; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.20.140. I-2 Industrial District.**

(a) *Intent.* This zoning district is intended to provide a location for a variety of employment opportunities such as manufacturing, warehousing and distributing, indoor and outdoor storage and a wide range of commercial and industrial operations. The industrial district also accommodates complementary and supporting uses such as convenience shopping and childcare centers. Locations for this zone require good access to major arterial streets and adequate water, sewer and power.

- (b) *Principal uses.* Permitted principal uses in the I-2 district shall be as follows:
- (1) Accessory buildings and accessory uses.
  - (2) Auto, RV, boat and truck storage.
  - (3) Motor vehicle washes.
  - (4) Clubs and lodges.
  - (5) Community facilities.
  - (6) Enclosed mini-storage facilities.
  - (7) Equipment rental.
  - (8) Motor vehicle fueling stations.
  - (9) Health and membership clubs.
  - (10) Heavy industrial uses.
  - (11) Light industrial uses.
  - (12) Manufacturing and preparing food products.
  - (13) Manufacturing, assembly or packaging of products from previously prepared materials.
  - (14) Manufacturing of electric or electronic instruments and devices.
  - (15) Motor vehicle service and repair establishments (minor and major repairs).
  - (16) Parking lots and parking garages (as principal use).
  - (17) Parks and open space.

- (18) Plant nurseries and greenhouses.
- (19) Plumbing, electrical and carpenter shops.
- (20) Public facilities with or without business offices and repair and storage facilities.
- (21) Research, experimental or testing laboratories.
- (22) Restaurants/standard and fast food with drive-through facilities.
- (23) Retail and supply yard establishments with outdoor storage.
- (24) Veterinary facilities, with large and small animal clinics.
- (25) Warehouse, distribution and wholesale uses.
- (26) Wireless telecommunication facilities ~~(as permitted in section 16.03.120 of this Code).~~
- (27) Workshops and custom small industry uses.
- (c) *Limitations.* Any use in this district shall conform to the following requirements:
  - (1) All manufacturing and similar uses shall be carried on entirely within a completely enclosed structure.
  - (2) Dust, fumes, odors, smoke, vapor and noise shall be confined to the site.
  - (3) All emissions from the manufacturing or similar uses shall comply with the federal and state air pollution laws.
  - (4) Light fixtures in parking areas shall be hooded and mounted not more than 25 feet above the ground level and oriented in such a manner as not to shine into residential areas. Lighting shall conform to any requirements mandated by the Town ~~the requirements in section 16.02.200 of this Code.~~
  - (5) Outdoor storage, equipment and refuse areas shall be concealed from view from abutting rights-of-way and from adjoining residential districts.
  - (6) Travel and parking portions of the lot shall be surfaced with asphalt, concrete, compressed gravel or equivalent, maintainable surfaces with appropriate erosion control.
- (d) *Conditional uses.* Permitted conditional uses in the I-2 district shall be as follows:
  - (1) Accessory dwelling when associated with a permitted use.
  - (2) Adult uses including product sales and entertainment.
  - (3) Artisan and photography studios and galleries.
  - (4) Automobile, recreational vehicle, boat and truck sales.
  - (5) Licensed bars and taverns.
  - (6) Childcare centers.
  - (7) Convenience shopping and retail establishments.
  - (8) Dry cleaning plants.
  - (9) Entertainment facilities and theaters.
  - (10) Equipment, truck, trailer rental establishments with outdoor storage.
  - (11) Gas, oil and other hydrocarbon well drilling and production.
  - (12) Golf courses.
  - (13) Limited outdoor recreational facilities.
  - (14) Nightclubs.
  - (15) Open-air farmers' markets.
  - (16) Public and private schools including colleges, vocational training and technical training.
  - (17) Public facilities provided that business offices and repair and storage facilities are not included.

- (18) Public facilities with business offices and repair and storage facilities.
- (19) Recycling facilities.
- (20) Research, experimental or testing laboratories.
- (21) Resource extraction, processes and sales establishment.
- (22) Restaurants with drive-through service.
- (23) Sales and leasing of farm implements, heavy equipment sales, mobile/manufactured homes, and heavy excavation equipment.
- (24) Small animal boarding (kennels).
- (25) Veterinary hospitals.
- (e) *Building height limit.* Three and one-half stories or 35 feet in building height.
- (f) *Area regulations.* The area regulations are as follows:
  - (1) Minimum floor area: No minimum requirements.
  - (2) Minimum lot area: No minimum requirements.
  - (3) Minimum lot frontage: No minimum requirements.
  - (4) Minimum front setback: Measured from the front property line there shall be a front setback of not less than 50 feet for all principal structures.
  - (5) Minimum rear setback: Measured from the rear property line there shall be a 50-foot setback.
  - (6) Minimum side setback: Measured from the side property line there shall be a minimum 30-foot setback.

(Code 1999, § 7.20.140; Ord. No. 679, § 2(exh. A), 11-16-2017)

## **CHAPTER 10.24. DEVELOPMENT STANDARDS**

### **Sec. 10.24.010. General provisions.**

- (a) *Applicability.* All development applications shall comply with the applicable standards contained in this article.
- (b) *Relation to zone district standards.* In the event of a conflict between a standard or requirement contained in chapter 10.20 and text in this chapter, the standard in the chart in chapter 10.20 shall prevail.

(Code 1999, § 7.24.010; Ord. No. 679, § 2(exh. A), 11-16-2017)

### **Sec. 10.24.020. Application of community design standards.**

The planning commission and the Council will evaluate each proposal based on these principles and the context within which each project is located. The principles are intended to be specific enough to guide development, but not to preclude creative design solutions. Applicants must substantially conform to the design principles in this section unless it can be demonstrated that an acceptable alternative meets one or more of the following conditions:

- (1) The alternative better achieves the stated intent;
- (2) The intent cannot be achieved by application of the principle in this circumstance;
- (3) The effect of other principles will be improved by not applying a particular principle;
- (4) Strict application or unique site features make the principle impractical.

(Code 1999, § 7.24.020; Ord. No. 679, § 2(exh. A), 11-16-2017)

### **Sec. 10.24.030. Design elements.**

- (a) *Compact urban growth.* It is important to maintain a continuity of density, diversity and interconnectedness. Urban development should occur adjacent to the town's core so that the community's prime agricultural land remains usable, natural areas are preserved, and public infrastructure and utilities are used as

efficiently as possible.

(b) *Neighborhood design.* Create neighborhoods, rather than residential subdivisions adjacent to one another. Neighborhoods should be organized around a strong center which may include elements such as common open space, civic and commercial or mixed uses. Strong consideration should be given to pedestrian movement, the character of streets and sidewalks as an inviting public space, and the interconnectedness of the streets both within the neighborhood and as they connect to the rest of the community. In addition, new neighborhoods should have a variety of housing sizes and types that help to create a distinct identity rather than a monotonous repetition of one or two styles.

(c) *Streets and sidewalks.* The streets should be tree-lined and interconnected in order to create a comprehensive transportation network that facilitates the movement of pedestrians, cars and bicycles. Where feasible and appropriate within the downtown area, continue the town's existing block pattern to form a grid or modified grid pattern that is adapted to the topography, natural features and environmental considerations.

(d) *Parks and open space.* Use natural open spaces and developed public space (such as parks and plazas) to organize and focus lots, blocks and circulation patterns and create an identity for each neighborhood.

(e) *Site design, architecture and landscaping.* Encourage innovative, quality site design, architecture, and landscaping in order to create new developments that can be integrated into the existing community and reflect the traditional patterns of the region. Promote the use of native species and xeriscaping in landscaping, revegetation and reclamation.

(f) *Environment.* New developments should be designed to fit within the environment. To the greatest extent feasible, sites should be designed to preserve natural areas and the plants and wildlife inhabiting those areas. The town promotes the use of native species in landscaping, revegetation and reclamation.

(g) *Water conservation.* Use raw or nonpotable water for irrigation and incorporate water saving measures in building design and landscaping. Developments are required to use stormwater management techniques that address both water quality and quantity.

(Code 1999, § 7.24.030; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.040. Compact urban growth.**

(a) *Intent.* The town encourages a density pattern that tapers from more intense use of the core area to lower densities on the periphery of the growth management area. This policy will accomplish several goals, including:

- (1) Improving air quality by reducing vehicle miles traveled and by promoting alternatives to the private automobile;
- (2) Preserving natural areas and features, particularly at the edges of the town;
- (3) Making possible the efficient use of existing infrastructure and cost effective extensions of new services;
- (4) Encouraging in-fill development and reinvestment in built-up areas of the town.

(b) *General provisions.*

- (1) No development shall be approved unless it is located within the established growth management area and is consistent with the town comprehensive plan.
- (2) The town shall grow by designing interconnected neighborhoods. The original downtown area needs to be strengthened by the development of commercial, service and mixed-use projects.

(Code 1999, § 7.24.040; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.050. Neighborhood design principles.**

(a) *Intent.* To encourage the creation of viable neighborhoods that connect with each other and the integration of new projects into the existing community. New streets, bikeways, sidewalks, paths and trails should connect adjacent neighborhoods.

(b) *Neighborhood structure.* Elements to consider integrating into new neighborhoods include:

- (1) Streets, sidewalks and trails within new neighborhoods should connect to adjacent neighborhoods and



the existing town.

- (2) Streets that encourage pedestrian activity by creating an inviting atmosphere through attention to the details of landscaping and tree locations, sidewalks, lighting, building architecture, etc.
- (3) A mixed-use neighborhood center where appropriate.
- (4) A variety of housing types, sizes, densities and price ranges.
- (5) A variety of land uses that include a transition of development intensity.
- (6) Pedestrian and bike connections throughout residential neighborhoods that are linked to commercial or civic centers and open space systems.
- (7) Parks, open space and public plazas that are well integrated into the neighborhood.

(c) *General provisions.* The following principles contribute to the town's small-town character. New projects will be evaluated with consideration to these existing neighborhood design principles and the context within which a project is located. Failure to incorporate these design principles into a project may be cause for denial of the project by the town.

- (1) Each neighborhood has a center. It is important that every neighborhood have activity centers that draw people together. Activity centers include natural features, park areas and public buildings.
- (2) Mix of types of dwelling units. A mix of dwelling unit types shall be distributed throughout the development. Housing types and the size of lots shall be varied to enable people to remain in the neighborhood as their needs change.
- (3) Focal points. Focal points, or points of visual termination, shall generally be occupied by more prominent, monumental buildings and structures that employ enhanced height, massing, distinctive architectural treatments, or other distinguishing features, as well as landscape features.

[GRAPHIC]

- (4) Public space as development framework. Public space is used to organize blocks and circulation patterns and to enhance surrounding development. Public open space must be functional and easily accessible and shall be designed to organize the placement of buildings to create an identity for each neighborhood. Buildings should face public open space.
- (5) Design streets as public spaces. Buildings shall define streets through the use of relatively uniform setbacks along each block. The streetscape shall also be reinforced by lines of shade trees planted in the tree lawn area and may be further reinforced by walls, hedges, landscaping or fences which define front yards. On a lot with multiple buildings, those located on the interior of the site shall relate to one another both functionally and visually. A building complex may be organized around features such as courtyards, greens, or quadrangles, which encourage pedestrian activity and incidental social interaction. Smaller, individualized groupings of buildings are encouraged. Buildings shall be located to allow for adequate fire and emergency access.
- (6) Access. Gated neighborhoods or developments that restrict public access shall not be permitted. Privately maintained streets shall have a public access easement.
- (7) Define the transition between public and private spaces. Buildings shall be located to front towards and relate to public streets or parks, both functionally and visually, to the greatest extent possible. Wherever possible, buildings shall not be oriented to front towards a parking lot.
- (8) Encourage walking and bicycling. Sites shall be designed to minimize conflicts between vehicles, bicycles and pedestrians. Pedestrian and bicycle access and connections shall be designed to make it safe and easy to get around on foot and by bicycle.
- (9) Neighborhoods shall have a mix of activities available rather than a purely residential land use. Neighborhood residents shall have convenient access to parks, schools, open space, trails and services. The optimum size of a neighborhood is one-quarter mile from center to edge.
- (10) Fit within the environment rather than on top of it. New developments shall be designed to respond to

the natural environment, fit into the setting and protect scenic view corridors.

- (11) Housing types and styles that reflect the architecture of the region. Familiar architectural styles shall play an important role in developing an architectural identity for neighborhood dwellings.

(Code 1999, § 7.24.050; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.060. Lots and blocks.**

(a) *Intent.* The intent of the block and lot standards is to continue the town's existing block pattern in a manner that is compatible with site-specific environmental conditions.

(b) *General provisions.*

- (1) *Blocks.* Streets shall be designed to create blocks that consider interconnectedness, topography, solar orientation, views, and other design features.

(2) *Lot dimension and configuration.*

- a. Lot size, width, depth, shape, and orientation and minimum building setback lines shall conform to this chapter and shall facilitate the placement of buildings with sufficient access, outdoor space, privacy and view.
- b. Depth and width of properties shall be adequate to provide for off-street parking, landscaping and loading areas required by the type of use and development contemplated.
- c. Lot frontage. All lots shall have frontage that is either adjacent to or directly accessible to a street. Street frontage shall typically not be less than 25 percent of the lot depth. Flag lots are prohibited unless otherwise approved by the Council.
- d. Corner lots. Corner lots for residential use shall have extra width to accommodate the required building setback and utility easements on both street frontages. For a corner lot, the front of the lot is defined as the side having the shortest street frontage. In the case of a reverse corner lot, both sides abutting a street shall maintain a front yard setback.
- e. Double frontage. Residential lots that front on two streets (double frontage) shall not be permitted.
- f. Side lot lines. Side lot lines shall be substantially at right angles or radial to road right-of-way lines or centerlines.
- g. Residential lot access to adjacent street.
  1. Driveway access to a local or collector street from a single-family detached residential lot shall be limited to one driveway curb-cut or driveway access of no greater than 20 feet in width. A circular drive in which each access to the local or collector street is less than ten feet in width, separated by at least 30 feet and which is constructed as an integral part of the overall architectural design of the single-family residence may be considered as a single driveway access.
  2. Driveway access to a local street from a single-family detached residential lot shall be greater than 30 feet from the intersection of the local street and a collector street or 150 feet from the intersection of the local street and an arterial street as measured from the intersecting right-of-way lines.
  3. Driveway access to a collector street from a single-family detached residential lot shall be greater than 75 feet from the intersection of the collector street and a local street, another collector.
  4. Street, or an arterial street as measured from the intersecting right-of-way.
  5. Lines.
- h. Commercial, business and industrial lot access to adjacent street.
  1. Driveway access to a local or collector street from a multifamily residential, commercial, business or industrial lot shall be greater than 125 feet from any street intersection as measured

from the intersecting right-of-way lines;

2. Driveway access to an arterial street from a commercial, business or industrial lot shall be not less than 100 feet from any intersection on the arterial street, or from another commercial, business or industrial lot's access as measured from the intersecting right-of-way lines, or driveways; or
3. Driveway access to a local street, collector street or arterial street from a multifamily residential, commercial, business or industrial lot may be allowed by the town at its sole discretion.

(Code 1999, § 7.24.060; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.070. Streets.**

(a) *Intent.* The intent of the street standards is to establish a safe, efficient, attractive transportation system that promotes all modes of transportation and is sensitive to the environment.

(b) *General provisions.* The local street system of any proposed development shall be designed to be safe, efficient, convenient, attractive, and consider all modes of transportation that will use the system. Streets should be an inviting public space and an integral part of community design. Local streets shall provide for both intra- and inter-neighborhood connections to knit developments together. All streets should interconnect to help create a comprehensive network of public areas to allow free movement of cars, bicycles and pedestrians.

- (1) *Street connections.* All streets shall be aligned to join with planned or existing streets consistent with the town comprehensive plan. All streets shall be designed to bear a logical relationship to the topography of the land. Intersections of streets shall be at right angles unless otherwise approved by the town.
- (2) *Tree-lined streets.* All streets shall be lined with trees on both sides with the exception of rural roads and alleys.
- (3) *Street layout.* The street layout shall form an interconnected system of streets, where feasible primarily in a grid or modified pattern adapted to the topography, unique natural features, environmental constraints, and peripheral open space areas. The street layout shall emphasize the location of neighborhood focus points, other internal open space areas, gateways, and vistas. The use of cul-de-sacs and other roadways with a single point of access shall be minimized. The integration of traffic calming features within and adjacent to residential areas shall be utilized when appropriate.
- (4) *Controlling street access.* A strip of land between a dedicated street and adjacent property shall not be reserved for the purpose of controlling access to such street from such property.
- (5) *Visibility at intersections.* No shrubs, ground cover, berms, fences, structures, or other materials or items greater than 24 inches in height shall be planted, created or maintained at street intersections within the site distance triangle. Trees shall not be planted in the site distance triangle.
- (6) *Pedestrian crossings at street intersections and mid-block.* Pedestrian crossings shall be accessible to ~~handicapped~~ individuals with a disability and mid-block crossings may be required at the direction of the Council.
- (7) *Access.* Access to all subdivisions shall be from a public street system. Driveways shall not be permitted to have direct access to arterial streets or the state highway.
- (8) *Street right-of-way dedication.* The full width of right-of-way for all streets being platted must be conveyed to the town after final acceptance unless otherwise approved by the town.
- (9) *Perimeter streets.* When a street is dedicated which ends on the plat, the street right-of-way must be dedicated to the boundary of the plat.
- (10) *Street names.* Names of new streets shall not duplicate names of existing streets in the town. However, new streets which are extensions of, or which are in alignment with, existing streets within the town shall bear the names of such streets. Street naming and property address numbering will be coordinated between the applicant, town and county.

(c) *Street standards.* Streets shall conform to the adopted town construction specifications for public improvements and all other applicable laws, rules and regulations.

(1) *General design standards.* Where curb and gutter is required, it shall be constructed per the state department of transportation specifications.

- a. Design of streets, curbs and gutters shall be in accordance with the Americans with Disabilities Act (ADA) standards.
- b. Streets shall be designed in accordance with the American Association of State Highway and Transportation Officials Policy on Geometric Design of Highways and Streets, 1990 and shall conform to the adopted town construction specifications for public improvements.
- c. The layout of arterial and collector streets shall be per the town's master transportation plan unless otherwise approved by the Council.
- d. Where future extension of a street is anticipated but not existing, a temporary turnaround having a minimum outside diameter of 110 feet shall be provided.
- e. The maximum allowable length of closed-end streets (cul-de-sacs) in single-family residential and multifamily residential developments shall be 600 feet unless otherwise approved by the Council.
- f. Right-of-way widths shall be specified in the town's master transportation plan.

(2) *Arterial streets design.*

- a. Arterials shall be at a minimum of one mile intervals in both north-south and east-west directions.
- b. Arterials shall be designed to accommodate present and future transportation requirements.
- c. Arterial streets shall align and connect across intersecting arterials to distribute traffic and provide continuity.
- d. Typical adjacent land uses:
  1. Business parks.
  2. Community commercial.
  3. District and community parks.
  4. High density residential.
  5. Industrial developments.

(3) *Collector streets.*

- a. Within each one-mile arterial segment, collector streets shall divide the north-south and east-west arterials at approximately the half-mile point.
- b. Intersections of collector streets and arterial streets shall be aligned to distribute traffic and provide continuity for bike routes.
- c. Typical adjacent land uses:
  1. Agriculture.
  2. Business parks.
  3. Community parks.
  4. Industrial.
  5. Low, medium and high density residential.
  6. Middle and high schools.
  7. Neighborhood commercial.

(4) *Local streets.*

- a. Where practical, local streets shall generally follow a modified grid pattern adapted to the topography, unique natural features, environmental constraints, and peripheral open space areas. These streets shall generally parallel the arterial and collector street system, provide a variety of route options, interconnect to allow traffic to disperse in an equitable manner and be as narrow as possible without sacrificing the ability to accommodate expected traffic and services. Local street cross-sections will generally include a four-foot tree lawn adjacent to the roadway.
  - b. Local streets must provide for both intra- and inter-neighborhood connections.
  - c. Typical adjacent land uses.
    - 1. Business parks.
    - 2. Elementary schools.
    - 3. Pocket parks.
    - 4. Neighborhood parks.
    - 5. Residential.
- (5) *Rural local street.*
- a. Rural local streets are intended to serve rural locations as approved by the Council.
  - b. A driveway access crossing the borrow ditch of a rural local street shall contain a culvert of sufficient size to safely pass the designed stormwater drainage flows.
  - c. A portion of the borrow ditch may fall outside of the rural local road right-of-way in order to obtain a borrow ditch cross-section sufficient to contain the designed stormwater flows and/or to be sufficient in depth for the driveway access culvert.
  - d. Typical adjacent land uses:
    - 1. Agriculture.
    - 2. Estate subdivisions.
- (6) *Alleys.*
- a. Alleys shall be treated as public ways and any lot having access from an alley shall also front upon a public street.
  - b. Garages, accessory dwellings above garages and rear yards may access the collector and local street system via an alley.
  - c. Typical adjacent land uses:
    - 1. Accessory units above garages.
    - 2. Garages.
    - 3. Parking lots with landscaped edges.
    - 4. Rear yards.

(Code 1999, § 7.24.070; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.080. Parking.**

(a) *Intent.* The intent of this section is to provide adequate parking for motor vehicles while minimizing the visual impact of parking lots and structures.

(b) *General provisions.* In all zone districts, off-street parking facilities for the storage of motor vehicles for the use of occupants, employees and patrons of the building or structures hereafter erected, altered or extended shall be provided and maintained as herein prescribed.

- (1) *Surface.* All parking and driveway areas and primary access to parking facilities shall be surfaced with asphalt, concrete or similar materials.

- (2) *Integrate parking lots with surroundings.* Parking lots shall not dominate the frontage of pedestrian-oriented streets, interfere with designated pedestrian or bicycle routes, or negatively impact surrounding neighborhoods. The pedestrian character of streets and buildings shall be maximized through continuity of buildings and landscape frontage.
- (3) *Location.* Parking lots shall be located to the rear or side of buildings or in the interior of a block whenever possible.
- (4) *Landscaping.* Parking lots shall be landscaped, screened and buffered as provided in this chapter.
- (5) *Shared-access.* Where feasible, and in order to reduce traffic and vehicle turning movements on major streets, parking lots shall share access drives and cross-access easements with adjacent property with similar land uses.
- (6) *Off-street parking design.* Any off-street parking area shall be designed so that vehicles may exit without backing onto a public street unless no other practical alternative is available. Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility or other structure.
- (7) *Circulation area design.* Circulation areas shall be designed to facilitate the safe movement of vehicles without posing a danger to pedestrians or impeding the function of the parking area.
- (8) *Striping.* All parking areas shall be striped to identify individual parking spaces.
- (9) *Lighting.* All parking area lighting shall be full cutoff type fixtures. Any light used to illuminate parking areas or for any other purpose shall be so arranged as to reflect the light away from nearby residential properties, and away from the vision of passing motorists.
- (10) *Shared off-street parking.* When there are opportunities to support parking demand through shared off-street parking for compatible uses (such as a movie theater and an office building), a parking study and shared parking agreements shall be used to demonstrate the adequacy of the parking supply as a substitute for standard parking requirements.
- (11) *Adjacent on-street parking in the CBD Central Business District.* In order to promote a pedestrian scale and encourage a perception of safety in the CBD Central Business district, parking may be satisfied using adjacent on-street parking or shared rear-lot parking areas. A parking study and shared parking agreements shall be used to demonstrate the adequacy of the parking supply as a substitute for standard parking requirements.
- (c) *Paved off-street parking requirements.*
  - (1) Paved off-street parking shall be provided according to the minimum requirements as specified below:

<i>Use</i>	<i>Required Parking Must Be Outside of Rights-of-Way</i>
Single-family detached	2 spaces
Townhouse and duplex	1 space per bedroom, up to 2 per unit
Apartment dwellings	1 space per bedroom, up to 2 per unit
Accessory dwellings	1 space per bedroom, up to 2 per unit
Office/business uses	1 space for every 500 square feet of gross floor area
Institutional/churches	1 space for every 4 seats in the main auditorium
Business park/industrial	1 space each for the maximum number of employees present at any one time plus space to accommodate all trucks and other vehicles used in connection with the facility
Bed and breakfast	1 space per rental unit plus 2 spaces per residence
Business, professional or public office	Three parking spaces, plus one additional parking space for each

building, studio, bank, medical or dental clinic	four hundred square feet of floor area over one thousand square feet
Hotel	One parking space for each sleeping room or suite, plus one space for each 200 square feet of commercial floor area contained therein
Restaurant, nightclub, cafe or similar recreation or amusement establishment	One parking space for each 100 square feet of gross leasable area
Retail store or personal service establishment	One parking space for each 200 square feet of gross leasable area

- (2) Off-street parking for commercial uses shall be sufficient to provide parking for employees of all proposed uses as well as long-term customer parking. Spaces reserved for employees shall be designated as such by means of striping and signage. Parking shall be located at the rear and sides of buildings to the greatest extent possible and screened from the view of streets as provided in this article. Required parking in the CBD Central Business district can be met with on-street and shared parking.
- (3) The location of required off-street parking facilities for other than residential uses shall be within 400 feet of the building they are intended to serve when measured from the nearest point of the building or structure.
- (d) *Location of spaces for residential uses.*
- (1) Off-street parking facilities for residential uses shall be provided and located on the same lot as the building they are intended to serve.
- (2) Required off-street parking in residential zones shall not lie within the front yard setback or within any required side yard setback adjacent to a street. (Driveway spaces within these setbacks cannot be counted for required off-street parking.)
- a. Except within a garage or in conjunction with an approved affordable housing project, tandem parking is not allowed to meet required off-street parking requirements.
- b. Front-loading garages shall be set back not less than 22 feet from the back of the sidewalk and required off-street parking spaces shall not encroach upon the sidewalk or road right-of-way.
- (e) ~~Handicap~~Disabled parking spaces.
- (1) ~~Handicap~~Disabled parking spaces shall be required for all retail, office, business, multifamily, industrial and institutional uses.
- (2) ~~Handicap~~Disabled parking spaces shall be designated as being for ~~the handicapped persons with a disability~~ with painted symbols and standard identification signs.
- (3) ~~Handicap~~Disabled parking spaces shall be located as close as possible to the nearest accessible building entrance.
- (4) Number of ~~Handicap~~disabled parking spaces:

<i>Total Parking Spaces in Lot</i>	<i>Minimum Required Number of <del>Handicap</del><u>Disabled</u> Parking Spaces</i>
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6

201-300	7
301-400	8
401-500	9
501-1000	2% of total
1,000 and over	20 plus 1 for every 100 over 1,000

For every eight ~~handicap~~-disabled parking spaces, there must be at least one van accessible space. If there is only one ~~handicap~~-disabled parking space, that space must be van-accessible.

(f) ~~Handicap~~Disabled parking space dimensions.

- (1) Parking spaces must be eight feet by 18 feet with a five-foot-wide access aisle.
- (2) Van-accessible spaces must be eight feet by 18 feet with an eight-foot-wide access aisle.
- (3) Parking spaces for ~~the physically handicapped~~ persons with a physical disability that are parallel to a pedestrian walk which is ~~handicap~~-accessible to persons with a disability may have the same dimensions as those for standard vehicles.

(g) *Parking stall dimensions.* Parking stalls for automobiles shall meet the following standards. All dimensions represent the minimum requirement for any required parking space.

<i>Parking Stall Dimensions</i>					
<i>Parking Angle (A)</i>	<i>Stall Width (B)</i>	<i>Stall to Curb (C)</i>	<i>Aisle Width (D)</i>	<i>Curb Length (E)</i>	<i>Overhang (F)</i>
45°	9'	19'	13'	12' 8"	1' 5"
60°	9'	20'	13'	10' 5"	1' 8"
90°	9'	18'	24'	9'	2'
0° (parallel)	8' *	8' *	12'	24'	0'

\* Except along local streets where seven feet is permitted.

[GRAPHIC]

(h) *Bicycle parking spaces.* Commercial, industrial, civic, employment, multifamily and recreational uses shall provide bicycle facilities to meet the following standards:

- (1) A minimum number of bicycle parking spaces shall be provided, equal in number to two percent of the total number of automobile parking spaces provided by the development, but not less than one space.
- (2) For convenience and security, bicycle parking facilities shall be located near building entrances. Within commercial areas, however, a grouping of spaces shall be provided as directed by the town.
- (3) Bicycle parking facilities shall be designed to allow the bicycle frame and both wheels to be securely locked to a structure, which is permanently attached to the pavement.
- (4) Bicycle parking facilities shall be located so as not to interfere with pedestrian traffic or access to buildings.

(i) *Lieu of parking.* Within the CBD Central Business District zone, off-street parking requirements may be satisfied by payment of an in-lieu parking fee at a rate as established by the town.

- (1) The payment shall be equivalent to the estimated cost to the town of providing the required parking spaces to serve the proposed use and shall be in a total amount as acceptable to the town. Such payment shall be made before issuance of a building permit. Fee revenue shall be deposited in the parking fund designated solely for the purpose of constructing, expanding, repairing, and enhancing municipal parking



facilities to provide public parking.

- (2) When an applicant wishes to offer a fee-in-lieu of parking, the applicant must coordinate with the zoning administrator and/or town engineer to determine how parking for the proposed use will be made available. A statement of the agreed upon plan for a fee-in-lieu of parking and manner of parking provision must be included with the application.
- (3) Any off-street parking supplied in this manner shall run with the land (not be invalidated by change in ownership), and any subsequent change in use that requires more parking shall require subsequent action by the property owner to satisfy any additional parking requirements. No refund of any fee-in-lieu of parking shall be made when there is a change in use requiring less parking. Final acceptance of any fee-in-lieu is at the complete discretion of the town.

(Code 1999, § 7.24.080; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.090. Sidewalks.**

(a) *Intent.* The intent of the standards for sidewalks, multi-use pathways and trails is to ensure a safe, convenient, and attractive pedestrian/bicycle system that minimizes conflicts between vehicles, bicycles and pedestrians.

(b) *General provisions.*

- (1) *Interconnected network.* A sidewalk network that interconnects all dwelling units with other dwelling units, nonresidential uses, and common open space shall be provided throughout each development. Sidewalks shall be separate and distinct from motor vehicle circulation routes to the greatest extent possible. The pedestrian circulation system shall include gathering/sitting areas and provide benches, landscaping and other street furniture where appropriate.
- (2) *Sidewalks required.* In all zone districts, except for the O district, sidewalks are required along both sides of a street. Within the O district, sidewalks are required along one side of the street unless the development is served by rural streets.
- (3) *Sidewalk width.* Sidewalks shall be a minimum of five feet wide when adjacent to local streets; a minimum of five feet wide along one side and eight feet wide along the other side of collector streets; and a minimum of eight feet wide along arterial streets. A four-foot-wide detached sidewalk is the preferred sidewalk alternative within local street rights-of-way. Sidewalks adjacent to storefronts in commercial areas shall be ten to 15 feet in width, or consistent with the average sidewalk width on a block if building in an area with existing sidewalks.
- (4) *Sidewalk location.* Sidewalks shall be located within the right-of-way unless otherwise authorized by the Council.
- (5) *Sidewalk materials.* Sidewalks shall be constructed of concrete, brick, slate, colored/textured concrete pavers, concrete containing accents of brick, or some combination thereof that is compatible with the style, materials, colors, and details of the surrounding buildings. Asphalt shall not be used for sidewalks. Sidewalks must be constructed of approved materials of sufficient strength to support light maintenance vehicles. If used as a secondary emergency access, sidewalks must also be able to support a fire truck (60,000 pounds).
- (6) *Sidewalk installation.* Sidewalks and related improvements shall be installed or constructed by the subdivider in accordance with plans and specifications approved by the town and, after installation or construction; they shall be subject to inspection and approval by the town.
- (7) *Accessibility.* Sidewalks and plazas shall be accessible to disabled individuals as required by this Code and the Americans with Disabilities Act.
- (8) *Walkways.* Walkways through a subdivision block shall be not less than eight feet in width, shall be within a dedicated right-of-way not less than 20 feet in width, and shall be flanked with appropriate landscaping. Walkways along buildings and within parking lots shall be raised and curbed, where suitable. A direct pedestrian connection to building entries, public space and parking areas shall be provided from public sidewalks. Walkways shall be constructed of the same materials as sidewalks,

except that walkways internal to asphalt surfaced parking lots, may be of asphalt construction. Walkways crossing driveways in parking lots shall be clearly delineated by a change in pavement color, texture or paint striping.

- (9) *Lighting*. All sidewalks and other pedestrian walkways shall have appropriate lighting, using poles and fixtures consistent with the overall design theme for the development.
- (10) *Multi-use pathways (bikeways)*. Multi-use pathways shall be provided to link internal open space areas with peripheral open space areas and shall connect to multi-use pathway routes throughout the community. Multi-use pathway routes shall be designated between residential areas and commercial and employment centers and schools. Multi-use pathways on local streets may be delineated by painted bicycle only lanes. Sidewalks that may be used as a multi-use pathway are required on arterial and collector streets. All other multi-use pathways shall be a minimum of eight feet wide and shall be of concrete construction or, where approved by the Council, compressed gravel (crusher fines) or asphalt paving. Bike racks shall be provided at the entry to open space areas.
- (11) *Trails*. Trails shall be provided within open space areas and be designed to connect to other open space areas. Trails shall be a minimum of eight feet in width. A trail may be flanked on one side by a soft surface path a minimum of four feet in width. The soft surface path shall be constructed with a minimum depth of eight inches of compressed gravel and crowned and compacted with edging to contain the trail material.

(Code 1999, § 7.24.090; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.100. Easement and utility standards.**

(a) *Utility easement width*. Utility easements shall measure five feet on each side of abutting rear lot lines. On subdivision perimeter rear lot lines adjacent to unsubdivided property, utility easements shall measure ten feet in width. In the event that the location of utility easements adjacent to rear property lines is unsuitable for use by utility companies due to drainage, irrigation ditches or other obstructions, the subdivider shall provide like width easements adjacent to said areas of obstruction. Side lot line easements, where necessary, shall measure ten feet in full width; five feet either side of a lot line is acceptable. Front lot line easements shall measure ten feet in width. Easements may be more or less than widths stated if the specific utility indicates in writing a width other than those required by this Code. Utility easements shall be subject to the approval of the town.

(b) *Multiple installations within easements*. Easements shall be designed so as to provide efficient installation of utilities. Public utility installations shall be located as to permit multiple installations within the easements. The developer will establish final utility grades prior to utility installations.

(c) *Underground utilities*. Telephone lines, electric lines, cable television lines and other like utility services shall be placed underground. The subdivider shall be responsible for complying with the requirements of this section and shall make the necessary arrangements including any construction or installation charges with each utility provider for the installation of such underground facilities. Transformers, switching boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground utilities shall be placed underground or on the surface but not on utility poles. Screening or fencing is required to the satisfaction of the Council. Electric transmission and distribution feeder lines and necessary appurtenances thereto may not be placed above ground unless they are carrying greater than 115 kV. Upon approval of the town, such facilities shall be placed within easements or rights-of-way provided for particular facilities.

(d) *Street lighting*. Street lighting shall be installed as provided in this Code and as specified in the town of town construction specifications for public improvements. Associated underground lighting supply circuits shall be installed. The minimum requirement shall be 250-watt sodium vapor lamps at a maximum spacing of 400 feet for local streets. Arterial streets and commercial areas shall have a higher level of lighting as determined by the Council.

(Code 1999, § 7.24.100; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.110. Setback requirements (all districts).**

(a) On double frontage lots, both streets shall be considered street frontages for purposes of calculating front yard setbacks.

(b) On corner lots, one side of the lot (generally that with the shortest length) with street frontage shall meet the applicable front yard setback.

(c) For purposes of setback calculations, a two-family dwelling shall be construed as one building occupying one lot.

(d) On oddly-shaped lots with a dwelling sited square to the roadway, side setbacks may be less than required above but with no less than a five-foot setback per each side yard.

(e) On a vacant lot bordered on two sides by previously constructed legal nonconforming buildings which do not meet the required front yard setback for the zoning district, the required front yard setback for the vacant lot shall be calculated as the average front yard setback of the two adjacent buildings. Where a vacant lot is bordered on only one side by such a legal nonconforming building, the required front yard setback shall be calculated as the average of the front yard setback of the adjacent building and the minimum front yard setback for the zoning district.

(f) Permanent features allowed within setbacks shall include:

- (1) Cornices, canopies, eaves or other similar architectural features if they extend no more than two feet into a required setback and if they do not encroach into or overhang an easement;
- (2) Steps or ramps to the principal entrance and necessary landings, provided they do not extend more than six feet into the required setback;
- (3) Landscaping;
- (4) Fences and walls, subject to height and other restrictions of this article;
- (5) Utility service lines to a structure and utility lines, wires and associated structures within a utility easement;
- (6) Fire escapes, provided they do not extend more than six feet into the required setback;
- (7) Uncovered patios, porches and decks not more than 30 inches above grade, provided they do not extend more than 30 percent of the required setback distance into the required setback area; and
- (8) Open or covered patios, porches, and decks attached to residential dwellings greater than 30 inches in height may extend no more than five feet into a required front or rear setback or five feet into a required side yard setback adjacent to a street, provided they do not encroach into or overhang an easement or property line and do not obstruct any sight distance triangle.

(Code 1999, § 7.24.110; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.120. Parks and open space.**

(a) *Intent.* To ensure that a comprehensive, integrated network of parks and open space is developed and preserved as the community grows.

(b) *Types of parks and open space.*

- (1) *Plazas.* A plaza is typically located in a commercial or industrial area to serve as a gathering place. A plaza is usually bordered by buildings and may feature seating, formal landscape plantings and amenities such as fountains or public art. Developers are responsible for developing and providing the appropriate amenities for each plaza.
- (2) *Pocket parks.* Every residential development, at town discretion, shall either provide land for a pocket park or provide a fair share, cash-in-lieu contribution for land or improvements in a nearby park that will serve the neighborhood. This can be credited toward the land dedication required at the time of subdivision. A pocket park shall be at least one-half acre and include playground equipment, sprinklered landscaping and be maintained by a homeowner's association or the landowner.
- (3) *Neighborhood parks.* Every residential development shall, at town discretion, either provide land for a neighborhood park or provide a fair share, cash-in-lieu contribution for land or improvements in a nearby park that will serve the neighborhood. This can be credited toward the land dedication required at the time of subdivision. A homeowner's association, the landowner or the town at its discretion shall be responsible for the development and maintenance of the park. A neighborhood park shall be at least five

acres and include active play areas and sprinklered landscaping.

- (4) *Community park.* Community parks serve the residents of several neighborhoods. Community parks are to be located on or near arterial streets, at the edge of residential areas or in nonresidential areas. The developer shall dedicate land for or make a cash in lieu contribution for land and improvements in accordance with the requirements of this chapter. A community park shall be at least 20 acres and include an active play area, ball fields, and sprinklered landscaping in the majority of the park.
- (5) *Trails.* The trail system shall link neighborhoods, parks, schools, open spaces, employment centers, community facilities and neighboring communities and thus provide important transportation connections as well as recreational opportunities and access. Developers must provide trail connections to both the town's trail system and destinations within the neighborhood.
- (6) *Regional open space.* The town's regional open space system includes: drainageways, floodplains, natural areas, natural area buffer zones, wetlands, subsidence areas, agriculture preservation areas and lands of archeological or historic significance. Public access to these areas will generally be limited to trails, educational signs and similar improvements.
- (7) *Storm drainage facilities.* Storm drainage facilities, including stormwater detention and stormwater retention ponds, may function as open space for active recreation, trail corridors or habitat enhancement areas if they are designed appropriately. Credit toward the open space dedication requirements will be considered on a case-by-case basis by the Council at the time of platting.
- (c) *General provisions.*
  - (1) *Open space should serve as the neighborhood focus.* Open space, such as the town drainageways and developed parks and plazas, shall be used to organize lot, block and street patterns and to enhance surrounding developments.
  - (2) *Public access.* Areas designated as public open space shall be both visibly and physically accessible to the community. Adequate public access shall be provided to all public open space, natural and developed, directly from the public street and trail system. Pocket parks and plazas shall be integrated into the neighborhood design and be accessible to pedestrians and bicyclists.
  - (3) *Buildings shall front public open space.* Development adjacent to open spaces shall front onto the area as much as possible, so that the open space areas are not enclosed by back yards. Open space and trail areas shall have a minimum of 300 feet of street frontage unless otherwise authorized by the Council.
  - (4) *Buffering.* Appropriate buffering and setbacks shall be used between environmental resources and proposed development to ensure that the proposed development does not degrade the existing habitat. Developers shall provide an open space buffer zone around all natural areas unless otherwise authorized by the Council. The size of the buffer zone shall be in accordance with studies prepared by the state division of wildlife or a qualified wetland/wildlife ecologist employed by the town and paid for by the developer.
  - (5) *Ownership and maintenance of open space.* Ownership and maintenance of public open space shall be determined by the town on a case-by-case basis through the review process.
    - a. Generally, the town shall own and maintain neighborhood parks, community parks and public trails.
    - b. Pocket parks, landscaped outlots and private recreational facilities shall be owned and maintained by a homeowner's association or the landowner.
    - c. Environmentally sensitive, archaeological and historic resources may be dedicated to and maintained by the town, if approved by the Council.
    - d. Stormwater detention and retention areas that function as open space shall be owned and maintained by a homeowner's association or the landowner, unless otherwise approved by the town.
    - e. Areas designated as open space shall be maintained according the designated function of the area. Applicants shall work with the natural resources conservation service to develop a management plan which addresses: irrigation, revegetation, erosion control, and weed management. If the area

is to remain in private ownership, a mechanism which will ensure maintenance will be funded in perpetuity must be in place at the time of final plat.

- f. Open space protection. Areas designated as open space shall be protected by conveyance to the town as provided on the plat and by this chapter, deed restriction or other appropriate method to ensure that they remain open in perpetuity and cannot be subdivided or developed in the future without approval of the town.
- (d) *Open space requirements.*
- (1) Open space includes:
    - a. Areas within the community designated for the common use of the residents of an individual development and/or the community at large;
    - b. Areas designated for preservation and protection of environmental resources including floodplains, natural drainageways, and wetland areas;
    - c. Areas impacted by subsidence;
    - d. Areas designated for agricultural preservation;
    - e. Areas of archeological and historic significance; and
    - f. Areas of critical or important habitat as defined by the state division of parks and wildlife.
  - (2) Required open space shall not include the following:
    - a. Required setback areas around oil and gas production facilities;
    - b. Disconnected remnants of land created by division of sites into lots or parcels that do not qualify as functional open space or that preserve environmental resources, unless approved by the Council;
    - c. Private yards;
    - d. Tree lawns; or
    - e. Required parking lot landscaping associated with all uses, except parking specifically designated for access to open space areas and within commercial/industrial projects.
  - (3) Amount of open space required. The amount of functional open space required in each development will be based on the density of the development, the recreational requirements of the anticipated users and the anticipated opportunities for public recreation within walking distance of the site (one-quarter mile). In addition to the streets, all residential subdivisions shall dedicate to the town a minimum of 20 percent of the gross land area for public parks, trails and functional open space at the time of subdivision.
    - a. All residential developments. For such residential developments, the developer shall provide:
      1. A minimum of 20 percent of the gross land being subdivided for use as functional open space including: pocket or neighborhood parks, plazas, trails, recreational amenities, homeowner association owned landscaped areas (excluding parking lots), natural areas and amenities for residents or other civic purposes;
      2. The land for one pocket park for every 20 dwelling units or portion thereof which shall be constructed in the subdivision or a fair-share, cash-in-lieu contribution for the cost of the pocket park that will serve the development;
      3. The land for one neighborhood park for every 200 dwelling units or portion thereof which shall be constructed in the subdivision within one-quarter mile radius of the proposed homes; or a fair-share, cash-in-lieu contribution for the cost of the neighborhood park that will serve the development;
      4. Land for one community park, or the fair-share, cash-in-lieu contribution for the cost of any regional community park for every dwelling unit which shall be constructed in the subdivision; and

5. An internal trail system and trails as designated in the town trails map.
- (4) Commercial and industrial developments. In addition to streets the developer of lots one-half acre in size or larger shall provide:
  - a. A minimum of 15 percent of the gross land being subdivided as functional open space which may include: plazas, trails, landscaped areas (including parking lots), natural areas and other civic purposes; and
  - b. Trails as designated on the town trails map.
- (5) Planned unit developments (PUD). In addition to streets, the developer shall provide:
  - a. A minimum of 25 percent of the gross land being developed as open space which may include: pocket parks, trails, homeowner association or landowner owned landscaped areas (excluding parking lots), natural areas and amenities for residents and other civic purposes;
  - b. An internal trail system and trails designated on the town trails map.

(Code 1999, § 7.24.120; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.130. Contribution for public school site.**

To meet the increased need for schools as a result of increased housing, the subdivider shall dedicate land areas or sites suitable for school purposes or provide cash-in-lieu of land in the amount specified for every dwelling unit which may be constructed within the subdivision to serve the elementary, middle, and high school public school needs of the residents of such dwelling units. The town may elect that public school sites may be transferred and conveyed to the town or school district pursuant to stipulations in intergovernmental agreements between the town and school district.

- (1) For single-family dwelling units, the amount of land shall be 1.84 acres per 100 dwelling units;
- (2) For duplex or triplex dwelling units, the amount of land shall be 1.40 acres per 100 dwelling units;
- (3) For multifamily dwelling units, other than duplex or triplex units, the amount of land shall be 0.64 acres per 100 dwelling units;
- (4) For condominium and townhome units, the amount of land shall be 0.82 acres per 100 dwelling units; and
- (5) For mobile homes, the amount of land shall be 1.10 acres per 100 dwelling units.

(Code 1999, § 7.24.130; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.140. Public sites and dedication requirements.**

The developer of residential projects shall dedicate public sites for open space, parks, schools, or other civic purposes in accordance with the requirements of this section to serve the proposed subdivision and future residents thereof.

- (1) *Land dedication.* Payments and dedications made under the requirements of this section shall be made payable or dedicated to the town. Dedication of such sites and land areas to the town shall be free and clear of all liens and encumbrances. The applicant shall provide for the installation of the streets adjacent to the park and school sites, the installation of water, sewer and other public utilities to the park and school sites, and overlot grading of the park and school sites.
- (2) *Fee-in-lieu of dedication.* If there is not sufficient property on the plat to provide land for the entire school or park facility required, with the approval of the Council, the subdivider may, in lieu of dedication of all or part of the land requirements, pay fees in lieu of the equivalent land areas which would have been dedicated to public facilities. Fees are to be calculated in the following manner:
  - a. Fees shall be calculated based on the full market value of the land assuming the plat has been approved and proper zoning exists.
  - b. Full market value shall be determined by mutual agreement between the subdivider and the Council. In the event of inability of any of the above parties to agree on the value of the subject land, the

subdivider shall submit to the town a written appraisal from a qualified appraiser meeting the value requirements set forth herein. Said appraisal shall be made by an individual or entity that does not have a financial interest in the subdivision and shall be a member of the appraisal institute (MAI), a member of the society of real estate appraisers (SRA), or such other qualified person mutually agreeable to the manager and the applicant. The applicant shall pay the cost of said appraisal.

- c. Such appraisal may be submitted during the review period of the final plat. If the Council believes that the appraised value is not accurate, it may obtain its own appraisal from a qualified appraiser, or determine the fair market value by such procedure as the Council deems appropriate.
  - d. All fees-in-lieu of dedications are to be paid prior to the approval of the final plat unless otherwise agreed by the Council.
  - e. For subdivisions that are platted in phases, the above calculations can be made on a phase-by-phase basis through methods to be devised by the Council realizing that by virtue of developing one phase, the value of the undeveloped adjacent phase will increase. The subdivider has the option of paying the fees for all phases upon the due date of fees for the first phase.
- (3) *Unacceptable land for dedication.* Unless otherwise determined by the Council in its sole discretion, land areas that are not acceptable in determining the fulfillment of the requirements for the provision of land areas for public purpose facility sites shall include the following:
- a. Natural drainageways, streams, gullies and rivers including all lands within the 100-year floodplain.
  - b. Rights-of-way and/or easements for irrigation ditches and aqueducts.
  - c. Steep, rugged and hazardous geological land areas, and such other areas as are not conducive for use as the intended park or school site.

(Code 1999, § 7.24.140; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.150. Landscape design.**

(a) *Intent.* To preserve town's special character, and integrate and enhance new development by promoting quality landscape design that:

- (1) Reinforces the identity of the community and each neighborhood;
- (2) Provides tree-lined streets in urban areas;
- (3) Anchors new buildings in the landscape;
- (4) Provides tree canopies within paved areas; and
- (5) Is environmentally sensitive by preserving existing trees, using water conservation techniques, planting native species (when appropriate), and enhances valuable habitat.

(b) *General provisions.* All land development applications shall be accompanied by an appropriate landscape plan. Building permit applications for individual single-family residences will not require landscape plans. However, all landscaping within the community shall comply with the intent of these regulations.

- (1) *Tree lawns.* Landscape improvements in urban settings shall create an orderly, irrigated, managed landscape. All urban neighborhoods shall have tree-lined streets. Trees in tree lawns shall include a mix of species, be aligned in straight rows, and shall be placed within the right-of-way tree lawn. Spacing of trees shall allow for their mature spread. Trees installed along streets that will be widened in the future shall take into account plans for future widening of streets so that established trees will not be disturbed during future construction. Landscape improvements in environmentally sensitive areas and lower density, rural developments shall be native looking and informal. Trees along rural streets shall be planted to create irregular clusters of trees to reinforce the design and character of each project and frame views.
- (2) *Site landscape design.* Landscape improvements shall be an integral part of the overall site design for each property. Landscape improvements shall be designed to complement and enhance the character of neighborhoods and shall follow these guidelines:

- a. Configured to maximize connections within the site to natural areas and to landscaped areas in adjacent developments. Small, isolated islands of landscaping should be avoided except as required in parking lots and for screening along roadways.
  - b. Enhance functional open space through the creation of outdoor rooms appropriate to the location and purpose of the open space within the development. This can be accomplished through a combination of plantings, fencing and berms and by using natural features on the site.
  - c. Consistent with the character of the proposed development and the surrounding area to reinforce neighborhood identity.
  - d. Enhance natural features, drainageways and environmental resources.
  - e. Designed for mature landscapes and shall provide appropriate visibility for cars and pedestrians.
  - f. Preserve and frame views both into and out of the neighborhood.
  - g. Incorporate the elements of gateway, path and destination into the design of landscapes. Gateways are entries that provide transitions from one space to another. Pathways are routes that lead to a destination. Destinations are focal points that can include anything from a garden bench at the end of a path to a civic building at the end of a street.
  - h. No more than 24 inches high when located in a sight distance triangle.
- (3) *Environmental considerations.*
- a. Landscapes shall use the following xeriscape design principles to facilitate water conservation:
    - 1. Well-planned planting schemes;
    - 2. Appropriate turf selection to minimize the use of bluegrass;
    - 3. Use of mulch to maintain soil moisture and reduce evaporation;
    - 4. Zoning of plant materials according to their microclimatic needs and water requirements;
    - 5. Improve the soil with organic matter if needed;
    - 6. Efficient irrigation systems; and
    - 7. Proper maintenance and irrigation schedules.
  - b. All landscapes shall strive to maximize the use of native species. Where native material is not appropriate for the intended use or appearance, plant species that are regionally adapted and noninvasive may be used.
  - c. Landscapes shall consist of a variety of species to enhance biodiversity. No one species may make up more than 25 percent of the total non-grass plant materials on the site.
  - d. Buildings and parking areas shall be located to preserve and promote the health of existing trees, environmental resources and natural drainageways. No healthy tree shall be removed without good cause. This requirement is not intended to prevent the removal of unhealthy trees in conjunction with site development.
  - e. Where possible, trees shall be located to provide summer shade and limit winter shade on walks and streets.
  - f. A combination of plantings, berms, walls and fences shall be used as appropriate to buffer sensitive habitat.
  - g. Weed control will be practiced on all areas disturbed by construction and those areas shall be reseeded to prevent erosion. Native, noninvasive grasses shall be used for revegetation where practical. Weed control is the responsibility of the landowner on all reseeded areas and all preservation areas. Weed control shall be a continual responsibility of the owner during all phases of land clearing and construction.
  - h. All automatic irrigation systems must be installed with moisture sensors.



- i. Every effort shall be made to prevent the spread of noxious weeds.
- (4) *New buildings and paved areas.*
- a. Provide trees, shrubs and groundcover plantings along the sides of new buildings. The size and intensity of plantings shall be appropriate to the building or structure.
  - b. Integrate adjacent land uses of different intensities through a combination of berming, plantings and fencing. Use opaque screening only when necessary to mitigate the impact of noise, light, unattractive aesthetics and traffic. A fence shall not be the only screening material used.
  - c. Use landscaping to provide a transition from developed, managed landscape to more natural vegetation.
  - d. Provide a tree canopy by installing shade trees within and adjacent to paved areas.
  - e. Landscaped areas in commercial parking lots are limited to drip irrigation for trees and shrubs with no impact or spray heads permitted. For grass areas, only drought tolerant grasses shall be permitted.
- (5) *Plant materials.*
- a. The minimum planting sizes on all required landscaping shall be two-inch caliper deciduous trees, 1 1/2-inch caliper ornamental trees, six-foot tall evergreen trees and five-gallon shrubs.
  - b. Plants shall be healthy, well-branched vigorous stock with a growth habit normal to the species and variety and free of diseases, insects and injuries. A variety of plant species should be installed to prevent the spread of disease.
  - c. All plants shall conform to standards for measurements, grading, branching, quality, ball and burlapping as stated in the current edition of the American Standard for Nursery Stock, American Association of Nurserymen, Inc. (AANASNS), and the Colorado Nursery Act of 1965 (CNA).
- (6) *Irrigation.* All required landscaping shall be irrigated as required for plant establishment and maintenance. Irrigation shall be appropriate to the type and scope of the improvements.
- a. Use of non-treated water for irrigation is encouraged if a permanent, suitable supply is available.
  - b. Required landscaping in urban developments shall be irrigated with a permanent irrigation system, which contains moisture sensors.
  - c. Irrigation systems shall be drip irrigation where possible. All irrigation systems shall be designed to prevent overspray and runoff onto paved or other non-landscaped areas.
  - d. Temporary irrigation may be used to establish native grasses and vegetation.
- (7) *Guarantee of installation.* Required landscape improvements shall be installed prior to issuance of a certificate of occupancy (CO) for all structures. If weather conditions prevent installation, the developer shall post a financial guarantee for the improvements. This guarantee shall be released upon completion of the installation of the landscaping.
- (8) *Maintenance.* In order to provide for the ongoing health and appearance of landscape improvements, all landscaping shall be maintained and replaced by the landowner/occupant as necessary. All property owners/occupants shall be responsible for maintenance of landscaping within the portion of the public right-of-way between the back of the curb or street pavement and the adjacent property.
- (c) *Landscaping design standards.*
- (1) *Landscaping within the right-of-way and required common open space.* The developer or assigns shall provide:
- a. Tree lawns: An average of at least one deciduous or ornamental tree for every 40 linear feet of block frontage or portion thereof. Trees shall be planted within the tree lawn with adequate spacing to allow for the mature spread of the trees.
  - b. Collector and local streets: Live groundcover including a combination of grass, trees, flowers, grass

or shrubs. In commercial areas this area may be paved if it functions as pedestrian access to storefronts and is integrated into the overall design of the other improvements on the site.

- c. Arterial streets: Live groundcover as appropriate to the use and function of the area, including a combination of grass, trees, flowers, paving and one shrub for every 150 square feet of landscape area clustered into planting beds. A developer shall also install an automatic irrigation system for all landscaping within arterial rights-of-way.
- d. Landscaping for required common open space: Such as pocket parks and along trails. Landscaping shall be appropriate to the use and function of the area and include trees, shrubs, groundcover, irrigation (where necessary) and paving. Bluegrass is discouraged in these areas.
- e. A mechanism for long-term maintenance of common open space and arterial and collector street right-of-way landscaping: Such as a homeowner's association and covenants.

(2) *Business/commercial development landscaping standards.*

- a. Landscape improvements within the CBD and C zone districts shall be designed to enhance the overall appearance of the development and to integrate the project with adjacent land uses and into the surrounding neighborhood. A minimum of 15 percent of the site (gross) shall be landscaped area.
- b. The developer or assigns shall provide:
  - 1. Site trees: plant a minimum of one tree per 1,000 square feet of landscaped area, distributed on the site.
  - 2. Shrubs: plant a minimum of one shrub per 150 square feet of landscaped area. Group shrubs and distribute throughout the site. Trees may be substituted for up to one-half of the required shrubs at the rate of one tree for six shrubs.
  - 3. Groundcover: establish irrigated grass turf maintained to appropriate standards for active recreation in areas that will function for active recreation. Where appropriate, use native grass for areas that will not function as active recreation areas. Native grass must be weed free and maintained at a maximum height of eight inches. There shall be a minimum of 75 percent live materials between the building and the street unless otherwise approved by the town. For active recreation areas a turf type tall fescue or a brome/fescue mix will be used.
  - 4. Landscape setback to parking lots: 15 feet from arterials and other streets. The purpose of the setback is to provide a buffer between the street and parking areas.
- c. Screen loading areas. Loading areas (including vehicles being loaded), service and storage areas visible from the public right-of-way or adjacent property must be screened from view with an opaque screen that is an integral part of the building architecture, or by landscaping. Chainlink fencing with slats, tires or used building materials are not acceptable screening materials.
- d. The building owner or occupant shall maintain the yard and landscaping within the adjacent road right-of-way in accordance with town regulations.
- e. When an applicant wishes to offer a fee-in-lieu of landscaping, the applicant must coordinate with the town planner and public works director to determine how landscaping for the proposed use will be made available. A statement of the agreed upon plan for a fee-in-lieu of landscaping must be included with the application. Final acceptance of any fee-in-lieu is at the complete discretion of the Council.

(3) *Industrial development landscaping standards.*

- a. Landscape improvements within the I-1 and I-2 districts shall be designed to enhance the overall appearance of the development and to integrate the project with adjacent land uses and into the surrounding neighborhood. A minimum of 15 percent of the site (gross) shall be landscaped area. The potential waiver of landscape requirements on the subject property is an option per subsection (c)(2) of this section.

- b. The developer or assigns shall provide:
  - 1. Site trees: plant a minimum of one tree per 1,500 square feet of landscaped area, distributed on the site.
  - 2. Shrubs: plant a minimum of one shrub per 300 square feet of landscaped area. Group shrubs and distribute throughout the site. Trees may be substituted at the discretion of the planning commission at site plan review.
- (4) *State highway corridor landscaping standards.* The developer or assigns shall provide:
  - a. Landscape setback to parking lots: provide a 15-foot landscape setback from the highway right-of-way. The purpose of the setback is to provide a buffer between the highway and parking areas. Signage may be included in this setback.
  - b. Shrubs: a minimum of one shrub per 150 square feet of landscaped setback. Group shrubs and distribute throughout the landscape setback. Trees may be substituted for up to one-half of the required shrubs at the rate of one tree for six shrubs.
- (5) *Central Business District (CBD) landscaping standards.* Downtown landscaping is intended to provide an attractive environment for people to walk and shop. The developer or assigns shall provide a combination of window boxes, planters, trees, benches, etc., as appropriate to enhance building entries and the streetscape.
- (6) *Parking lot landscaping standards.* Parking lot landscaping is intended break up large expanses of pavement, create shade, buffer views of parking lots from adjacent streets and development and enhance the overall appearance of each project. All parking lots with ten spaces or more shall be subject to these requirements. The developer or assigns shall provide:
  - a. *Site trees.* A minimum of one tree per five parking spaces. Group trees together in islands which are a minimum of ten feet wide. Use the landscaping to break up large expanses of pavement and to create a tree canopy for summer shade.
  - b. *Shrubs.* A minimum of one shrub per 150 square feet of landscaped area. Group plantings in landscape islands.
  - c. *Groundcover; limit areas of irrigated turf.* Grass is discouraged in areas less than ten feet wide. Install a grass buffer (native grass where possible) around the perimeter to filter runoff and improve water quality.
  - d. *Landscape setback to parking lots; 15 feet from arterials and other streets.* The purpose of the setback is to provide a buffer between the street and parking areas and to screen the parking from the street.
  - e. *Provide a mechanism for long-term maintenance of landscaping.* All landscaping within and adjacent to parking lots shall be owned and maintained by the landowner or occupant.
- (d) *Storm drainage facilities.*
  - (1) *Intent.* To promote innovative and effective land and water management techniques that protect and enhance water quality.
  - (2) *General provisions.*
    - a. Landscaping associated with storm drainage facilities shall be integrated into the overall design of the project.
    - b. It shall enhance the overall appearance of the project, prevent erosion and improve water quality of stormwater runoff whenever possible.
    - c. Storm drainage facilities may function as open space for active recreation, trail corridors or habitat enhancement areas if they are designed appropriately and approved by the Council.
    - d. The use of planting strips and shallow landscaped depressions (bio-swales) in parking lots and along roads is encouraged to help trap and remove pollutants from stormwater runoff.

(3) *Applicability.* All storm drainage facilities shall be appropriately landscaped.

(4) *Minimum requirements.*

- a. All facilities shall be seeded to grass appropriate to the function of the area. Areas to be used for active recreation shall be seeded to a turf-type grass and irrigated with a permanent irrigation system. Areas to be maintained for habitat enhancement shall be seeded to native grasses and wildflowers. Developer is responsible for establishment of a complete, weed free stand of grass. Trail corridors may be seeded to native grasses if appropriately integrated with adjacent improvements. Areas to be used for active recreation shall be seeded to a turf type tall fescue or brome/fescue mix or other drought tolerant grass acceptable to the town and irrigated with a permanent irrigation system.
- b. Maximum side slope on drainage facilities shall be 4:1, minimum slope of the bottom of a drainage facility shall be one-half percent.
- c. Landscape improvements shall be designed to enhance the function of the facility. Areas designed for recreation shall include clusters of trees to provide shade, located so they do not impair the function of the facility.
- d. Habitat and water quality enhancement including wetland plantings in low wet areas is encouraged.

(5) *Ownership and maintenance.* All drainage facilities shall be owned and maintained by the landowner or occupant unless otherwise approved by the town.

(e) *Submittal standards for landscape plans.* All land development applications will be accompanied by the appropriate landscape plan:

<i>Type of Application</i>	<i>Conceptual Landscape Plan</i>	<i>Preliminary Landscape Plan</i>	<i>Final Landscape Plan</i>
Sketch plan	Yes		
Preliminary plat/PUD		Yes	
Final plat/PUD			Yes
Conditional use review			Yes
Site plan			Yes

(1) *Conceptual landscape plan (submit with sketch plan).* Intent: to illustrate the overall design concept for landscaping and depict how it relates to the overall development.

- a. Describe the design intention of the proposed landscape improvements.
- b. This information should be included on the sketch plan map or combined with the conceptual open space plan if it can be clearly illustrated and the scale is not greater than one inch equals 200 feet.
- c. Information required on the plan is listed in the table which follows.

(2) *Preliminary landscape plan (submit with preliminary plat).* Intent: to illustrate the master landscape plan for the development.

- a. Describe the design intention and how the proposal is consistent with the purpose and intent of these regulations.
- b. Landscaping should be included on the preliminary open space and ecological characterization plan if it can be clearly illustrated and the scale is not greater than one inch equals 100 feet.
- c. Information required on the plan is listed in the table which follows.

(3) *Final landscape plan (submit with final plat).* Intent: to ensure each phase of the final landscape plan is consistent with the master landscape plan for the development and to illustrate the specific landscaping details for each phase.

- a. Describe the design intention and how the proposal is consistent with the preliminary landscape plan.
- b. The final landscape plan must be on a separate page from the final plat map and should be included with the final open space plan. The scale shall not greater than one inch equals 50 feet.
- c. Information required on the plan is listed in the table, which follows:

<i>Information Required</i>	<i>Concept</i>	<i>Preliminary</i>	<i>Final</i>
Scale, north arrow, site boundary	Y	Y	Y
Existing and proposed streets		Y	Y
Existing and proposed utilities and easements		Y	Y
Existing contours (2' intervals), can be USGS for conceptual landscape plan	Y	Y	Y
General grading concepts for proposed improvements, typical cross-sections of streets and special treatment areas		Y	
Proposed contours (2' intervals)			Y
Describe the design intention	Y	Y	Y
Describe the general character and location of proposed landscaping and open space and how it meets the purpose of these regulations	Y		
Illustrate how the open space network and pedestrian circulation system will function	Y		
Existing site features including ditches, trees, shrubs and groundcovers and any drainageways, wetlands or wildlife habitat present on the site. Indicate which plants will be preserved, the method of preservation and which will be removed	Y	Y	Y
Proposed landscaping including: trees, shrubs, groundcover, walks, fences. Show which plantings are deciduous and evergreen		Y	
Indicate which areas will be irrigated and method of irrigation		Y	Y
Typical detail drawings at one inch equals 20 feet to illustrate perimeter treatment, buffering, typical front yard, and any special treatment areas on the site		Y	
Define areas to be considered open space and if they will be public or private. Indicate how open space will be maintained including: erosion control, revegetation, and weed management both during and after construction		Y	Y
Detailed planting plan indicating location, species, size and quantity of all proposed plantings and groundcover. Improvements shall be shown in their final location and mature size. Include a plant list in chart form and description of the type and location of groundcover, walks, fences, and mulches. Include a cost estimate for improvements. (This may be submitted as a separate sheet and is not required on the plans.)			Y

(f) *Prohibited plant materials list.* The following trees are prohibited in the town: Russian Olive, Lombardy Poplar, Siberian Elm, Boxelder Maple, cotton-bearing Cottonwood, Salt Cedar or Tamarisk.

(Code 1999, § 7.24.150; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.160. Buffering and screening techniques.**

- (a) *Intent.* To integrate adjacent land uses and provide seamless transitions from one use to another through

the use of building orientation and access, landscaping, appropriate architectural elements, and nonbuildable buffer areas.

(b) *General provisions.*

- (1) Special consideration shall be given to adjacent land uses of different intensities. It shall be the responsibility of the developer of the more intensive use to ensure that the transition from one use to another is attractive, functional and minimizes conflicts between the current and planned uses.
- (2) It is the responsibility of the developer of the higher intensity use to demonstrate that the uses will be compatible. This can be accomplished through the effective use of shared access and parking, appropriate building orientation and setbacks, landscaping, architectural treatment, buffer areas, and limited use of fencing and screening walls. Special consideration shall be given to the impact of aesthetics, noise, lighting and traffic.
- (3) Buffering of up to 100 feet of nonbuildable area may be required between any development and adjacent natural or environmentally sensitive areas or different uses. The actual amount of any buffer area will be determined on a case-by-case basis.
- (4) Under no circumstances shall a fence be the only screening material used as a buffer between land uses.

(c) *Location and screening of required loading and service areas.*

- (1) Loading docks, solid waste facilities, recycling facilities and other service areas shall be placed to the rear or side of buildings in visually unobtrusive locations.
- (2) Screening, buffering and landscaping shall be incorporated to prevent direct views of the loading areas and their driveways from adjacent properties or from the public right-of-way. Screening and landscaping shall also prevent spill-over glare, noise, or exhaust fumes. Screening and buffering shall be achieved through walls, architectural features, and landscaping; and shall be visually impervious. Recesses in the building or depressed access ramps may be used.

(d) *Dumpsters.*

- (1) Every development that is required to provide one or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:
  - a. Located to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way;
  - b. Constructed to allow for collection without damage to the development site or the collection vehicle; and
  - c. Provide an area for recycling as well as disposal of solid waste.
- (2) All such dumpsters shall be screened to prevent them from being visible to:
  - a. Persons located within any dwelling unit on residential property other than that where the dumpster is located;
  - b. Occupants, customers, or other invitees located within any building on nonresidential property other than that where the dumpster is located; and
  - c. Persons traveling on any public street, sidewalk or other public way.

(Code 1999, § 7.24.160; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.24.170. Fences and walls.**

(a) *Intent.* To ensure that walls and fences are attractive and in character with the neighborhood. The creation of fence canyons along streets, parks or other public areas is prohibited.

(b) *General provisions.*

- (1) *Compatibility.* Walls and fences shall be architecturally compatible with the style, materials, and colors of the principal buildings on the same lot. If used along collector or arterial streets, such features shall

be made visually interesting by integrating architectural elements such as brick or stone columns, varying the alignment or setback of the fence, softening the appearance of fence lines with plantings, or through similar techniques. A fence or wall may not consist of a solid, unbroken expanse for more than 50 feet.

(2) *Materials.*

- a. Stone walls or brick walls with a stone or cast stone cap, treated wood fences, decorative metal, cast iron fences, stucco walls, and stone piers are encouraged. Solid walls and fences are permitted only in rear and side yards. Retaining walls are permitted where required for landscaping or architectural purposes. Hedges may be used in the same manner and for the same purposes as a fence or wall.
- b. Fences used in front yards shall be at least 50 percent open. Allowable fences are split rail, wrought iron, picket, or other standards residential fences of a similar nature approved by the town.
- c. Solid fences shall be constructed to meet the wind design criteria of the adopted ~~uniform~~ building code, using a basic wind speed of 80 miles per hour.
- d. Other materials may be incorporated in fences and walls as may be approved by the town.

(3) *Prohibited materials.* Contemporary security fencing such as concertina or razor wire, barbed wire, or electrically-charged fences is prohibited unless specifically allowed by the Council. Chainlink fencing with or without slats shall not be used as a fencing material for screening purposes.

(4) *Retaining walls.* Retaining walls shall be designed to resist loads due to the lateral pressure of retained material in accordance with accepted engineering practice and shall not be unsightly or detrimental to abutting property.

(5) *Height limitations.* Fences or walls shall be:

- a. No more than 42 inches high between the front building line and the front property line. Walls shall not be solid except for retaining walls. For corner lots, front yard fence regulations shall apply to both street sides of lot.
- b. No more than 42 inches high if located on a side yard line in the front yard, except if required for demonstrated unique security purposes. Fences and walls shall not be solid, except for retaining walls.
- c. No more than five feet high for an opaque privacy fence located on a rear property line or on a side yard line in the rear yard.
- d. No more than six feet high for opaque privacy fences that are located directly adjacent to and integrated with the architecture of the house or connected to a courtyard.
- e. No more than 24 inches high when located within the site distance triangle, and fences or walls within this site distance triangle shall not be solid.
- f. In the industrial (I-1 and I-2) zone districts, a chainlink fence may be permitted so long as it is not higher than six feet anywhere on the premises and the visibility at the intersection and from public ways meet the requirements of this chapter.
- g. Fences around a recreation court (e.g., tennis, squash racket, squash tennis or badminton) or around a publicly owned recreation area may exceed six feet in height if the fence is at least 50 percent open.

(6) *Maintenance.*

- a. Dilapidated, unsightly or dangerous fences shall be removed or repaired when so ordered by the town. Hedges shall be maintained in a healthy condition, trimmed and pruned as appropriate for the plant type. Dead plant material in hedges shall be removed or replaced as appropriate when so ordered by the town. Hedges shall not encroach upon sidewalks or street rights-of-way.
- b. Permits for fences that encroach onto the public right-of-way shall be revocable at the discretion of the town.

(Code 1999, § 7.24.170; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.24.180. Residential architecture (single-family and multifamily dwelling).**

(a) *Intent.* Architecture plays an important part in developing an identity for neighborhoods and dwellings. The town wants to build upon the architectural traditions of the region, yet allow for diversity of expression. In addition, the town wants to encourage a variety of housing types, sizes and prices in each neighborhood to allow people to remain in their neighborhoods as their housing needs change.

(b) *Housing diversity/neighborhood identity.* Housing diversity is an important goal for new residential development in the town. In support of this, the integration of detached and attached single-family dwellings and multifamily dwellings within neighborhoods, even in the same block, is encouraged. Developers shall submit scaled elevation and perspective views of the type of residential units that might be constructed on a typical residential block.

(c) *Multi-family stacked units, including condominiums and apartments.* The intent of this section is to build multifamily stacked units that achieve a balance between repetition and variety. Each multifamily dwelling containing more than three dwelling units shall feature a variety of massing proportions, wall plane proportions, roof proportions and other characteristics. The following specific standards shall apply to multifamily stacked units, including condominiums and apartments:

- (1) *Individual building identity.* For all developments of three or more multifamily stacked buildings, a floor plan may be repeated; however, identical building facades must not be replicated more than twice within the development. Before building may commence on a block and prior to the issuance of a building permit within the block, the applicant shall illustrate how the development will comply with the requirements set forth in this section.
- (2) *Articulation.* Each multifamily dwelling or condominium shall be articulated with projections, recesses, covered doorways, balconies, box or bay windows and/or other similar features, dividing large facades and walls into human-scaled proportions. Each multifamily building shall feature walls that are articulated by a least two of any of the following elements within every 36-foot length of the facade:
  - a. Recesses, projections or significant offsets in the wall plane;
  - b. Distinct individualized entrances;
  - c. Chimneys that project from the wall plane;
  - d. Balconies and/or other outdoor living space; or
  - e. Bay or box windows.
- (3) *Roofs.* Each multifamily building shall feature a combination of primary and secondary roofs. Primary pitched roofs shall be articulated by at least one of the following elements:
  - a. Changes in plane and elevations;
  - b. Dormers, gables or clerestories; or
  - c. Transitions to secondary roofs over entrances, garages, porches, or bay windows.
- (4) *Color.* For all developments, there shall be no more than two similarly colored structures placed next to each other along a street or major walkway.
- (5) *Garages.* No street-facing facade shall contain more than four garage fronts. Resident garages or parking that is internal to the block is encouraged. On-street parking should be made available for visitors.

(d) *Finished grade requirements.* The intent of this section is to eliminate extreme slopes from the edge of buildings that limit the useable area of the lot after a building is built. All residential buildings shall not have more than a three percent overall slope change from natural to finished grade. Finished grade must not exceed five percent from any exterior wall of the building. If natural grade is greater than five percent, finished grade must not be more than one percent above of natural grade from that wall of the residence.

(Code 1999, § 7.24.180; Ord. No. 679, § 2(exh. A), 11-16-2017)



### **Sec. 10.24.190. Commercial and industrial architecture.**

(a) *Intent.* The town has distinctly different downtown, commercial and industrial types of development contemplated within its planning area. They are different in character, purpose, and the proposed mixture of uses. The design considerations vary for each type, although there are many common design elements. Subsection (b) of this section outlines both common elements and the specific design considerations by type of use. With respect to the CBD Central Business District, the town's historic buildings have established a pattern of downtown development where buildings are located close to the sidewalk, forming a generally continuous street facade. Pedestrian movement is the primary focus. Building height, architectural details, front setbacks, parking location, wall articulation, and sidewalks establish the architectural edges that define this area as a walkable commercial corridor.

(b) *General provisions.*

- (1) *Connections.* Commercial developments must be linked with surrounding areas by extending city streets, sidewalks, and/or paths directly into and through the development, thereby providing convenient, direct pedestrian, bicycle and vehicle access to and from all sides of the development.
- (2) *Accessibility.* Developments must be accessible to pedestrians and bicyclists as well as motorists. Site plans shall equally emphasize the following:
  - a. Pedestrian access to the site and buildings;
  - b. Gathering areas for people; and
  - c. Auto access and parking lots.

The emphasis must not be placed solely on parking and drive-through functions.

- (3) *Walkways.* Walkways must be located and aligned to directly and continuously connect areas or points of pedestrian origin and destination, and not be located and aligned solely based on the outline of a parking lot configuration that does not provide such direct pedestrian access.
- (4) *On-street parking.* Streets and other elements of the site plan shall be designed so that on-street parking is a functional part of the development (except along arterial streets).
- (5) *Building orientation.* Where possible, buildings in the CBD Central Business District shall be located to front on and relate primarily to streets. Building setbacks from local and collector streets should be minimized in order to establish a visually continuous, pedestrian-oriented streetfront. If a minimized setback is not maintained, the larger setback area shall have landscaping, low walls or fencing, a tree canopy and/or other site improvements along the sidewalk designed for pedestrian interest, scale and comfort.
- (6) *Pedestrian scale.* The establishment of buildings on isolated "pad sites" surrounded by parking lots and driveways, and that offer mainly auto-oriented signage to define entrances, is not allowed in the CBD zone district.
- (7) *Thematic architectural styles.* Standardized "corporate" or strongly thematic architectural styles associated with chain-type restaurants and service stores are not allowed unless they accommodate the desired image for the town and are compatible with adjacent structures and uses.
- (8) *Location of parking lots.* Parking requirements in the CBD Central Business District shall be provided to the greatest extent possible by spaces at the rear or sides of the building.
- (9) *Blank walls.* Blank, windowless walls are discouraged. Where the construction of a blank wall is necessary, the wall shall be articulated.
- (10) *Wall articulation.*
  - a. Walls shall not have an uninterrupted length exceeding 50 feet. Pilasters, texture transitions, windows and stepping of the wall plane are required.
  - b. All exterior elevations shall maintain the integrity of the adjacent dwellings architectural character and detailing.

- c. Continuous cornice lines or eaves are encouraged between adjacent buildings.
  - d. Buildings with flat roofs shall provide a parapet with an articulated cornice.
- (11) *Facade treatment.* The architectural treatment of the front facade shall be continued, in its major features, around all visibly exposed sides of a building. Blank walls at side and/or rear elevations visible to the general public are not allowed unless the town determines there are adequate building or landscape features to conceal the view of the blank wall.
  - (12) *Windows.* Windows shall be vertically proportioned wherever possible.
  - (13) *Awnings.* Fixed or retractable awnings are permitted. Canvas is the preferred material, although other water-proofed fabrics may be used; metal, wood or aluminum awnings shall not be used unless otherwise approved by the Council. No portion of any awning, awning support, or awning decoration may be less than seven feet above grade.
  - (14) *Screening.* All air conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing and satellite dishes, other telecommunication receiving devices and any other apparatus placed on the roof of a building shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements including pipe chases, and landscaping. In addition, all trash facilities, loading and parking areas shall be screened from public view by landscaping, building elements or approved fencing.
  - (15) *Architectural details.* All materials, colors, and architectural details used on the exterior of a building shall be compatible with the building's style and with each other.
- (c) *CBD: Central Business District architectural standards.*
    - (1) *Setbacks.* Buildings shall abut the front property line. Building facades may be recessed if an arcade or similar structure abuts the front setback. Architectural projections including cornices, balconies, canopies and entry features may encroach into public rights-of-way, subject to permits as required by town codes.
    - (2) *Multi-story, mixed-use structures.* Commercial uses shall be contained in multi-story (two to three stories) mixed-use structures with commercial/retail uses on the ground level and above and/or apartment dwellings or offices on the upper levels. Such building shall vary in terms of footprint and architectural elevation.
    - (3) *Entries.* Transparent entries and large store-front windows are strongly encouraged. Recessed and other styles of window openings are desired.
    - (4) *Windows.* Street-level storefront windows are strongly encouraged. Office and residential windows organized in a generally regular pattern are encouraged.
    - (5) *Awnings/canopies.* Awnings or canopies, which provide a generally consistent cover along the pedestrian walk, are strongly encouraged. Signage is allowed on awnings. Arcades are desired to maintain a more continuous weather protected walk.
    - (6) *Historic buildings.* Where feasible, historic structures shall be preserved and restored to allow for reuse as businesses.
    - (7) *Additional architectural standards.* Where applicable, it is recommended that projects in the CBD zone district meet the architectural standards identified below in subsection (d) of this section.
  - (d) *C: Commercial District architectural standards.*
    - (1) *Design of developments with internal orientation.* In multiple-building developments, where setbacks are increased to accommodate independent development with internal orientation, primary building entrances are encouraged to face walkways, plazas, or courtyards that have direct, continuous linkage to the street without making people walk through parking lots. However, it may be necessary for such direct pedestrian access ways to cross drive aisles. Driveway crossings must place priority on the pedestrian access.
    - (2) *Connections.* Where it is not possible or appropriate to extend a town street or sidewalk directly into

development or bring the building up to a town sidewalk, buildings shall be shaped and designed to form pleasant, direct connections to adjacent land uses.

- (3) *Requirement for four-sided design.* A building's special architectural features and treatments shall not be restricted to a single facade. All sides of a building open to view by the public, whether viewed from public or private property shall display a similar level of quality and architectural interest.
- (4) *Building form.* The design of all buildings shall employ textured surfaces, projections, recesses, shadow lines, color, window patterns, overhangs, reveals, changes in parapet heights, and similar architectural features to avoid monolithic shapes and surfaces and to emphasize building entries. Designs shall not contain unbroken flat walls of 50 feet or greater in length.
  - a. Buildings having single walls exceeding 50 feet in length shall incorporate one or more of the following for every 50 feet:
    1. Changes in color, graphical patterning, changes in texture, or changes in material;
    2. Projections, recesses and reveals;
    3. Windows and fenestration;
    4. Arcades and pergolas;
    5. Towers;
    6. Gable projections;
    7. Horizontal/vertical breaks; or
    8. Other similar techniques.
- (5) *Exterior building materials and colors.* Intense, bright or fluorescent colors shall not be used as the predominant color on any wall or roof of any primary or accessory structure. These colors may be used as building accent colors.
- (6) *Roof materials.* All sloping roof areas with a pitch of three in 12 or greater, and visible from any public or private right-of-way, shall be surfaced with attractive and durable materials.
- (7) *Orientation of pedestrian entries.* All office, hotel and motel structures shall be oriented so that pedestrian entries face the nearest adjacent street.
- (e) *Industrial (I-1 and I-2) architectural standards.* Intent: Industrial uses shall provide the opportunity to develop industrial facilities and business parks. In addition, the following standards shall apply:
  - (1) A building's special architectural features and treatments shall not be restricted to a single facade. All sides of a building open to view by the public, when viewed from public right-of-way shall display a similar level of quality and architectural interest.
  - (2) Building massing and form:
    - a. Office and entry spaces shall be distinguished from the building mass.
    - b. Large, square, "box-like" structures are prohibited. Architectural elements with smaller forms stepping outwards and down are permissible.
    - c. Loading areas shall not front any street or public right-of way.
    - d. Parking requirements shall be provided to the extent possible at the rear or sides of the building.
  - (3) Wall articulation. Walls shall not have an uninterrupted length exceeding 50 feet. Pilasters, texture transitions, windows and/or stepping of the wall plane are required.
  - (4) Siting structures.
    - a. Structures shall be sited to avoid a "wall" affect along public rights-of-way and along adjacent property lines. This can be achieved by varying the building setbacks and clustering buildings.

- b. Where multiple buildings are proposed on a development parcel, buildings shall be oriented to allow views into the project and shall preserve high quality views through the project (e.g., views of the mountains).

(Code 1999, § 7.24.190; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.200. Mobile homes.**

(a) *Intent.* To establish design standards for mobile homes, including mobile home parks and mobile home subdivisions.

(b) *General provisions.* Mobile homes shall comply with the following standards:

- (1) The mobile home must be partially or entirely manufactured in a factory.
- (2) The mobile home must be not less than 14 feet in width and 29 feet in length.
- (3) The mobile home must be set on an excavated, backfilled, engineered foundation enclosed at the perimeter so that the top of the perimeter wall sits no more than 12 inches above finish grade. The foundation shall be similar in appearance and durability to a masonry foundation of a site-built dwelling. The foundation shall provide an anchoring system for the mobile home that is totally concealed under the structure.
- (4) The mobile home must have brick, wood or cosmetically equivalent exterior siding on all exterior walls which provides a consistent, continuous facade from the bottom of the soffit (top of the wall section) downward to the top of the exposed perimeter foundation. The exterior siding of the mobile home must have the same appearance as materials commonly used on residential dwellings. Metal siding must be painted or anodized.
- (5) The mobile home must have a pitched roof with a pitch of at least a nominal three in 12. The roof must be covered with shingles, shakes, or tile. Eaves of the roof must extend at least one foot from the intersection of the roof and the exterior walls.
- (6) The mobile home must have windows with wood, vinyl coated or anodized aluminum frames.
- (7) The mobile home must have color-coordinated body and trim. Colors of both the factory components and the site-built components shall be the same.
- (8) The transportation mechanisms including the wheels, axles and hitch must be removed.
- (9) No mobile home shall be occupied for dwelling purposes unless it is properly placed in a mobile home space and connected to water, sewage, electric and gas utilities, as appropriate.
- (10) All mobile homes shall be certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401 et seq., as amended or shall be certified by the state division of housing pursuant to C.R.S. § 24-32-701 et seq.
- (11) All mobile homes shall have an enclosed crawl space underneath the mobile home and shall not provide a shelter for rodents or create a fire hazard. No enclosed crawl space shall be used for storage unless the storage area is surfaced with concrete. Adequate access and ventilation shall be provided in accordance with the Guidelines for Manufactured Housing Installation.
- (12) Additions to increase the floor area of mobile home shall not be permitted except for patios, porches, garages, decks or carports. Garages may be detached or attached.
- (13) Prior to occupancy, the building official shall inspect each mobile home to determine compliance with the Municipal Code. No occupancy shall be permitted or certificate of occupancy issued until said inspection and all connections to public utilities have been made. The owner or home builder shall pay to the town a building permit fee for each residential structure as may be required by the Municipal Code. Installation procedures and the building permit fee shall be in accordance with the then current Guidelines for Manufactured Housing Installation, including appendices, published by the International Conference of Building Officials for Mobile Homes and as adopted by the town.
- (14) All additions shall comply with minimum yard requirements, and a building permit shall be required in

advance for any such addition.

(c) *Design standards.* The following standards shall apply if in conflict with other standards in this title:

(1) *Street design standards.*

- a. All interior streets in a mobile home development shall be privately owned and maintained by the owner of the development and shall be a minimum width of 22 feet from back of curb to back of curb, including the width of gutter pans. Private streets shall have a public access easement suitable for use by emergency vehicles.
- b. Primary through streets shall be 34 feet from back of curb to back of curb with a four-foot detached sidewalk on one side being located six feet from the back of curb.

(2) *Parking.* Every mobile home space shall have two off-street parking spaces adjacent to the mobile home. There shall be one additional parking space for each mobile home space within 100 feet for use of occupants and guests.

(3) *Pedestrian circulation.* Developer shall provide for a system of pedestrian circulation within the development. The system shall connect with existing sidewalks, if any are adjacent to the property. The system shall be designed to link residential units with recreation facilities, school bus stops and existing sidewalks in the neighborhoods. Detached sidewalks within the mobile home residential development shall be a minimum of four feet in width.

(4) *Street and sidewalk lighting.* All streets and sidewalks shall be lighted in accordance with the standards contained in this title.

(5) *Access and circulation.* A mobile home development shall have two means of access to public streets at the perimeter of the site. Internal circulation may be provided by public or private streets, driveways and alleys. Each mobile home space shall be provided access to the internal circulation system. No mobile home space shall have direct access to a public street on the perimeter of the site.

(6) *Sidewalk between street and mobile home.* Concrete sidewalks shall be provided between the mobile home and the adjacent street sidewalk; except, the paved parking area may satisfy this requirement provided a sidewalk is provided from the parking area to the mobile home.

(7) *Traffic control.*

- a. Pursuant to C.R.S. § 42-4-1102, the town elects to impose and enforce stop sign regulations, speed limits and parking restrictions posted in accordance with the Manual of Uniform Traffic Control Devices upon all highways and streets which are privately maintained in mobile home developments. The owner of the mobile home development shall provide such signs as may be required by a traffic engineer and agrees to erect and maintain such signs in conformity with the model traffic code.
- b. The stop sign placement, speed limits and parking restrictions shall be determined by a traffic engineer but shall be consistent with the provisions of C.R.S. §§ 42-4-1101 to 42-4-1104 et seq., 42-4-1204 and 42-4-1208.
- c. There shall be posted at each entrance to any such mobile home park a sign giving notice of such enforcement in the following text: "NOTICE: Stop sign, speed limit and parking regulations enforced by the Town of Hayden."
- d. When all signs are in place, stop sign, speed limits and parking regulations shall be enforced, and violations thereof punished in accordance with the provisions of the model traffic code then in effect.

(8) *Utility design requirement.*

- a. All public utilities shall be installed in accordance with the applicable town or district standards.
- b. All public utility distribution lines shall be placed underground.
- c. A mobile home park may have multiple master meters for water service.

- d. Each mobile home space shall have its own meter for water and electrical service.
- (9) *Mobile home space landscaping.* The developer shall provide front and rear mobile home space landscaping for each mobile home space, including but not limited to, sod and irrigation system and trees and shrubs. The developer shall provide the town with a graphic representation of "typical" mobile home space landscaping for each of the mobile home designs to be located in the mobile home development.
- (10) *Mobile home residential development perimeter and common space landscaping.* The developer shall landscape the perimeter and common open space of the mobile home development in accordance with landscaping plans submitted to the planning commission for review and approval.
- (11) *Community space.* No less than ten percent of the gross site area shall be reserved for and devoted to improved recreation areas and facilities provided in a location or locations convenient to all mobile home spaces.
- (12) *Tenant storage.*
  - a. A separate uniform tenant storage structure may be provided for each space, located on each space.
  - b. There may be a maximum of 200 square feet of storage area provided for each mobile home space.
  - c. Design and location of tenant storage shall enhance the appearance of the park and the exterior siding of the structure shall have the same appearance as materials commonly used on residential dwellings.
- (13) *Street names, addressing, mail delivery.* All streets shall be named on the MHR development plan and submitted by the owner to the town, county and U.S. post office for approval. Each space shall be numerically designated for address and mail purposes and signs furnished and installed by the mobile home residential developer. Cluster postal boxes will be provided at a central location convenient to the residents. No individual street-side mail boxes are permitted unless otherwise approved by the town.
- (14) *Solid waste disposal.*
  - a. The owner of the mobile home residential development shall be responsible for the promulgation and enforcement of rules and regulations governing solid waste storage and handling that meet or exceed state or federal regulations.
  - b. The owner shall provide containers for the storage of solid wastes awaiting collection for each mobile home space. Containers are to be sized to completely contain twice the anticipated volume of solid wastes that are generated on the premises. Containers are to be watertight, impervious to insects and rodents and are to be kept off the street, curb, sidewalk and all other public ways, and concealed from public view, except on collection day.
- (d) *Miscellaneous.*
  - (1) *Single ownership of a mobile home residential development.* A mobile home residential development may not be converted to another use other than such uses provided for in the MHR development plan without the approval of the Council and meeting the appropriate lot size, lot width, setback and other requirements of the new use.
    - a. The land within a mobile home residential development shall remain in a unified ownership and the individual ownership of lots or portions of lots shall not be transferred.
    - b. No dwelling unit other than a mobile home shall be located within a mobile home residential development.
  - (2) *Conformance of mobile home residential development to state law.* A mobile home residential development and its operation shall conform to the provisions of the Mobile Home Park Act, C.R.S. § 38-12-201 et seq.
  - (3) *Business license.* The owner or operator of a mobile home residential development shall obtain a business license as provided in the Municipal Code.

(Code 1999, § 7.24.200; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.24.210. Recreational vehicle parks.**

- (a) *RV Park development standards.*
  - (1) *Site conditions.* Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
  - (2) *Soil and groundcover.* Exposed ground surfaces in all parts of the recreational vehicle park shall be paved, or covered with stone screening or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
  - (3) *Drainage requirements.* A storm drainage plan shall be developed for the recreational vehicle park.
- (b) *RV park size and density.*
  - (1) *Park size.* The minimum area for a recreational vehicle park is five acres. The maximum area allowed is ten acres.
  - (2) *Park density.* The maximum density shall not exceed 12 recreational vehicles per acre.
  - (3) *Minimum site size.* Each recreational vehicle site shall contain a minimum of 1,500 square feet and shall have a minimum width of 25 feet.
  - (4) *Site pads.* Each site shall contain a vehicle parking pad of concrete or asphalt paving. Minimum length of the parking pad shall be 35 feet. No part of a recreational vehicle or other unit placed on the lot pad shall be closer than five feet to the edge of the lot.
  - (5) *Required separation between RV vehicles.* Recreation vehicles shall be separated from each other and from other structures by at least ten feet. Any accessory structure such as attached awnings or carports for purposes of this separation requirement shall be considered to be part of the recreational vehicle.
  - (6) *Site identification.* Each site for the parking of the recreational vehicle shall be identified by numbers, a minimum of three inches in height, posted in a conspicuous place at the front of the site.
- (c) *Roadways and parking.*
  - (1) *Interior roads.* All interior two-way roads shall be 28 feet minimum width and all interior one-way roads shall be 20 feet minimum width. All roads shall be paved with asphalt and crowned to facilitate drainage. Roadways shall be designed for the safe and convenient movement of vehicles.
  - (2) *Parking requirements.* At least 1 1/2 off-road parking spaces shall be provided in the park per recreation vehicle site. At least one off-road parking space shall be provided at each site. No on street parking will be permitted.
- (d) *Entrances and exits.*
  - (1) *Locations and access.* No entrance or exit from a recreational vehicle park shall be permitted through a residential district nor require movement of traffic from the park through a residential district.
  - (2) *Design of access to park.*
    - a. Entrances and exits to recreational vehicle parks shall be designed for the safe and convenient movement of traffic into and out of the park and to minimize marginal friction with free movement of traffic on adjacent streets.
    - b. Each recreational vehicle park shall have a separate entrance and exit roadway, each of which shall not be less than 28 feet wide from flow line to flow line, shall be hard surfaced with asphalt or concrete and shall connect to a dedicated public right-of-way not less than 40 feet in width.
  - (3) *Access onto state highways.* Access onto state-controlled highways or roads will require a permit from the state department of transportation. The design of the access will be according to department of transportation requirements.
  - (4) *Distance from intersection.* Entrance driveways shall be located not closer than 150 feet from the

intersection of public streets.

(e) *Accessory uses.*

- (1) Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities and other uses and structures customarily incidental to operation of a recreational vehicle park and campground are permitted as accessory uses to the park.
- (2) In addition, stores, restaurants and other convenience establishments shall be permitted as accessory uses in recreational vehicle parks in districts where such uses are not allowed as principal uses, subject to the following restrictions:
  - a. Such establishments and the parking areas primarily related to their operations shall not occupy more than five percent of the gross area of the park.
  - b. Such establishments shall be restricted in their uses to occupants of the park.
  - c. Such establishments shall present no visible evidence from any street outside the park of their commercial character which would attract customers other than occupants of the park.
  - d. The structure housing such facilities shall not be located closer than 100 feet to any public street, but shall be accessible only from a street within the park.

(f) *Open space and recreational areas.*

- (1) A general area amounting to not less than ten percent of the gross area of the recreational vehicle park, excluding any area dedicated as public right-of-way, shall be provided for recreation and open space use.
- (2) Such areas shall not include any area designated as a recreational vehicle space, storage area, required yard, service building or sanitary facility or waste station area.
- (3) Recreational facilities shall be included in the ten percent requirement for open space.

(g) *Buffering, setbacks, screening and landscaping.*

- (1) *Yards and setbacks.* Each recreational vehicle park shall set aside along the perimeter of the park the following areas which shall be landscaped and used for no other purpose:
  - a. Minimum front setback: 25 feet except when the recreational vehicle park fronts on a state highway; then the minimum shall be 50 feet.
  - b. Minimum side setback: when abutting residential districts, the side setback shall be 50 feet; when abutting a dedicated public right-of-way, the side setback shall be 25 feet on the side street; when abutting any other zone district, the side setback shall be 15 feet along the interior lot line.
  - c. Minimum rear setback: if the rear yard abuts a dedicated public right-of-way, the minimum shall be 25 feet. If the rear yard abuts any other zoning district, the setback shall be 15 feet.

<i>Summary of Yard Setbacks</i>				
If yard abuts a:	Residential district	Other district	Public right-of-way	State highway
Front yard	Not allowed	Not allowed	25'	50'
Side yard	50'	15'	25'	50'
Rear yard	50'	15'	25'	50'

- (2) *Landscaping.* A landscaping plan illustrating the placement and type of trees and shrubs must be submitted as part of the park development plan. The design of the landscaping must mitigate the visual impact of the recreational vehicle park on the surrounding area.
- (3) *Boundary fencing.* Except for the front boundary, each recreational vehicle park shall be enclosed by attractive fencing.



(h) *Utilities.*(1) *All utilities underground.* All public utilities within the recreational vehicle park shall be underground.(2) *Water supply.* The water supply for the recreational vehicle park shall be provided by a delivery system that is owned and operated by a local government authority. The water system shall be connected by pipes to all service buildings and all recreational vehicle spaces. The water distribution system within the park shall meet the following minimum standards:

- a. The water distribution system shall be designed, constructed and maintained in compliance with state department of health regulations and recommendations to provide a safe, potable and adequate supply of water.
- b. The distribution system shall not be connected to any nonpotable water supply nor be subject to any backflow or back siphonage.
- c. The distribution system shall deliver water at a minimum pressure of at least 20 pounds per square inch and a minimum flow of at least one gallon per minute at all outlets.
- d. The distribution system shall deliver a minimum volume of 100 gallons per day per recreational vehicle site.
- e. Water service lines, riser pipes and valves shall be installed and protected from damage by freezing, ground movement, vehicles or other damage sources.
- f. The riser pipe at each recreational vehicle site shall be at least one-half inch in diameter and shall extend at least four inches vertically above the ground elevation. It shall be equipped with a one-half inch valve outlet with a threaded male spigot for attaching a standard garden hose.
- g. Tent camping sites shall be provided with common use water faucets located no more than 150 feet from any campsite.
- h. Drinking fountains, if provided, shall be approved angle jet type with adequate water pressure.
- i. Spillage, overflow, drainage or wastewater from faucets and drinking fountains shall be discharged to approved drains to prevent impoundment of water, creation of mud holes or other nuisance conditions.
- j. A water station for filling camping vehicle water storage tanks shall be provided at a rate of one station for every 100 campsites. These shall be located not less than 50 feet from a sanitary station. The station shall be posted with signs of durable material, not less than two square feet, which state: Potable Water—Do Not Use to Flush Vehicle Waste Tanks. Such water stations shall consist of at least a three-quarter-inch pipe and valve outlet and shall be protected against the hazards of backflow and back siphonage by an approved vacuum breaker located downstream from the shutoff valve. The fill hose shall be suspended so that no part of the hose and its appurtenances will come into contact with the ground. A sign shall be posted at the entrance of the park indicating the provision of a sanitary station and water station.

(3) *Sewage disposal.* Facilities shall be provided and properly maintained for the collection and disposal or treatment and disposal of sewage.

- a. Where a public sewer system is available, all plumbing fixtures, building sewers and campground sewers shall be connected thereto. If a public sewer system is not available, a private sewage collection and disposal facility meeting requirements of the state water quality control commission, the state department of health and other applicable local government sewage disposal requirements shall be installed, and all building sewers and campground sewers connected thereto.
- b. Solid and liquid wastes shall not be discharged or otherwise disposed of on the surface of the ground or into any well, cave, open ditch, stream, lake or reservoir.

(4) *Sewage collection.*

- a. Sewage collection lines shall be laid in trenches of sufficient depth to be free of breakage from

traffic, ground movement, agricultural activity or other sources of damage, and shall be separated from the water supply system by a horizontal distance of ten feet and a vertical elevation of two feet below water lines at crossing points unless pressure sewers are used.

- b. The sewer lines shall be constructed of approved materials with adequate vents, watertight joints and sufficient cleanouts. All sewer lines shall have a minimum diameter of six inches, except that a sewer lateral which serves no more than 25 individual sewer connections for individual camping vehicle lots or no more than five toilet connections may be four inches in diameter.
- c. Sewers shall be installed at a grade of at least one-eighth-inch per foot to ensure a velocity of two feet per second when flowing full. Horizontal drainage lines connecting with other horizontal drainage lines shall enter through 45-degree Y-branches or other combinations of equivalent sweep.
- d. Cleanouts or manholes shall be provided at the upper end of each main sewer line, at intersections of two or more sewer lines, changes in grade or alignment of more than 45 degrees, and at intervals of not more than 400 feet.
- e. Individual sewer connections shall meet the following requirements: A four-inch inside diameter sewer lateral and riser pipe with the surrounding ground graded to drain from the rim of the riser pipe. The sewer lateral shall be properly trapped and vented if camping vehicles without individually trapped and vented plumbing fixtures are accommodated.
- f. Dependent camping vehicles with a drain hose less than three inches in diameter shall be connected with reducers and a screw or clamp-type fittings.
- g. Drain outlets from independent camping vehicles shall be capped or connected with a durable, readily cleanable, nonabsorbent, corrosion-resistant, drain hose having an inside diameter of not less than three inches. The sewer service connection shall be installed and maintained with a grade not less than one-quarter inch per foot.
- h. When the campsite is not occupied, the sewer riser pipe shall be adequately covered.
- i. A flushing sink or other means of disposal shall be provided for disposal of liquid wastes from dependent camping vehicles unless a sanitary waste station is provided and is conveniently located. The flushing sink shall be easily accessible and located at a distance of not more than 300 feet from any campsite. The sinks shall not be located in a room containing toilet, lavatory or bathing facilities, and toilets shall not be used for disposal of liquid wastes. Common-use faucets or hydrants and lavatories in service buildings shall not be used for cleaning fish and food, and for washing dishes, utensils, clothing or other articles of household use.
- j. A sanitary waste station shall be provided for each 100 campsites or part thereof not equipped with individual sewer connections. Unless other approved means are used, the sanitary station shall be designed and constructed to include the following:
  1. Easy ingress and egress from a service road for camping vehicles and located not less than 50 feet from a campsite.
  2. Connection to the sewer system by a trapped four inch sewer riser pipe and vented not more than ten feet downstream from the trap by a four-inch vent, adequately supported and extending at least eight feet above the ground surface.
  3. The sewage inlet surrounded by a curbed concrete apron or trough of at least three by three feet, sloped to the inlet, and provided with a suitable hinged cover milled to fit tight.
  4. A means for flushing the immediate area and a camping vehicle holding tank shall be provided at each sanitary waste station. It shall consist of a properly supported water riser pipe, terminating two feet above the ground with a three-fourth-inch valved outlet which shall be protected against back siphonage and backflow by an approved vacuum breaker installation located downstream from the shutoff valve.
  5. A sign, constructed of durable material and not less than two feet square, posted adjacent to the water flushing outlet and inscribed with the warning: Unsafe Water Facility.

- k. The plumbing shall be installed according to the most recent edition of the International Uniform Plumbing Code as adopted by the town.

(5) *Electricity and natural gas.*

- a. An electric outlet approved by an electric utility shall be provided for each recreational vehicle space. The installation shall comply with all state and local electrical codes. Such electrical outlets shall be weatherproof.
- b. Street and yard lights shall be provided in such number and intensity as to ensure safe movement of vehicles and pedestrians at night. A light shall be located at each outside entrance of the service buildings, which shall be kept lighted during hours of darkness.
- c. Where natural gas is provided, the installation will comply with all applicable state and town regulations.

(6) *Utility plans.* Plans for water, sewer, electricity and natural gas, along with letters of approval from the appropriate utility provider must be submitted to the Council for approval.

(i) *Refuse disposal.*

- (1) The storage, collection and disposal of refuse shall be performed so as to minimize accidents, fire hazards, air pollution, odors, insects, rodents or other nuisance conditions.
- (2) Durable, watertight, easily cleanable refuse containers, sufficient to contain all the refuse, shall be provided at each service building and sanitary waste station, or at a central storage area readily accessible and located not more than 300 feet from any campsite. Refuse containers shall be provided at the rate of eight cubic feet (60 gallons) for each five campsites. Individual trash cans at each recreational vehicle site may be provided. All containers for refuse shall be covered with close-fitting, insect impervious covers.
- (3) Refuse shall be collected and removed from the premises as often as necessary, but not less than once weekly, and disposed of at a lawful disposal site.
- (4) No burning of refuse will be permitted at the recreational vehicle park.

(j) *Insect and rodent control.* Insects and domestic rodents shall be controlled by elimination of breeding and harborage sources, proper sanitary practices, extermination, vermin proofing of buildings and other approved control methods.

(k) *Fire prevention and protection.*

- (1) All recreational vehicle parks shall comply with the current West Routt Fire District codes.
- (2) Hand fire extinguishers of a type approved by the West Routt Fire District shall be maintained in effective working order and located in convenient places in the ratio of one to eight recreational vehicle spaces. The location of fire extinguishers must be approved by the chief of the West Routt Fire District.
- (3) No outdoor fires will be allowed except in grills, ovens, stoves or park-provided fire boxes. Park-provided boxes must be approved by the West Routt Fire District. No open fires are allowed.
- (4) Fire hydrants shall be located so that every site within the park can be reached with 300 feet of hose or as approved by the West Routt Fire District.

(l) *Sanitary facilities.*

- (1) Sanitary facilities shall be provided and installed in accordance with the latest edition of the International Uniform Plumbing Code adopted by the town.
- (2) Required toilet, lavatory and bathing facilities shall be provided in the following minimum numbers:

<i>Campsites</i>	<i>Toilets</i>		<i>Urinals</i>	<i>Lavatories</i>		<i>Showers</i>	
	M	F	M	M	F	M	F

15	1	2	1	1	1	1	1
16—30	1	3	1	2	2	1	1
31—45	2	4	1	3	3	1	1
46—60	2	4	2	3	3	2	2
61—80	3	5	2	4	4	2	2
81—100	3	5	2	4	4	3	3
101—120	4	7	3	5	5	4	4

M = Male

F = Female

- (3) At least one toilet and shower facility shall be provided to accommodate ~~handicapped~~ disabled persons.
- (4) No portable toilets will be allowed in recreational vehicle parks.
- (m) *Service buildings.*
  - (1) Service buildings shall be constructed of easily cleanable, nonabsorbent materials, maintained in good repair and in a clean and sanitary condition. They shall be conveniently located at a distance of not less than ten or more than 400 feet from any dependent camping vehicle lot or persons served in a recreational area.
  - (2) Separate rooms containing required plumbing fixtures shall be provided for each sex and clearly marked "men" and "women." If located in the same building, they shall be separated by a solid, sound-resistant wall extending from floor to ceiling. The entrances shall be so designed so that the plumbing fixtures are not visible from the outside. A landing shall be provided beyond each exterior door opening and shall have a width and length not less than the door opening. The floors of service buildings shall have a smooth, impermeable and easily cleaned surface, sloped to drain. Floor drains, properly trapped, shall be provided in all shower baths and shower rooms to remove wastewater and to facilitate cleaning. The walls and ceilings of such buildings shall be finished, and the walls shall have a smooth, nonabsorbent, easily cleanable surface extending to a height of four feet in toilet rooms and six feet in shower rooms.
  - (3) Every service building shall have a minimum ceiling height of 7 1/2 feet. In rooms with sloping ceilings, the required ceiling height shall be provided in at least 50 percent of the rooms, and no portion of any room having a ceiling height of less than five feet shall be considered as contributing to the minimum required areas.
  - (4) Every service building shall have at least one window with direct and unobstructed opening to the outside for natural light and ventilation, unless other approved means of light and ventilation to the outside air are provided.
  - (5) When necessary for exclusion of flies, mosquitoes and other insects, all exterior openings of service buildings shall be protected with fly screening of not less than 16 mesh per square inch, unless other approved protective devices are provided.
  - (6) Every service building shall be provided with at least one ceiling-type light fixture, at least one separate double convenience outlet adjacent to the lavatories, and a light fixture at the outside entrance of the service building. All lights shall have wall switches: no pull cords shall be allowed.
  - (7) Illumination levels of at least 30 footcandles shall be maintained at lavatory mirrors and laundry room work areas, and at least five footcandles shall be maintained for general seeing tasks and at the service building entrance area.
  - (8) Service buildings shall be provided with approved heating facilities which are properly installed, maintained in a safe working condition and capable of maintaining a room temperature of 68 degrees Fahrenheit.

- (9) Toilets and showers shall be separately installed to be individually accessible and to permit simultaneous use.
- (10) Each toilet shall be individually partitioned with a door to ensure privacy. The compartment shall be at least 30 inches in width with at least 24 inches of clear space in front of a toilet. The dividing partitions shall be at least five feet in height with not less than six inches or more than 12 inches separating the partition bottom and the floor. Toilets shall be provided with open-front seats.
- (11) Each shower shall be individually partitioned with a curtain, screen or door to afford privacy. Shower stalls shall not be less than 30 inches by 30 inches in area and shall be constructed to prevent water flow into the dressing room space. Shower floors shall be skid resistant or provided with disposable or with no slip impervious mats. Wooden racks (dust boards) over shower floors are prohibited. Where impervious mats are used, they must be cleaned, dried and kept off the shower floor when not in use.
- (12) Dressing room space, screened from view and equivalent to the size of the shower floor area, shall be provided adjacent to bathing facilities and shall be equipped with a bench and clothes hook.
- (13) Hot and cold water under pressure shall be supplied to all required plumbing fixtures, except that cold water only shall be supplied to toilets. Tempered water may be delivered to showers and sinks to conserve heated water and heating equipment. The system shall be designed to prevent discharge of water in excess of 120 degrees Fahrenheit at shower heads.
- (14) Hot water heating facilities shall have the capacity to provide a minimum of three gallons of hot water (100 degrees Fahrenheit rise) per hour per each campsite during times of peak demands.
- (15) Required plumbing fixtures shall be maintained in good working order and in clean and sanitary condition. Every service room containing sanitary fixtures shall be provided with a wastebasket.
- (16) Toilets shall be provided with a toilet paper holder or dispenser and a supply of toilet paper and a covered receptacle, and lavatory areas shall be provided with clothes hooks, shelves and trash receptacles.
- (17) Service building construction shall conform to applicable provisions of the International Building Code and existing local building codes, regarding specifications for making buildings and facilities accessible to and useable by ~~the people with a physically handicapped~~ disability.
- (n) *Safety.*
  - (1) All electrical wiring, equipment and appurtenances shall be installed and maintained in accordance with provisions of the currently enforced National electrical code<sup>94</sup> and the state electrical inspector.
  - (2) Liquid petroleum gas, fuel oil, gasoline and other flammable liquids shall be handled and used in a safe manner and shall not be stored inside or beneath any camping vehicle or within five feet of a door of a camping vehicle.
  - (3) The grounds, buildings and related facilities shall be constructed, maintained and used in accordance with applicable local and state fire prevention regulations.
  - (4) Play equipment, when provided for children, shall be designed for safety, maintained in good repair and located in areas free from hazards.
- (o) *Miscellaneous regulations.*
  - (1) L.P. tanks on R.V. sites shall be limited to 100-pound size.
  - (2) Storage buildings, lean-tos, bins or other outside storage facilities shall not be allowed at recreational vehicle sites.
- (p) *Permanent occupancy.*
  - (1) No recreational vehicle shall be used as a permanent place of abode, dwelling or business or for indefinite

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<sup>94</sup> Is the National Electrical Code correct or should it be International Electrical Code? **Town ok'ed updating to what's enforced within the town.**

periods of time. Continuous occupancy extending beyond three months in any 12-month period shall be presumed to be permanent occupancy. No more than one dwelling for occupancy by the park manager shall be permitted.

- (2) Any action toward removal of wheels of a recreational vehicle except for temporary purposes of repair or to attach the trailer to the grounds for stabilizing purposes is hereby prohibited.
- (q) *Licensing and inspection.*
  - (1) *License required.* It shall be unlawful for any person to operate any recreational vehicle park within the limits of the town unless he holds a valid recreational vehicle park license issued annually by the Council in the name of such person for the specific recreational vehicle park.
  - (2) *Application for license and fee.* Application for a recreational park license shall be filed each calendar year with the town clerk. Applications shall be in writing, signed by the applicant, and shall contain the following information:
    - a. Name of applicant.
    - b. Location and legal description of the recreational vehicle park.
    - c. Complete plan drawn to scale showing all recreational vehicle lots, structures, roads, walkways and other service facilities. Plans shall be filed in subsequent years only if changes in the plan of the recreational vehicle park are to be made.
    - d. Such further information as may be requested by the town officials to enable them to determine if the proposed recreational vehicle park will comply with the requirements of this chapter or other applicable laws and ordinances.
    - e. License fee. Annual license fee per town fee schedule, plus an annual fee for each recreational vehicle site whether occupied or not.
  - (3) *License transfer.* Every person holding a license shall give written notice to the town clerk within 24 hours after having sold, transferred, given away or otherwise disposed of interest in or control of any recreational vehicle park. Such notice shall include the name and address of the person succeeding to the ownership or control of such recreational vehicle park. Upon application in writing for transfer of the license and deposit of a fee in an amount to be determined by council from time to time of twenty-five dollars (\$25.00)<sup>95</sup>, the license shall be transferred if the recreational vehicle park is in compliance with all applicable provisions of this article and regulations issued hereunder.
  - (4) *License to be posted.* The license certificate shall be conspicuously posted in the office of the recreational vehicle park at all times.
  - (5) *Registration.* All recreational vehicles in the park must have a current valid registration.
  - (6) *Inspection.* The building official shall inspect each recreational vehicle park at least once annually to determine compliance with the provisions of this article and all other applicable ordinances, rules, regulations or codes. Such official shall have the authority to enter upon the premises for the purpose of such inspections at any reasonable time without notice to the owner or manager.
  - (r) *Revocation of license.*
    - (1) When it appears to any police officer, the fire district, the building official or the health officers that any person holding a license under this article has violated or may have violated any of the provisions hereof, a written notice shall be served on such licensee and/or recreational vehicle park manager in person or by registered United States mail, specifying the manner in which it is believed he has violated or may have violated this chapter. Said notice shall require the owner and/or recreational park manager to appear before the board at a time specified therein, not less than ten days after the service of said notice and show cause why such license should not be suspended or revoked.

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<sup>95</sup> We recommend adding this to the town fee schedule. **Town accepted.**

- (2) When appearing before the Council, the licensee or recreational vehicle park manager and members of any fire, police, building or health departments holding jurisdiction in the town may produce such evidence as may be relevant to determine whether the violation charged in the notice has been committed. If the Council finds from the evidence that such violation has not been committed, it shall so advise the licensee and/or recreational vehicle park manager and dismiss the charge. If the Council finds from the evidence that a violation has been committed, it shall so advise the licensee or recreational vehicle park manager and may forthwith put said person on probation for 30 days. If the violation is not corrected within such probationary period, the Council may revoke or suspend the license held by such person or continue the probation for such period and on such conditions as it shall determine.
- (3) It shall be unlawful for any person whose license has been revoked or suspended to operate, continue to operate or offer to operate any recreational vehicle park after the date of such revocation or during the term of such suspension, as the case may be.
- (s) *Responsibilities of management.*
- (1) *Enforcement of regulations.* The owner or operator of any recreational vehicle park shall arrange for the management and supervision of such recreational vehicle park so as to enforce or cause compliance with the provisions of this chapter.
- (2) *Maintenance.* The owner, operator or attendant of every recreational vehicle park shall assume full responsibility for maintaining in good repair and condition all facilities of the recreational vehicle park as required herein.
- (3) *Office.* In every recreational vehicle park there shall be a designated office building in which shall be located the office of the person in charge of said park. A copy of all required town and state licenses and permits shall at all times be kept in said office.
- (4) *Management duties.* It shall be the duty of the attendant or person in charge, together with the owner or operator, to:
  - a. Keep at all times a register of all tenants (which shall be open at all times to inspections by state, county and federal officers and officers of the town) showing for all tenants:
    - 1. Dates of entrance and departures.
    - 2. License numbers of all recreational vehicles and towing vehicles or automobiles.
    - 3. States issuing such license.
  - b. Maintain the park in a clean, orderly and sanitary condition at all times.
  - c. See that provisions of this article are complied with and enforced and report promptly to the proper authorities any violations of law which may come to his attention.
  - d. Report to local health authorities all cases known to the owner to be infected with any communicable diseases.
  - e. Pay promptly to the town all license fees required by town ordinances or other laws.
  - f. Prohibit the use of any recreational vehicle by a greater number of occupants than that which it is designed to accommodate.

(Code 1999, § 7.24.210; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.220. Lighting.**

- (a) *Intent.*
- (1) To create an attractive lighting system to enhance visibility and safety, while minimizing glare and contrast.
- (2) To encourage exterior lighting that is functional, aesthetically pleasing, and complimentary to the architectural style of buildings.
- (3) To preserve and enhance the region's dark sky while promoting safety, conserving energy and preserving

the environment for astronomy.

(b) *General provisions.*

- (1) *Evaluation of exterior lighting.* Exterior lighting shall be evaluated in the development review process to ensure that the functional and security needs of the project are met in a way that does not adversely affect the adjacent properties or neighborhood. The degree to which exterior night lighting affects a property owner or neighborhood will be examined considering the light source, level of illumination, hours of illumination, and need for illumination in relation to the effects of the lighting on the adjacent property owners and the neighborhood.
- (2) *Light style.* The style of lights shall be consistent with the style and character of architecture proposed on the site. Light fixtures that illuminate signage shall be compatible with the architecture of the building on which they are placed.
- (3) *Concealed light source.* Light sources shall be concealed or shielded to the maximum extent feasible to minimize the potential for glare and unnecessary diffusion on adjacent property and away from the vision of passing motorists. All lights shall be directed downward and the light source shall be equipped with cut-off devices so that it will not be visible from any adjacent property and to ensure that ambient skyward light is eliminated. Accent and flagpole lighting shall be permitted to be directed upward as long as the light source is shielded and not visible from any adjacent property. Light fixtures installed under canopies, awnings, overhangs and the like shall be fully recessed.
- (4) *Hours of lighting operation.* All parking lot lighting fixtures and exterior building lights, except those required for security purposes, shall be extinguished within one hour after the end of business hours and remain extinguished until one hour prior to the beginning of business hours. If a portion of a parking lot is used after dark, only that portion shall be lighted.
- (5) *Height standards for lighting.*
  - a. *Residential zoning districts.* Light fixtures shall be mounted on concrete, fiberglass or painted metal poles no higher than 16 feet from the ground. Lighting mounted on a building or structure shall not exceed the height of the building or structure. Bollard-type lighting fixtures shall be between three and four feet high.
  - b. *Non-residential zoning districts.* Light fixtures shall be mounted on concrete, fiberglass or painted metal poles no higher than 25 feet from the ground, unless a greater height, not to exceed the maximum building height in the applicable zone district, is approved by the planning commission or Council through a development application review process. Lighting mounted on a building or structure shall not exceed the height of the building or structure. Bollard-type lighting fixtures shall be between three and four feet high.
- (6) *Excessive illumination.* Lighting within any lot that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if it clearly exceeds the standards set forth in this section, if the light shines directly into a residence, or if the standards set forth in this section could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.
- (7) *Exemption for outdoor recreational uses.* Because of their limited hours of operation and their unique requirements for nighttime visibility, ball diamonds, playing fields, tennis courts, and other similar outdoor recreational uses (both public and private, unless otherwise restricted by the Council) shall be exempt from the general provisions of this section. However, exterior lighting for such uses shall be extinguished no later than 11:00 p.m. The manager shall have the authority to grant an exemption from these requirements for special events.

(Code 1999, § 7.24.220; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.24.230. Environmental considerations.**

- (a) *Intent.* The intent of this section is to ensure that new development limits or mitigates its impact to wildlife and wildlife habitat and that it minimizes environmental impacts.



(b) *General provisions.*

(1) *Protection of wildlife and natural areas.* To the maximum extent practical, development shall be designed to ensure that disturbances which occur to any natural area as a result of development shall be minimized through the use of natural buffer zones. If any development materially disturbs a natural area, the development project shall mitigate such lost natural resource either on- or off-site, at a 2:1 rate on a kind-for-kind basis and the mitigation shall be located in the town. Any such mitigation shall be roughly proportional to the loss suffered as a result of the disturbance.

- a. *Natural areas.* Natural areas shall include floodplains and floodways, natural drainageways and water ways, significant native trees and vegetation, wildlife travel corridors and habitats, special habitat features such as raptor nest sites, key nesting, breeding or feeding areas for birds; fox and coyote dens, remnant native habitat, cottonwood galleries, and any wetland greater than one-quarter acre in size, as identified on the 1975 National Wetland Inventory.
- b. *Buffer zones.* The natural area buffer zone shall be used between natural areas and proposed development to ensure that the proposed development does not degrade the natural area. The size of the buffer zone shall be determined in conjunction with the state division of wildlife or a town-approved wetland or wildlife ecologist. The town may decrease this buffer when strict application of this subsection will impose an exceptional and undue hardship upon the property owner or developer.
- c. *Exceptions.* The Council may allow disturbance or construction activity within the natural area or natural area buffer zone for the following limited purposes: mitigation of development activities, restoration of previously degraded areas, emergency public safety activities and utility installations when such activities and installations cannot reasonably be contained within other nearby develop areas, construction of a trail that will provide public access for educational or recreational purposes, or the enhancement of the habitat value and/or other natural resource values of a natural area.
- d. *Ecological characterization.* If the town determines that the site likely includes areas with wildlife, plant life, and/or other natural characteristics in need of protection, the town may require the developer to provide a report prepared by a professional qualified in the areas of ecology, wildlife biology, or other relevant discipline. The ecological characterization report should be included on the open space plan and describe the following:
  1. The wildlife use of the natural area showing the species of the wildlife using the area, the times or seasons the areas is used by those species and the value (meaning feeding, watering, cover, nesting, roosting, perching) that the area provides for such wildlife species;
  2. The boundary of wetlands in the area and a description of the ecological functions and characteristics provided by those wetlands;
  3. Any prominent views from or across the site;
  4. The pattern, species, and location of any significant native trees and other native site vegetation;
  5. The bank, shoreline and high water mark of any perennial stream or body of water on the site;
  6. Wildlife travel corridors; and
  7. The general ecological functions provided by the site and its features.
- e. *Wildlife conflicts.* If wildlife that may create conflicts for the future occupants of the development (including, but not limited to, beaver, deer and rattlesnakes) are known to exist in areas adjacent to or on the development site, then the development plan must, to the extent reasonably feasible, include provisions such as barriers, protection mechanisms for landscaping and other site features to minimize conflicts that might otherwise exist between such wildlife and the developed portion of the site. Any impacts to wildlife must be referred to the state division of wildlife and, in the case of threatened or endangered species, United States Fish and Wildlife Service.

(c) *Green builder guidelines.* The green builder program establishes environmental standards for the

construction and operation of buildings. The intent of this program is to promote building practices, which benefit the environment and the socio-economic well-being of current and future residents.

- (1) There are five resource areas which are addressed by the green builder standards:
  - a. Water (quality and quantity);
  - b. Energy (quantity and type);
  - c. Building materials (life cycle impacts);
  - d. Solid waste (construction and operation impacts); and
  - e. Health and safety.
- (2) Compliance. Compliance with the requirements of the state green builder program is encouraged. Information is available from the green builder program administration office at (303) 778-1400 or on the web at [www.builtgreen.org](http://www.builtgreen.org).

(Code 1999, § 7.24.230; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.240. Impacts or nuisances.**

(a) *Intent.* The intent of this section is to ensure that new multifamily, commercial, or industrial developments limit or mitigate their impact on other properties. This section is intended to allow these developments while preventing or substantially minimizing the occurrence of public nuisances that would have a detrimental effect on the property of another person or the community at large.

(b) *General provisions.* As part of the site plan review process, any multifamily, commercial, retail, entertainment, or industrial project must provide information related to the impact of that proposal on adjacent properties. This provision is intended to prevent an excessive, offensive, annoying, unpleasant, or obnoxious thing, act, or practice; or a cause or source of annoyance, especially a continual or repeated invasion by a use or activity which invades the property line of another so as to cause harm or discomfort to the owner or resident of that property. All business uses are expected to generate normal and acceptable impacts such as noise, traffic, etc.; this section is intended to address impacts that are excessive given the relationship of the proposed use to the overall nature of the larger residential setting found within commercially zoned lands in the town. Examples of negative impacts or nuisances that may be generated by these types of development include, but are not limited to:

- (1) Vehicular traffic;
- (2) Noise from business operations;
- (3) Dust;
- (4) Heat;
- (5) Glare;
- (6) Vibration;
- (7) Smoke;
- (8) Light;
- (9) Odor.

Town staff or subject area experts hired by the town will review all proposals regarding mitigation of any negative impacts or nuisances and provide direction to applicants during the site plan review process. Approval of any site plan, including a determination on whether or not impacts and nuisances have been mitigated, will be per section 10.16.100.

(Code 1999, § 7.24.240; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.250. Sanitary sewer.**

All residential, commercial and industrial uses, which have human occupancy, shall have sanitary sewer. The sanitary sewer system shall be connected to an existing public sanitary sewer system and shall consist of a closed system of sanitary sewer mains and lateral branch connections to each structure or lot upon which a structure is to

be built. Sanitary sewer lines are to be of sufficient size and design to collect all sewage from all proposed or portable structures within the subdivision or development.

(Code 1999, § 7.24.250; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.24.260. Potable water.**

All residential, commercial and industrial uses, which have human occupancy, shall have potable water served by the town or appropriate water district. The water system shall be of sufficient size and design to supply potable water to each structure or lot upon which a structure is to be built.

(Code 1999, § 7.24.260; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.24.270. Fire hydrants.**

The subdivider shall install fire hydrants at street intersections and at other points as per the requirements of the West Rountt Fire District and the town.

(Code 1999, § 7.24.270; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.24.280. Public improvements agreements.**

(a) *Agreements and improvements.* A public improvement agreement (PIA) stating that the applicant agrees to construct any required public improvements shown in the final plat or site plan (if applicable) documents together with security in a form approved by the town attorney is required. No subdivision plat shall be signed by the town or recorded at the office of the county clerk, and no building permit shall be issued for development until a PIA between the town and the applicant has been executed. Such agreement shall include a list of all agreed-upon public improvements and landscaping, an estimate of the cost of such improvements, the form of guarantee for the improvements, and any other provisions or conditions deemed necessary by the Council to ensure that all improvements will be completed in a timely, quality and cost-effective manner.

(b) *Other agreements.* 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 may also be required.

(c) *Application for inspection.* As required by this title and all applicable laws, rules and regulations, the applicant shall apply to the town for inspection of improvements.

(d) *Improvements to be constructed.* The following improvements shall be constructed unless waived by the Council:

- (1) Road grading and surfacing.
- (2) Curbs.
- (3) Streetlights.
- (4) Sidewalks.
- (5) Sanitary sewer collection system.
- (6) Storm sewers or storm drainage system, as required.
- (7) Potable water distribution.
- (8) Fire hydrants.
- (9) Utility distribution system for public parks and open space.
- (10) Street signs at all street intersections.
- (11) Permanent reference monuments and monument boxes.
- (12) Underground telephone, electricity and gas lines.
- (13) Berm or fence along major arterial and collector streets.
- (14) Required landscaping, open space and park improvements.
- (15) Tree lawns.

- (16) Underdrains.
- (17) Trails.
- (18) Required floodway improvements.
- (19) Required irrigation ditch improvements.
- (20) Required off-site improvements.

(e) *Time for completion.* The required time for the completion of all required improvements shall be two years from the recording date of the final map, plan or plat. However, the Council may extend such time for completion upon request from the applicant. Upon completion of such improvements within the required time and approval thereof by the Council, the town shall cause the cash or letter of credit to be released within 30 days of the town's acceptance of such improvements and receipt of the required as-built drawings. When such improvements are not completed within the required time, the town may cause the proceeds of the cash or letter of credit to be used to complete the required improvements in accordance with the terms and provisions of the PIA.

(f) *Partial release of security.* During construction of required improvements, the applicant may, from time to time, request the release by the town of a portion of the security for improvements that have been inspected and approved by the town engineer. The required warranty period shall commence upon completion and initial approval of all required improvements in accordance with the terms and provisions of the PIA.

(g) *Warranty.* All workmanship and materials for all required improvements shall be warranted by the applicant as specified in the PIA and this title.

(Code 1999, § 7.24.280; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.290. Conveyance of water rights as part of subdivision and/or annexation.**

(a) *Intent and purpose.* It is the intent and purpose of this section to further the health, safety and welfare of the citizens of the town by requiring the dedication of water rights prior to the extension of treated or raw water service to new customers and to thereby ensure an adequate and stable supply of water to the town service area; to prevent the abandonment of water rights to the detriment of the town; to ensure the financial stability of the town water utility; and to promote the general welfare of the public. This section, in part, provides a supplemental requirement for annexation pursuant to the Municipal Annexation Act of 1965, C.R.S. § ~~1973~~, 31-8-101 et seq., and is not to be construed as altering, modifying, eliminating or replacing any requirements set forth therein.

(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:

*Annexation* means the act of attaching, adding, joining, or uniting a parcel of land to the legal entity known as the town.

*Appurtenant* means belonging to, accessory or incident to, adjunct, appended, or annexed to.

*Conveyance of water rights* means the legal process by which legal title to the water rights to be dedicated is transferred to the town by appropriate deed.

*Dedication* means the conveyance of a water right to the town, made by the owner, and the acceptance of such conveyance by the town in accordance with this section, for use by the town through its municipal water system for service to the town, its inhabitants, and water customers.

*Equivalent residential unit (EQR)* means a number related to the volume of water consumptively used by a single-family residential unit housing a statistical average of 3.5 persons and having not more than 2,500 square feet of irrigated lawn or garden. The water consumption for water uses not associated with use at a single-family residence is considered to be equal to a volume of water, expressed in EQR units, as determined by the town with guidance by the schedule provided in the table of EQRs. The town shall have sole and exclusive discretion in determining whether the basic dedication requirement should be increased or decreased, on a case-by-case basis, after consideration of the place, method, efficiency and operation of wastewater treatment for use served; provided, however, for residential uses, it is not the intent hereof for the town to reassess the dedication requirement should such limits be exceeded.

The water consumption for each EQR is one acre-foot per year if wastewater is returned to the Yampa River system by the municipal wastewater treatment facilities serving the town. For deliveries to customers utilizing wastewater treatment facilities which are 100 percent consumptive in nature without material effluent return flows to the Hayden River system, the water consumption for each EQR is one acre foot per year. For deliveries to water uses not utilizing the town's municipal wastewater treatment facilities it is assumed that no return flows are generated to the Yampa River system; this presumption may be rebutted by a licensed professional engineer's analysis of actual return flow efficiency of the wastewater system to be utilized. If wastewater efficiencies are less than those of town sewer facilities but greater than a system which is totally consumptive, the water consumption per EQR shall be modified by the appropriate fraction. The consumptive use as to all other residential, but not commercial, uses is considered to bear the same ratio to the consumptive use of an average single-family residence as the EQR value assigned to that use in the respective tables of EQR's in this section bears to the EQR value assigned to the single-family residence in the table of EQR's for the respective wastewater system utilized. Consumptive use for commercial uses shall be determined by a licensed professional engineer based upon the circumstances of each particular case.

*Historical use affidavit* means a document which sets forth the following information concerning the water rights proposed for dedication:

- (1) The name and address of the owner of the water rights proposed for dedication;
- (2) A legal description of the land to be annexed or provided with municipal water service;
- (3) The total number of acres to be annexed, subdivided, replatted, or provided with municipal water service and the current use of the property;
- (4) The total number of acres presently being irrigated and/or intended to remain in irrigation;
- (5) A copy of all decrees concerning all water rights appurtenant to property and/or all water rights proposed for dedication;
- (6) A copy of any legal decree or judgment which affects the title of those water rights entered since the owner received title to the water rights appurtenant to the property and/or proposed for dedication;
- (7) A copy of the documents by which the owner received title to the water rights appurtenant to the property and/or proposed for dedication;
- (8) A copy of all diversion records of the water rights proposed for dedication; and
- (9) The owner's statement as to the historic use of water rights appurtenant to the property and/or proposed for dedication.

*Lease* means any grant for permissive use which results in the creation of a landlord-tenant relationship on a contractual basis.

*Party* means an individual, a partnership, a corporation, a municipality, or any other legal entity, public or private.

*Subdivide* means to separate into smaller divisions a tract of land into two or more lots, tracts, parcels, sites, separate interests in common, condominium interests or other divisions for the purpose, whether immediate or for future, of transfer of ownership, or for building or other development, or for street use by reference to such subdivision or a recorded plat thereof.

*Sufficient legal priority* means that the water rights proposed for dedication may be reasonably expected to provide a dependable water supply throughout the season of use in the amount for which they are decreed, and that such water rights are reasonably expected to be transferable for use by the town at its existing and proposed points of diversion for municipal use. In making this determination, factors to be considered shall include, but not by way of limitation, the adjudication date and appropriation date of water rights, the decreed use, the historic use of the water under the decree, the physical flow available, and the administration practices of the office of the state engineer, and the location and amounts of other water rights which may be injured by any transfer, provided, however, that any water right proposed for dedication shall not be deemed to have sufficient legal priority unless the water right was lawfully adjudicated prior to January 1, 1900.

*Transfer of water rights or change of use to municipal use* means all actions required under the laws of the state to be brought in the water court and elsewhere to change said water right for use through and within the town's water system. Such actions may include, but not by way of exclusion or limitation, a change in use to municipal uses, a plan for augmentation, a change in the type, place, or time of use, a change in the point of diversion, a change from a fixed point of diversion to alternate or supplemental points of diversion, a change from alternate or supplemental points of diversion to a fixed point of diversion, a change in the means of diversion, a change in the place of storage, a change from direct application to storage and subsequent application, a change from storage and subsequent application to direct application, a change from a fixed place of storage to alternate places of storage, a change from alternate places of storage, or any combination of such changes. Transfer of water rights includes transfer of conditional water rights as well as transfer of absolute water rights.

*Water right* means a decreed right to use in accordance with its priority a certain portion of the waters of the state by reason of the appropriation of the same.

(c) *Basic dedication requirement.*

- (1) Dedication and transfer of direct flow and/or water rights to the town shall be required:
    - a. Prior to the approval of the annexation of any land to the town;
    - b. Prior to all extensions of municipally treated water service outside the town limits as they existed on the effective date of the ordinance from which this section is derived as originally codified; or
    - c. Prior to the subdivision or replatting of any land now located within the town, if such subdivision or replatting requires a change of zone district or if such subdivision or replatting creates an increase in density.
  - (2) The dedication requirement shall be calculated in accordance with this section on forms provided by the manager. Such forms shall be accompanied by an historical use affidavit. For those persons whose compliance with this section results in a total EQR of greater than 30 EQR, no historical use affidavit shall be required, but an engineering analysis, acceptable to the town, of the historic use of the water rights proposed for dedication shall be required.
  - (3) The basic water rights dedication requirement shall be 0.75 acre foot of historic consumptive use per year, over the course of a full calendar year, for a water right, or water rights, of sufficient legal priority and season of use to service each equivalent residential unit (EQR) of demand as calculated under the table of EQRs below as determined by the town in its sole discretion. The actual annual demand of 0.56 acre foot of consumptive use water assumes actual diversion, without transit losses throughout the year; it is assumed that the 0.75 acre foot of historic consumptive use water is necessary to satisfy said demand after reasonable transfer and transit losses. The determination of suitability of a water right for transfer or fee-in-lieu of water right dedication shall be determined in the town's sole discretion. Payment of a fee in lieu of water right dedication will be at the sole discretion of the town and at a rate of payment consistent with the provisions of this section.
  - (4) The basic requirement shall be satisfied by the person seeking approval of annexation, subdivision, replatting, or the extension of municipally treated water service, whether or not that person will be the ultimate user.
- (d) *Table of EQRs nature of facility to be served EQR.*
- (1)
    - a. Single-family detached residence not to exceed 3,000 square feet, one full kitchen, two outside hose bibs and up to 2,500 square feet of irrigated lawn and garden watered by sprinkler or drip irrigation: 1.00
    - b. Residences over 3,000 square feet will be charged an additional 0.05 EQR for each increment of 100 square feet over 3,000 square feet of irrigated lawn and garden watered by sprinkler or drip irrigation: 0.05.
  - (2)
    - a. An annual average water demand equal to 0.56 acre feet: 1.00.
    - b. An average monthly peak water demand equal to 22,000 gallons: 1.00.
    - c. A peak daily demand of 1,000 gallons: 1.00.

- (3) Each additional 100 square feet of irrigated lawn and garden by sprinkler or drip irrigation: 0.02.
- (4) Each additional 100 square feet of nonresidential irrigated landscape by sprinkler or drip irrigation: 0.02.
- (5) Multi-family residential units, including duplexes, apartments and condominiums:
  - a. Buffet or studio apartment or condo with one kitchen up to 1,500 square feet: 0.60.
  - b. Up to and including two bedrooms with up to 1 1/2 baths and one kitchen, up to 1,500 square feet: 0.80.
  - c. Three bedrooms with up to two baths and one kitchen, up to 3,000 square feet: 1.00.
  - d. Each additional 100 square feet or fraction thereof, in excess of the above limits will be assessed 0.03 EQR. There shall not be an adjustment for fractional increments of less than 100 square feet: 0.03.
  - e. Each coin operated washing machine up to 12 lbs. capacity: 0.35.
  - f. Common area irrigation and amenities such as swimming pools, clubhouses and laundry facilities to be assessed on a case-by case basis, at the town's sole discretion, in addition to the EQR values expressed above.
- (6) There shall be no partial EQR credit granted for irrigation of less than 2,500 square feet of lawn or landscaping. Any uses described in subsection (d)(1) of this section which do not utilize municipal water for any irrigation shall be:
  - a. Entitled to a reduction in EQR rating of 0.02 EQR per 100 square feet of lawn or landscaping which is irrigated with nonpotable water from a non-municipal system. The maximum credit which can be obtained for residential uses is 25 percent of the total EQR dedication requirement due from the project. However, if credit for any percentage of total EQR is obtained under this Code provision, by irrigation from nonpotable water from a non-municipal system, then the town shall proportionately reduce the water delivered for the residential use.
  - b. Prohibited from having more than one outside hose bib which shall be placed on the front of the residence and shall not be used for any watering of lawns and gardens.
- (7) Each mobile home or mobile home space in a court with not more than 1,000 square feet of irrigated lawn and garden: 0.80.
- (8) Transient rental units, hotels, motels or rental units within residences;
  - a. Managers units: Uses single family or multifamily classification as applicable.
  - b. Each additional room without cooking or kitchen facilities: 0.40.
  - c. Each additional room with cooking or kitchen facilities: 0.50.
  - d. Coin operated washing machine 12 pound capacity or less: 0.30.
- (9) Dormitories (per each rental bed space) without laundry or kitchen facilities: 0.10.
- (10) Recreational vehicle parks:
  - a. For each camping or vehicle space without sewer hook-up: 0.35.
  - b. For each camping or vehicle space with sewer hook-up: 0.40.
  - c. For common facilities, managers unit and related facilities, see categories above (spaces which have year round occupancy are to be evaluated as mobile home parks).
- (11) Bars and restaurants:
  - a. For businesses with less than 25 seats: 1.50.
  - b. For each additional seat: 0.04.
- (12) Service stations and gas stations:
  - a. Full service station with two toilets, two lavatories and one hand wash bay: 1.00.

- b. Demands in excess of the above are determined by projected volume.
- (13) Churches and nonprofit organizations with no residence or regular eating facilities: 1.00.
- (14) Commercial retail stores with no processed water, no residences and no eating facilities of up to 5,000 square feet including two restrooms which have a total of two lavatories and two toilets (one each per restroom): 1.00.
  - a. For each additional toilet or urinal with manual flush: 0.30.
  - b. For each additional toilet or urinal with continuous flow: 1.00.
  - c. For each additional lavatory: 0.15.
  - d. For each shower or bath or combination: 0.30.
  - e. For each manual operated drinking fountain: 0.10.
  - f. For each continuous flow drinking fountain: 1.00.
  - g. For each additional 1,000 square feet of floor space above 5,000 feet: 0.02.
- (15) Commercial offices (such as banks, professional office space and other low traffic occupations) with no processed water, no residences, and no eating facilities of up to 7,000 square feet including two restrooms which have a total of two lavatories and two toilets (one each per restroom): 1.00.
  - a. For each additional toilet or urinal with manual flush: 0.30.
  - b. For each additional toilet or urinal with continuous flow: 1.00.
  - c. For each additional lavatory: 0.15.
  - d. For each shower or bath or combination: 0.30.
  - e. For each manual operated drinking fountain: 0.10.
  - f. For each continuous flow drinking fountain: 1.00.
  - g. For each additional 1,000 square feet of floor space above 7,000 feet: 0.14.
- (16) Industrial, including warehouses up to 8,000 square feet which include two toilets (one each per restroom): 1.00.
  - a. For every 350 gallons/day of processed water with not more than 15 percent consumptive use: 1.00.
  - b. For each additional toilet or urinal with manual flush: 0.30.
  - c. For each additional toilet or urinal with continuous flow: 1.00.
  - d. For each additional lavatory: 0.15.
  - e. For each shower or bath combination: 0.10.
  - f. For each mop sink: 1.00.
  - g. For each manual operated drinking fountain: 0.10.
  - h. For each continuous flow drinking fountain: 1.00.
  - i. For each additional 1,000 square feet of floor space above 8,000 feet: 0.13.
- (17) Schools including principal's administrative office and school staff but not including cafeteria, gymnasium or athletic field facilities:
  - a. Up to 50 students: 1.00.
  - b. For each additional student: 0.02.
  - c. Cafeteria, gymnasium and athletic requirements determined on a case-by-case basis at the town's sole discretion: 0.02. The foregoing shall be based on the projected maximum usage of the school facilities and shall be subject to a periodic audit as required by this section.
- (18) Swimming pools up to 25,000-gallon capacity:



- a. Year-round operation: 1.00.
  - b. Summer only (less than six months): 0.50.
  - c. For each additional 1,000 gallons of capacity: 0.02.
- (19) Fire protection sprinkler systems: 0.00.
- (20) Irrigation by sprinkler or drip system:
- a. Residential per 100 square feet: 0.02.
  - b. Commercial per 100 square feet: 0.02.
  - c. Commercial or residential irrigation of more than 5,000 square feet of lawn or landscaping shall be subject to special rates imposed by the town at the town's sole discretion.
- (21) Car washes: All car washes will be based on water delivery requirements and consumptive use projections with EQRs to be determined by the town at the town's sole discretion.
- (22) Commercial laundromats:
- a. Each washer up to 12 lb. capacity: 0.35.
  - b. For each additional pound of capacity over 12 pounds: 0.015.

Uses which are not connected to the wastewater facilities of the town will be evaluated by the location of the wastewater return point in setting, modifying or determining dedication requirements, in the town's sole discretion. Additionally, uses which compute to be more than 3.0 EQR per tap connection are subject to review, calculations and assessment on an ad hoc basis by the town after consideration of the anticipated water to be used.

(e) *Dedication of water rights for open space.* The owner of any property proposed to be annexed or subdivided who dedicates property to the town pursuant to this section to be used for open space, park, aesthetic, recreation, or irrigation purposes shall also comply with the provisions of this section for the property to be dedicated.

(f) *Procedure.*

- (1) In accordance with the basic requirements set forth in this section, the manager shall determine, after consultation with a person or persons skilled in the knowledge of water rights, whether the water rights proposed for dedication pursuant to the provisions of this section will be of sufficient legal priority under the laws of the state to ensure the town's ability to meet the service demands of the new user. This determination will be aided by an historic use affidavit or engineering report provided by the new user.
- (2) The town shall have the right, in its sole discretion, to accept or reject any water rights proposed for dedication pursuant to the provisions of this section which the Council has determined do not have sufficient legal priority. If the Council determines that the water rights proposed fail to satisfy the basic determination requirement, the following alternatives, or combination thereof, may be used to otherwise satisfy the basic dedication requirement:
  - a. The person required to comply with the basic dedication requirement may pay to the town a cash amount equal to the fair market value of the water rights necessary to satisfy the basic dedication requirement.
  - b. The manager may, in his discretion, negotiate with the new user to establish other terms or conditions which shall constitute compliance with the basic dedication requirement of this section.
- (3) The new user shall dedicate the water rights determined by the town by filing with the Council an offer thereof. It is the intent of this section that no water service shall be extended to a new user until the agreed to water rights have been dedicated to the town; however, if there are matters pending resolution in the water court concerning the water rights to be dedicated, or if there is other delay beyond the control of the new user, the manager shall have the discretion to approve the extension of such water service prior to the dedication of water rights to the town.

- (4) Subject to negotiations with the Council, all costs and expenses attendant to the conveyance and transfer of water rights dedicated to the town shall be borne by the new user. The manager may, with the approval by the Council, to negotiate a one-time, up-front fee for small users to be paid by the developer and used by the town for the costs of conveyance and transfer. Otherwise, the manager shall establish a deposit requirement to be held by the town and maintained by the new user to pay for such costs.
- (5) Any decision of the manager made hereunder shall be appealable at the next regularly scheduled meeting of the Council, whose determination shall be final.
- (6) If the owner of the property proposed to be annexed or subdivided desires to retain the land or any portion thereof in agricultural production or as open space prior to development, he may be permitted to lease back, on an annual basis, and for irrigation, aesthetic and recreational purposes only, the water rights transferred pursuant to this section. The terms of the lease shall be negotiated with the Council.
- (g) *Option to purchase.*
- (1) *Time.* Any person required to comply with the basic dedication requirement shall also grant to the town the option to purchase any and all water rights which are appurtenant to the land to be annexed but which are in excess of the basic dedication requirement. Said option may be exercised by the town at any time for a period of one year following the date of the grant to the town with regard to any or all of the water rights subject to the grant.
- (2) *Price.* The option price shall be that price agreed upon by the parties. If the parties do not agree upon an option price within 30 days after the notice of the town's intent to exercise its option is received by the owner, an appraisal at the town's expense will establish the price that reflects the fair market value of the water right. The appraisal shall be conducted by one appraiser appointed by the town, one appraiser appointed by the owner of the water rights, and a third appraiser who shall be appointed by both parties. The average of the three appraisals shall be the option price.
- (3) *Right of first refusal.*
  - a. *Grant of right.* In addition to the grant of the option to purchase by the new user, there shall be a grant to the town by the user of a right of first refusal regarding the water rights subject to said option to purchase. If the town for any reason should choose not to exercise its option to purchase, it shall retain said first right of refusal, in the event the water rights are sold independently of the land, for a period of ten years following annexation or final approval, or replatting, or extension of water service to a subdivision, whichever last occurs.
  - b. *Notice period.* If the owner of the water rights subject to said right of first refusal wishes to sell the water rights to a third party, he shall give to the town at least 90 days' notice of his intention to effect a sale of said water rights by delivering to the town a bona fide written offer to purchase made by a third party.
  - c. *Exercise of right.* During the 90-day notice period provided for above, the town shall enjoy its right of first refusal entitling it to purchase the water rights proposed for sale. If within 90 days following notice by the owner of his intention to sell his water rights, the town chooses to exercise its right to purchase, then the town shall pay to the owner the price for the water rights as specified in the bona fide offer in accordance with the terms of such bona fide offer. In the event that the town determines to not exercise its right to purchase the water rights offered for sale, the owner shall be free to sell the water rights to the third party; provided, however, that any such sale to a third party shall be for a price which is at least equal to that price which was tendered to and refused by the town.

(Code 1999, § 7.24.290; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.24.300. Wireless telecommunication.**

- (a) *Intent.* The intent of this section is to set forth standards for the construction and installation of wireless telecommunication facilities and infrastructure.
- (b) *Height and setback requirements.* In all performance districts where wireless telecommunication service facilities are allowed as uses by conditional review, the following apply:

- (1) Roof- or building-mounted commercial mobile radio service facilities may protrude no more than five feet above the parapet line of the building or structure, nor more than 2 1/2 feet outside of the building wall unless sufficient screening methods are demonstrated and accepted as part of the approval;
- (2) Roof- or building-mounted whip antenna of no more than three inches in diameter, in groupings of five or less, may extend up to 12 feet above the parapet wall; and
- (3) Applicable zoning setback requirements of this article must be met. At a minimum, all freestanding facilities shall be set back at least three hundred feet from all residentially zoned properties or residential structures on properties otherwise zoned.

(c) *Accessory buildings requirements.*

- (1) Accessory buildings located on the ground shall be no larger than 400 square feet and must be constructed of durable, low maintenance materials, architecturally compatible and integrated with existing buildings and structures. Sites with greater than 100 cubic feet of cabinet area, visible from a public right-of-way or residentially zoned or used area, must enclose the equipment in accessory buildings.
- (2) Accessory buildings and facilities are to be screened, to the extent possible, from public streets and sidewalks, either by screening, landscaping, location or other techniques deemed sufficient by the town.

(d) *Building or roof-mounted facilities requirements.* Building or roof mounted facilities are to be screened from public view, either by screening, location or other techniques deemed sufficient.

(e) *Freestanding wireless telecommunication facilities requirements.* All freestanding wireless telecommunication facilities shall be designed and constructed in such a manner that they are:

- (1) Capable of serving, through original construction, expansion or replacement, a minimum of two users;
- (2) Constructed as a monopole, which tapers toward the top of the pole to the degree allowed by structural requirements, unless some other decorative type of structure is proposed and approved;
- (3) Of a neutral color, including fencing, buildings and cabinets, or to match existing buildings;
- (4) Hold only lighting required by the Federal Aviation Administration; and no signage;
- (5) No higher than 50 feet from the ground, with an additional 20 feet per co-locating user permitted, up to 70 feet. Exceptions may be granted upon request by the applicant; and
- (6) Constructed in accordance with a certified engineer's specifications and in compliance with all applicable U.B.C. provisions.

(Code 1999, § 7.24.300; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.24.310. Oil and gas standards.**

(a) *Intent.* The intent of these regulations is to facilitate the development of oil and gas resources within the town, while mitigating potential land use conflicts between such development and existing, as well as planned, land uses. Under state law, the surface and mineral estates are separate and distinct interests in land and one may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of these regulations and any applicable statutory and regulatory requirements. The state has a recognized interest in fostering the efficient development, production and utilization of oil and gas resources, and in the prevention of waste and protection of the correlative rights of common source owners and producers to a fair and equitable share of production profits. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner. Municipal governments have a recognized, traditional authority and responsibility to regulate land use within their jurisdiction. These regulations are intended as an exercise of this land use authority.

(b) *General provisions.* The standards in this section shall apply to all conditional use permits granted for oil and gas wells, production, operations and related facilities.

(c) *Building permit.* Building permits must be obtained for all aboveground structures to which the town's building codes apply pursuant to title 6.

(d) *Well location and setbacks.*

- (1) All wells shall be set at a distance from occupied dwellings, permitted buildings, or rights-of-way at not less than the minimum setback allowed by OGCC rules and regulations.
- (2) Notwithstanding the foregoing, but subject to the exception listed in subsection (d)(3) of this section, in all areas of the town, the following apply:
  - a. A wellhead location shall be set back not less than 350 feet from any occupied building or occupied building permitted for construction and shall be set back not less than 75 feet from any public right-of-way.
  - b. Production tanks and/or associated on-site production equipment shall be set back not less than 350 feet from any occupied building or occupied building permitted for construction and shall be set back not less than 75 feet from any public right-of-way.
  - c. Location and setback requirements may be waived if an exception has been granted by the OGCC director pursuant to Rule 603(b) of the commission and a copy of waivers from each person owning an occupied building or building permitted for construction within 350 feet of the proposed location is submitted as part of the application for use by conditional review.
  - d. When wells are existing, buildings shall not be constructed within the following distances:
    1. Buildings unnecessary to the operation of the well shall not be constructed within 200 feet of any such well.
    2. Any building to be used as a place of assembly, institution or school shall not be constructed within 350 feet of any well.
  - e. When wells are existing, lots and roads shall not be platted within the following distances:
    1. Lots shall not be platted within 150 feet of an existing oil or gas well or its production facilities.
    2. Lots intended to be used as a place of assembly, institution or school shall not be platted to allow a building site within 350 feet of an existing oil or gas well or its production facilities.
    3. Streets shall not be platted within 75 feet of an existing oil or gas well or its production facilities; provided, however, that streets may cross collection flow lines at right angles.
    4. Lots and streets may be platted over well and production sites that have been abandoned and reclaimed in accordance with section 16.09.120. Such platting shall only occur after the completion of the abandonment and reclamation process.

(e) *State environmental regulations.* The approval of an oil and gas conditional use permit shall not relieve the operators from complying with all current applicable state and federal regulations and standards concerning air quality, water quality and waste disposal.

(f) *Noise.*

- (1) The conditional use permit application shall not relieve an operator from complying with all applicable state laws and regulations concerning noise.
- (2) Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented in a direction away from all occupied buildings to the extent practicable.
- (3) Where a well and well site do not comply with the required setback or other requirements of this chapter or where the well and well site are in an area of particular noise sensitivity, additional noise mitigation may be required. An area of particular noise sensitivity includes but is not limited to the following: hospitals, dwelling units, nursing homes, hotels, churches and designated wildlife preserves. In determining noise mitigation, specific site characteristics shall be considered, including, but not limited to, the following:
  - a. Nature, proximity, location and type of adjacent development;

- b. Prevailing weather patterns, including wind directions;
  - c. Vegetative cover on or adjacent to the site; or
  - d. Topography.
- (4) The level of required mitigation may increase with the proximity of the well and well site to areas of particular noise sensitivity or the level of noise emitted by the well and well site. One or more of the following additional noise abatement measures may be required:
- a. Acoustically insulated housing or cover enclosing the motor or engine;
  - b. Noise management plan identifying hours of maximum noise emissions, type, frequency and level of noise to be emitted, and proposed mitigation measures; or
  - c. Any abatement measures required by the commission for high-density areas, if applicable.
- (g) *Visual impacts/aesthetics.*
- (1) *In general.*
- a. To the maximum extent practicable, oil and gas facilities shall be located away from prominent natural features, such as distinctive rock and landforms, vegetative patterns, ditch crossings, town or county-approved open space areas and other approved landmarks.
  - b. To the maximum extent practicable, oil and gas facilities shall be located to avoid crossing hills and ridges or silhouetting.
  - c. To the maximum extent practicable, the applicant shall use structures of minimal size to satisfy present and future functional requirements.
  - d. To the maximum extent practicable, when clearing trees and vegetation for construction of oil and gas facilities, the applicant shall feather and thin edges of vegetation. Applicant shall replant cleared trees and vegetation to screen facilities to the maximum extent practicable.
  - e. To the maximum extent practicable, the applicant shall locate facilities at the base of slopes to provide a background of topography and/or natural cover.
  - f. The applicant shall replace earth adjacent to water crossings at slopes less than the normal angle of repose with the soil type of the site.
  - g. To the maximum extent practicable, the applicant shall align access roads to follow existing grades and minimize cuts and fills.
  - h. Facilities shall be painted as follows:
    - 1. Uniform, non-contrasting, non-reflective color tones.
    - 2. Color matched to land, not sky, slightly darker than adjacent landscape.
    - 3. Exposed concrete colored to match soil color.
- (2) *Special visual mitigation measures.* Where a well or well site does not comply with the required setback or other requirements of this chapter, or in areas of increased visual sensitivity, such as a location near an occupied subdivision, the applicant shall submit a visual mitigation plan including one or more of the following standards, as appropriate:
- a. To the maximum extent practicable, exterior lighting shall be directed away from residential areas, or shielded from said areas to eliminate glare.
  - b. One or more of the following landscaping practices may be required, where practicable, on a site-specific basis.
    - 1. Establishment and proper maintenance of ground covers, shrubs and trees.
    - 2. Shaping cuts and fills to appear as natural forms.
    - 3. Cutting rock areas to create irregular forms.

4. Designing the facility to utilize natural screens.
5. Construction of fences for use with or instead of landscaping.

- (3) *Other special mitigation measures.* The applicant shall keep the town and private streets or roads reasonably free of mud or other materials during drilling and completion operations and during well operations. The applicant shall use its best efforts to keep the well site free of trash, litter and other refuse during and at the completion of drilling and shall not in any case bury said trash. The operator shall construct and manage pits in accordance with applicable state and federal regulations.

(h) *Abandonment and plugging of wells.* The approval of a use permitted by conditional review shall not relieve the operator from complying with all commission rules with respect to abandonment and plugging of wells. The operator shall provide the town with commission Form 4 at the time that it is filed with the commission. The applicant shall abandon flow lines in accordance with applicable state rules and regulations.

(i) *Seismic operations.* The approval of a use permitted by conditional review shall not relieve the operator from complying with all commission rules and regulations with respect to seismic operations. All notices which an operator is required to file with the commission with respect to seismic operations shall be filed with the town on a timely basis. The town shall comply with the same confidentiality requirements which bind the commission.

(j) *Signage.* The approval of an oil and gas conditional use permit shall not relieve the operator from complying with all commission rules with respect to signs. In addition, the operator shall maintain in good, readable condition all signs required by this Code in chapter 10.28.

(k) *Reclamation.* The operator is required to comply with all commission rules and regulations with respect to site reclamation as a condition of the conditional use permit.

(l) *Geologic hazard, floodplain, floodway location restrictions.* All equipment at well sites and production sites in geological hazard and floodplain areas shall be anchored to the extent necessary to resist flotation, collapse, lateral movement or subsidence and to the extent necessary to comply with the Federal Emergency Management Act.

(m) *Access roads.* All private roads used to maintain access to the tank batteries or the well site shall be improved and maintained according to the following standards:

- (1) *Tank battery access roads.* Access roads to tank batteries shall be subject to review by the town engineer in accordance with the following minimum standards:
  - a. A graded gravel roadway having a prepared subgrade and an aggregate base course surface a minimum of six inches thick compacted to a minimum density of 95 percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures. The aggregate material, at a minimum, shall meet the requirements for Class 3, aggregate base course, as specified for aggregate base course materials in the state department of transportation's Standard Specifications for Road and Bridge Construction, latest edition.
  - b. Graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways (such as roadside swales, gulches, rivers, creeks and the like by means of an adequate culvert pipe). Adequacy of the pipe is subject to approval of the town engineer.
  - c. Maintained so as to provide a passable roadway free of ruts at all times.
- (2) *Wellhead access roads.* Access roads to wellheads shall be subject to review by the town's engineer in accordance with the following minimum standards:
  - a. A graded, dirt roadway compacted to a minimum density of 95 percent of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures and approved by the town engineer.
  - b. Graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval by the town engineer.
  - c. Maintained so as to provide a passable roadway generally free of ruts.

- (3) *Public access roads.* An extra-legal vehicle or load permit shall be required for all extra-legal vehicles or loads, as defined in sections ~~C.R.S. §§ 42-4-401 through 42-4-411, C.R.S.~~, which use town streets. Said permit, if required, shall be obtained from the town clerk prior to such use. The applicant shall comply with all Town and state regulations regarding weight limitations on streets within the town, and the applicant shall minimize extra-legal truck traffic on streets within the town.

(n) *Wildlife impact mitigation.* When a well site or production site is located within a designated moderate (blue) or high impact zone (red) on the 1987 cumulative impact maps prepared by the state division of wildlife, the applicant shall consult with the state division of wildlife to obtain recommendations for appropriate site-specific and cumulative impact mitigation procedures. The operator shall implement such mitigation procedures as are recommended by state division of wildlife after consultation with the town. The applicant shall not engage in activities which, in the opinion of the state division of wildlife, threaten endangered species.

(o) *Emergency response costs.* As a condition of issuing a conditional use permit, the operator shall agree to reimburse the town or the fire district for any emergency response costs incurred by the town or the fire district in connection with activity at the well site or production site, except that the operator shall not be required to pay for emergency response costs where the response was precipitated by the mistake of the town.

(Code 1999, § 7.24.310; Ord. No. 679, § 2(exh. A), 11-16-2017)

## CHAPTER 10.28. SIGNS

### Sec. 10.28.010. Purpose, intent.

The regulations in this article are intended to coordinate the use, placement, physical dimensions, and design of all signs within the town. The purpose of these regulations is to:

- (1) Recognize that signs are a necessary means of visual communication for the convenience of the public and provide flexibility within the sign review/approval process to allow for unique circumstances and creativity.
- (2) Recognize and ensure the right of those concerned to identify businesses, services and other activities by the use of signs, and limit signs to those which are accessory and incidental to the use on the premises where such signs are located.
- (3) Provide a reasonable balance between the right of an individual to identify his business and the right of the public to be protected against the visual discord resulting from the unrestricted proliferation of signs and similar devices.
- (4) Protect the public from damage or injury caused by signs that are poorly designed or maintained and from distractions or hazards to pedestrians or motorists caused by the indiscriminate placement or use of signs.
- (5) Ensure signs are well designed and contribute in a positive way to the town's visual environment, express local character, and help develop a distinctive image for the town.
- (6) Encourage signs that are responsive to the aesthetics and character of their particular location, adjacent buildings and uses, and the surrounding neighborhood. Ensure signs are compatible and integrated with the building's architectural design and with other signs on the property.
- (7) Ensure signs are appropriate for the type of street on which they are located.
- (8) Bring nonconforming signs into compliance with these regulations.

(Code 1999, § 7.28.010; Ord. No. 679, § 2(exh. A), 11-16-2017)

### Sec. 10.28.020. Sign permits and administration.

(a) *Sign permit required.* To ensure compliance with the regulations of this article, a sign permit shall be required in order to erect, move, alter, reconstruct or repair any permanent or temporary sign, except signs that are exempt from permits in compliance with section 10.28.040. In multiple-tenant buildings, a separate permit shall be required for each business entity's sign. Separate building and electrical permits may be required for signs and will be determined on a case-by-case basis. Changing or replacing the copy on an existing lawful sign shall not require

a permit, provided the copy change does not change the nature of the sign or render the sign in violation of this chapter.

(b) *Application for a sign permit.*

(1) *Sign permit application requirements.* Applications for sign permits shall be made in writing on forms furnished by the town. The application shall contain:

- a. The location by street number and the legal description of the proposed sign structure;
- b. Names and addresses of the owner, sign contractor and erectors;
- c. Legible site plans which include the specific location of the sign and setbacks to adjacent property lines and buildings;
- d. A detailed drawing indicating the dimensions, materials, and colors of the proposed sign structure. A certification by a registered professional structural engineer may be required by staff for a freestanding or projecting sign;
- e. A graphic drawing or photograph of the sign copy;
- f. A description of the lighting to be used, if applicable;
- g. Proof of public liability insurance covering freestanding signs and projecting wall signs;
- h. If the sign is to be located off the premises advertised, a written lease or permission from the property owner of the site on which the sign will be located; and
- i. Sign permit fee and plan check fee as established by the current fee schedule. The applicant shall pay all town costs relative to the review of the application.

(2) *Sign permit application certification of completion.* Within a reasonable period of the date of application submission, staff shall either certify the application is complete and in compliance of all submittal requirements or reject it as incomplete and notify the applicant in writing of any deficiencies.

(3) *Staff review and approval.* When staff has determined the application to be complete, staff shall review the sign permit in accordance with the established review criteria and has the authority to approve, approve with conditions or deny the sign permit. Upon staff's approval of the sign permit, the sign permit and any building or electrical permits required for the sign shall be issued to the applicant.

(c) *Sign permit review criteria.* The following review criteria will be used by the town to evaluate all sign permit applications:

- (1) Sign meets the requirements of this chapter;
- (2) Sign conforms to the requirements of the building and electrical code;
- (3) Sign conforms to the size, height, material and location requirements of this title ~~the Zoning Code~~<sup>96</sup> ~~for and~~ the zoning district in which it is located;
- (4) Sign would not interfere with pedestrian or vehicular safety;
- (5) Sign would not detract from the character of an architecturally significant or historic structure;
- (6) Sign would not be located so as to have a negative impact on adjacent properties;
- (7) Sign would not detract from the pedestrian quality of street or area; and
- (8) Sign would not add to an over-proliferation of signs on a particular property or area.

(d) *Appeal of sign permit denial or approval with conditions.* Any appeal of the town's denial of a sign permit or approval with conditions shall be made to the board of adjustment in accordance with section 10.16.190.

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<sup>96</sup> As the zoning code has been repealed, would the Town like to edit this language? **Zoning is now repealed, ok to edit.**



(e) *Waivers.* Any request for an increase in the maximum allowable area for a sign, or for signs not expressly permitted in these regulations, must be approved through a waiver granted by the Council.

(Code 1999, § 7.28.020; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.28.030. Enforcement.**

(a) *Discontinued establishments; removal of signs.* Whenever a business, industry, service or other use is discontinued, the sign pertaining to the use shall be removed or obscured by the person or entity owning or having possession over the property within sixty days after the discontinuance of such use.

(b) *Illegal signs.*

(1) *Penalties.* Illegal signs shall be subject to the administrative remedies of this Code.

(2) *Removal of illegal signs in the public right-of-way.* The town may cause the removal of any sign within the public right-of-way or on property that is otherwise abandoned that has been placed there without first complying with the requirements of this chapter.

(3) *Removal of poorly maintained signs/signs in violation of Code.* The town may cause the removal of any sign that has become a hazard to public safety due to poor construction or maintenance. Signs in violation of any other provision of this Code may also be removed by the town.

(4) *Storage of removed signs.* Signs removed in compliance with this chapter shall be stored by the town for 30 days, during which they may be recovered by the owner only upon payment to the town for costs of removal and storage. If not recovered within the 30-day period, the sign and supporting structure shall be declared abandoned and title shall vest with the town. The costs of removal and storage (up to 30 days) may be billed to the owner. If not paid, the applicable costs may be imposed as a tax lien against the property.

(Code 1999, § 7.28.030; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.28.040. Exempt signs.**

(a) *Exempt signs.* The following types of signs are exempt from permit requirements of this chapter and may be placed in any zoning district subject to the provisions of this chapter. Such signs shall otherwise be in conformance with all applicable requirements contained in this chapter. All such signs (except government signs) shall be located outside a street right-of-way. Signs shall not interfere with traffic signs or the sight distance triangle at intersections. Evidence of permission to install a sign may be required as the town investigates compliance with this chapter. All other signs shall be allowed only with permit and upon proof of compliance with this chapter.

(1) *General.* Signs that are not visible beyond the boundaries of the lot or parcel upon which they are located and/or from any public thoroughfare or right-of-way shall be exempt from the provisions of this chapter, except that such signs shall be subject to the safety regulations of the adopted version of the ~~Uniform~~ building code and all other codes (electrical, mechanical, etc.) governing building construction in the town.

(2) *Address.* Non-illuminated signs exceeding two square feet in area which identify the address and/or occupants of a dwelling unit or of an establishment.

(3) *Architectural features.* Integral decorative or architectural features of buildings so long as such features do not contain letters, trademarks, moving parts or lights.

(4) *Art.* Integral decorative or architectural features of buildings, or works of art; so long as such features or works do not contain letters, trademarks, moving parts or lights.

(5) *Banners.*

a. Banners applied to paper, plastic or fabric used to decorate or attract attention to a business establishment, provided:

1. It is displayed in conjunction with a grand opening celebration for a period not to exceed 30 days; or

2. It is displayed in conjunction with a special sale for a period not to exceed 30 days in a one-year period.
  3. It is displayed no more than two times per calendar year, per establishment.
  4. It is securely attached to the wall of the establishment, freestanding signs or light poles on private property.
- b. One single-sided banner per street frontage per establishment shall be permitted.
- (6) *Building identification, historical markers.* Non-illuminated signs constructed of metal or masonry which are permanently affixed to buildings or structures for the purpose of identifying the name of a building, date of erection or other historical information as approved by staff.
  - (7) *Bulletin board.* Bulletin board signs not exceeding 15 square feet in gross surface area accessory to a church, school, public or nonprofit institution.
  - (8) *Construction.* Temporary construction signs, provided that:
    - a. Signs in conjunction with any residential use shall not exceed eight square feet each.
    - b. Signs in conjunction with all other uses shall have a maximum area of 32 square feet each.
    - c. Only one such sign oriented per street front per premises shall be erected. Any two such signs located on the same premises shall be located at least 100 feet apart as measured using a straight line.
    - d. Such signs shall not be illuminated.
    - e. Such signs shall only appear at the construction site.
    - f. Such signs shall be removed within seven days after completion of the project.
  - (9) *Courtesy.* Non-illuminated or indirectly illuminated signs which identify, as a courtesy to customers, items such as credit cards accepted, redemption stamps offered, menus or prices; limited to one two-sided sign for each use, not to exceed four square feet per face. Such signs may be attached to the building, as projecting or wall signs, suspended from a canopy or included as an integral part of a freestanding sign.
  - (10) *Decorations (holiday).* Temporary decorations or displays, when such are clearly incidental to, and are customarily and commonly associated with, any national, state, local or religious holiday or celebration. Such signs shall be displayed for not more than sixty days in any one year; and may be of any type, number, area, height, location, illumination or animation.
  - (11) *Directional.* On-premises directional and instructional signs not exceeding six square feet in area each.
  - (12) *Doors.* Signs affixed to door surfaces which identify the name and/or address of an establishment.
  - (13) *Farm products.* Temporary farm product signs provided that:
    - a. One on-premises sign may be used. Said sign shall be located off the street right-of-way and at least ten feet away from any side lot line. Such sign shall have a maximum area of nine square feet and may not be illuminated.
    - b. A maximum of two off-premises signs shall be permitted. Said off-premise signs may be no greater than four square feet each and shall not be illuminated. No such sign shall be allowed in the street right-of-way or within ten feet of any side lot line.
  - (14) *Flags.* Flags, crests or banners of nations, or organizations of nations, or states and cities, or professional fraternal, religious, or civic organizations, except when displayed in connection with commercial promotion.
  - (15) *Garage, estate, yard sale or farm auction.* Signs which advertise a private garage or yard sale, provided such signs are displayed no more than twice per year per dwelling unit for a period not to exceed five days (for auctions, 30 days).

- (16) *Hazards*. Temporary or permanent signs erected by the town, public utility companies, oil and gas companies, or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices.
- (17) *Memorial*. Memorial signs, plaques or grave markers which are noncommercial in nature.
- (18) *Merchandise*. Merchandise, pictures or models of products or services which are incorporated as an integral part of a window display.
- (19) *Mineral extraction*. Identification signs for any mining, oil and/or gas operation.
- (20) *Notice boards*. Notice boards for public or religious institutions or other uses as approved by staff and primarily intended for pedestrians.
- <sup>97</sup>(21) *Political*. Political signs displayed on private property in accordance with an official election or signs erected on behalf of candidates for public office provided:
  - a. The total area of all such signs on a lot does not exceed 16 square feet.
  - b. All such signs may be erected no sooner than 60 days in advance of the election for which they were made, or, at the commencement of early voting for that election.
  - c. The signs are removed within fifteen days after the election for which they were made.
  - d. The property owner upon whose land the sign is placed shall give written permission for the placement of said signs and will be responsible for violations.
- (22) *Public information*. Signs which identify restrooms, public telephones or provide instructions, as required by law or necessity, provided the sign does not exceed two square feet in area or as approved by staff and is not illuminated, internally illuminated or indirectly illuminated. (This category shall be interpreted to include such signs as "no smoking," "restrooms," "no solicitors," "self-service" and similar informational signs.)
- (23) *Religious symbols*. Religious symbols located on a building or lot used for organized religious services.
- (24) *Regulatory signs*. Regulatory signs erected on private property, such as "no trespassing" signs, which do not exceed two square feet per face or four square feet in total surface area, limited to four such signs per use or per building, whichever is the greater number.
- (25) *Sale, lease, rent*. Temporary signs used to offer for sale, lease or rent the land or buildings upon which the sign is located, provided:
  - a. One sign per street frontage advertising real estate ("For Sale," "For Rent," "For Lease" or "For Development") not greater than eight square feet in area in a residential district and 32 square feet in area in nonresidential districts may be located on the property being advertised so long as said sign is located behind the street right-of-way line. If the property so advertised lies on a corner lot or double frontage lot, then a second sign may be oriented along the second street so long as the two signs are at least 100 feet apart as measured by the shortest straight line.
  - b. In addition to the on-site real estate sign, a maximum of three directional signs, each not exceeding four square feet in area, shall be permitted off the subject premises. Such signs must be placed outside all existing rights-of-way. The message of said signs shall be limited to the name of the property or development being advertised, an address, a telephone number, a directional arrow, mileage to the subject property, and the terms "Lot/Home For Sale," "For Rent," "For Lease," "For Development," etc.
  - c. No more than three temporary directional signs advertising a specific planned commercial or mixed-use development, subdivision, multifamily development, etc. may also be permitted offsite.

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<sup>97</sup> We recommend reviewing subsections (b) and (c), as they may be successfully challenged and could be found to be an unconstitutional regulation of speech. **Town elected to leave as is.**

Each such sign may have a maximum area of four square feet and shall be placed outside all existing rights-of-way.

- d. All such temporary signs shall be removed within seven days after the real estate closing or lease transaction.
- e. No sign allowed under this subsection shall be lighted.

(26) *Scoreboards*. Scoreboards for athletic fields.

(27) *Special events*. Temporary special event signs and banners for religious, charitable, civic, fraternal or similar nonprofit or not-for-profit organizations provided that:

- a. Signs shall be erected no sooner than 30 days prior and removed no later than seven days after the event.
- b. No such sign shall exceed 32 square feet.
- c. No such sign shall be illuminated.
- d. All such signs shall be located off the street right-of-way, unless otherwise granted permission for such location by the town or the state department of transportation (CDOT). In no case may any such sign impede the view or travel of any motorists or pedestrians or be attached to any structure within the right-of-way (government signs, telephone poles, etc.).

(28) *Strings of light bulbs*. Displays of string lights, provided:

- a. They are decorative displays which only outline or highlight landscaping or architectural features of a building.
- b. They are steady burning, clear, non-colored bulb lights. No blinking, flashing, intermittent changes in intensity or rotating shall be permitted.
- c. They are no greater in intensity than five watts.
- d. They shall not be placed on or used to outline signs, sign supports, awnings and/or canopies.
- e. They shall not be assembled or arranged to convey messages, words, commercial advertisements, slogans and/or logos.
- f. They shall not create a safety hazard with respect to placement, location of electrical cords or connection to power supply.
- g. They shall be placed only on private property.
- h. They shall be maintained and repaired so that no individual light bulb is inoperative. In the event the bulbs are not maintained or repaired, the string lights may be removed at the expense of the owner after giving notice to the owner pursuant to this chapter.

(29) *Text*. No permit shall be required for text or copy changes on conforming or legal nonconforming signs specifically designed to permit changes of the text or copy, provided that no structural changes are made to the sign, and provided that the name of the business to which the sign belongs is not changed.

(30) *Time and temperature*. Signs displaying time and temperature, provided they are not related to a product.

(31) *Traffic control*. Signs for the control of traffic or other regulatory purposes including signs for the control of parking on private property, and official messages erected by, or on the authority of, a public officer in the performance of his duty.

(32) *Vacancy and no vacancy*. All "vacancy" and "no vacancy" signs, where they are not illuminated, internally illuminated, indirectly illuminated or directly illuminated signs, provided that the area of the sign does not exceed 2 1/2 square feet per face. Also, signs designed to indicate vacancy such as "yes," "no" or "sorry" shall also be exempt under the provisions of this subsection if they meet the area requirement.

(33) *Vehicular signs*. Signs displayed on trucks, buses, trailers or other vehicles which are being operated or

stored in the normal course of a business, such as signs indicating the name of the owner or business which are located on moving vans, delivery trucks, rental trucks and trailers and the like, shall be exempt from the provisions of this chapter, provided that the primary purpose of such vehicles is not for the display of signs, and provided that they are parked or stored in areas appropriate to their use as vehicles.

- (34) *Vending machine signs.* A sign permit shall not be required for vending machine signs, provided that the advertisement upon the vending machine sign is limited to the product vended.

(Code 1999, § 7.28.040; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.28.050. Prohibited signs.**

~~A. Prohibited signs.~~ The following signs are inconsistent with the purposes and standards in this article and are prohibited in all zoning districts:

- (1) Any sign incorporating bulbs, LED, plasma or other lighting technology that can create animated or changeable displays that comprise more than 25 percent of the total allowable sign face. Changeable displays shall not incorporate movement, the illusion of movement, animation effects, flashing or rotating lights, and shall comply with the provisions of section 10.28.070 regarding sign design.
- (2) Any sign that is erected in such a location as to cause visual obstruction or interference with motor vehicle traffic, bicycle traffic or traffic-control devices including any sign that obstructs clear vision in any direction from any street intersection or driveway.
- (3) Mechanical or electrical appurtenances, such as revolving beacons, that are designed to compel attention.
- (4) Roof signs.
- (5) Any sign other than traffic control signs erected, constructed, or maintained within, over or upon the right-of-way of any road or highway, except in the case of a sign for which a permit has been issued with the requirements of this chapter.
- (6) Off-premises advertising signs or any other sign not pertinent and clearly incidental to the permitted use on the property where located, except for temporary subdivision directional signs and political signs, and except for signs permitted in section 10.28.090.
- (7) Any sign which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder or opening intended as a means of ingress or egress or providing light or air.
- (8) Any sign located in such a way as to intentionally deny visual access to an adjoining property owner's existing sign.
- (9) Vehicle-mounted signs, including but not limited to, signs painted on or attached to semi-trailers or cargo containers when exhibited on public property or private property adjacent to public right-of-way for the purpose of advertising a business, service, or product for sale or rent. Vehicle-mounted signs used in connection with a special event are exempted from the requirements of this section during the duration of the special event only. Upon the conclusion of the special event, such signs must be dismantled. For the purposes of this subsection, the term "special event" means a parade, circus, fair, carnival, festival, farmers' market or other similar event of less than ten days duration that is different in character from the customary or usual activities generally associated with the property upon which the special event is to occur.
- (10) Portable signs or signs not permanently affixed or attached to the ground or to any structure, except for real estate signs attached to posts driven into the ground, window signs and temporary barriers.
- (11) Rotating signs.
- (12) Searchlights.
- (13) Signs with optical illusion of movement by means of a design which presents a pattern capable of reversible perspective, giving the illusion of motion or changing of copy.
- (14) Inflatable freestanding signs or tethered balloons over three feet in diameter.
- (15) Electronic message boards except governmental signs.

- (16) Wind signs.
- (17) Any sign (together with its supporting structure) now or hereafter existing which, 60 days or more after the premises have been vacated, advertises an activity, business, product or service no longer produced or conducted upon the premises upon which such sign is located. If the sign or sign structure is covered or the identifying symbols or letters removed, an extension of time may be granted by the building official upon good cause for such extension being shown. (This provision shall not apply to permanent signs accessory to businesses which are open only on a seasonal basis, provided that there is clear intent to continue operation of the business.)
- (18) Any sign or sign structure which:
- Is structurally unsafe;
  - Constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation;
  - Is not kept in good repair; or
  - Is capable of causing electrical shocks to persons likely to come in contact with it.
- (19) Any sign or sign structure which:
- In any other way obstructs the view of, may be confused with or purports to be an official traffic sign, signal or device or any other official sign;
  - Uses any words, phrases, symbols or characters implying the existence of danger or the need for stopping or maneuvering a motor vehicle or bicycle;
  - Creates in any other way an unsafe distraction for motor vehicle or bicycle operators; or
  - Obstructs the view of motor vehicle or bicycle operators entering a public roadway from any parking area, service drive, private driveway, alley or other thoroughfare.

(Code 1999, § 7.28.050; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.28.060. Measurement of sign area and height.**

(a) *Sign surface area.* The area of a geometric shape enclosing any message, logo, symbol, name, photograph or display face shall be measured using standard mathematical formulas. Time and temperature devices shall not be included within the measurement of maximum sign area.

[GRAPHIC]

Sign Area Measurement

Figure 10-1

(b) *Sign support.* Supporting framework or bracing that is clearly incidental to the display itself shall not be computed as sign area.

(c) *Back-to-back (double-faced) signs.* Back-to-back signs shall be regarded as a single sign only if mounted on a single structure, and the distance between each sign face does not exceed two feet at any point.

(d) *Three-dimensional signs.* Where a sign consists of one or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture), the sign area shall be measured as their maximum projection upon a vertical plane. Signs with three-dimensional objects that exceed a projection of six inches from the sign face may be approved in compliance with section 10.28.110.

(e) *Wall signs.* If a sign is attached to a wall, only that portion of the wall onto which the sign face or letters are placed shall be calculated in the sign area.

(f) *Sign height.* The height of a sign shall be measured from the highest point of a sign to the ground surface beneath it. When berms are used in conjunction with signage, the height of the sign shall be measured from the mean elevation of the fronting street.

[GRAPHIC]

(Code 1999, § 7.28.060; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.28.070. Sign design.**

- (a) *Design compatibility.*
- (1) *Creative design encouraged.* Signs shall make a positive contribution to the general appearance of the street and commercial area in which they are located. A well-designed sign can be a major asset to a building. The town encourages imaginative and innovative sign design. The creative sign application procedure (section 10.28.110) is specifically designed for artistic and unusual signs that might not fit the standard sign regulations and categories.
- (2) *Professional.* Signs shall be made by a professional sign company or other qualified entity acceptable to the town.
- (3) *Proportionate size and scale.* The scale of signs shall be appropriate for the building on which they are placed and the area in which they are located. Building signs shall be harmonious in scale and proportion with the building facade they are mounted to.
- (4) *Sign location and placement.*
  - a. *Visibility.* Signs shall not visually overpower nor obscure architectural features.

[GRAPHIC]

- b. *Integrate signs with the building and landscaping.* Carefully coordinate the sign with the architectural design, overall color scheme and landscaping. Signs shall be designed to complement or enhance the other signs for a building.
    - c. *Unified sign band.* Whenever possible, signs located on buildings with the same blockface shall be placed at the same height, in order to create a unified sign band. Locate wall signs at the first floor level only for retail uses.
    - d. *Monument signs.* Locate monument signs in a planter setting within a landscaped area at the primary entries to residential, commercial and industrial subdivisions to provide an overall project identity. A maximum of one monument sign per entry is permitted.
    - e. *Pedestrian-oriented signs.* Pedestrian-oriented signs are encouraged. It is desirable to include a pedestrian-oriented sign as one of the permitted signs for a business. These signs are designed for and directed toward pedestrians so they can easily and comfortably read the sign as they stand adjacent to the business.
    - f. *Road right-of-way.* No sign shall be erected within the road right-of-way or near the intersection of any road or driveways in such a manner as to obstruct free and clear vision of motorists, bicyclists or pedestrians or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. Signs located at an intersection must be outside of the sight distance triangle.
- (5) *Landscaping.* Freestanding signs shall be landscaped at their base in a way harmonious with the landscape concept for the whole site. Landscaping shall form an attractive, dense cluster at the base of the sign that is equally attractive in winter and summer.

[GRAPHIC]

- (6) *Reduce sign impact.* Because residential and commercial uses generally exist in close proximity, signs shall be designed, located and/or screened with landscaping so that they have little or no impact on adjacent residential neighborhoods. Small-scale signs are encouraged.

[GRAPHIC]

- (b) *Sign illumination.*

- (1) Use illumination only if necessary.
- (2) Sign illumination shall complement the design of the site.

[GRAPHIC]

- (3) Use a direct light source. All lighted signs shall have their lighting directed in such a manner as to illuminate only the face of the sign. When external light sources are directed at the sign surface, the light source must be concealed from pedestrians' and motorists' lines of sight.

[GRAPHIC]

- (4) Signs must be illuminated in a way that does not cause glare onto the street and adjacent properties. Signs shall be lighted only to the minimum level for nighttime readability and should not be so bright as to overpower an area.
- (5) All lighted signs shall meet all applicable electrical codes and the electrical components used shall bear the label of an approval agency. Additionally, electrical permits shall be obtained for electric signs.
- (6) Flashing, moving, blinking, chasing or other animation effects shall be prohibited on all signs except time and temperature signs.
- (7) Neon tubing is an acceptable method of sign illumination for window signs in commercial districts.
- (8) No commercial sign within five hundred linear feet of a pre-existing residential structure, and visible from that structure, may be illuminated between the hours of 11:00 p.m. and 6:00 a.m. A residence shall be deemed "pre-existing" for purposes of this section if it has a valid building permit in effect for construction of said structure or if construction of said structure was complete on or prior to the effective date of the ordinance from which this chapter is derived.

(Code 1999, § 7.28.070; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.28.080. Sign installation and maintenance.**

(a) *Installation.*

- (1) Where possible, signs shall be mounted so that the mounting brackets and associated mounting hardware are concealed.
- (2) Projecting signs shall be mounted so they generally align with others in the block.
- (3) All signs and all components thereof, including sign structures and sign faces, shall be kept neatly painted, in a good state of repair and in compliance with all building and electrical codes in force at the time of installation. The town may inspect any sign governed by this chapter and shall have the authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.
- (4) Owners of projecting signs extending over public right-of-way shall be required to maintain public liability insurance in an amount to be determined appropriate by the town, in which the town is named as an other insured.

(b) *Maintenance.*

- (1) The owner of a sign and the owner of the premises on which such sign is located shall be jointly and severally liable to maintain such sign, including any illumination sources in neat and orderly condition, and in a good working order at all times, and to prevent the development of any rust, corrosion, rotting or other deterioration in the physical appearance or safety of such sign. The sign must also be in compliance with all building and electrical codes.
- (2) The owner of any sign regulated by this article shall be required to keep signs and supporting hardware, including temporary signs and time/temperature signs structurally safe, clean, free of visible defects and functioning properly at all times. Repairs to signs shall be equal to or better in quality of materials and design than the original sign.



- (3) The town may inspect any sign governed by this article and shall have the authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

(Code 1999, § 7.28.080; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.28.090. Standards for specific types of signs.**

(a) *Awning signs.* An awning sign is a wall sign which is painted, printed, stitched, sewn or stained onto the exterior of an awning. An awning is a movable or permanent shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.

[GRAPHIC]

#### **SIGNS**

Figure 10-8

- (1) *Location.* Signs may be placed only on awnings that are located on first- and second-story building frontages, including those fronting a parking lot or pedestrian way. No awning sign shall project beyond, above or below the face of an awning.
- (2) *Maximum area and height.* Sign area shall comply with the requirements established by section 10.28.100. No structural element of an awning shall be located less than eight feet above finished grade. Awnings on which awning signs are mounted may extend over a public right-of-way no more than seven feet from the face of a supporting building. No awning, with or without signage, shall extend above the roof line of any building.
- (3) *Lighting.* Awnings shall not be internally illuminated except as part of a creative sign. Lighting directed downwards that does not illuminate the awning is allowed.
- (4) *Required maintenance.* Awnings shall be regularly cleaned and kept free of dust, debris and visible defects.

(b) *Canopy signs.* A canopy sign is a wall sign that is permanently affixed to a roofed shelter attached to and supported by a building, by columns extending from the ground or by a combination of a building and columns.

[GRAPHIC]

#### **SIGNS**

Figure 10-9

- (1) *Maximum area and height.* Sign area shall comply with the requirements established by section 10.28.100. No canopy, with or without signage, shall extend above the roof line of any building. No canopy sign shall project above the top of the canopy upon which it is mounted. However, such signs may project horizontally from the face of a canopy the distance necessary to accommodate the letter thickness and required electrical equipment, but not more than 12 inches (measured from the bottom of the sign). Under-canopy signs which are perpendicular to the face of the building shall be deemed to be projecting wall signs. Under-canopy signs which are parallel to the face of the building shall be a minimum of eight feet above grade and shall be deemed to be flush wall signs.
- (2) *Required maintenance.* Canopies shall be regularly cleaned and kept free of dust, debris and visible defects.

(c) *Freestanding signs.* A freestanding sign is a sign which is supported by one or more columns, uprights, poles or braces extended from the ground, or which is erected on the ground and shall also include a monument sign and pole signs but does not include a sign attached to a structure.

- (1) *Location.* The sign may be located only on a site frontage adjoining a public street. No freestanding sign in any zoning district can be erected closer than eight feet from any curblin, nor closer than four feet to any building. No freestanding signs in business and industrial districts may be located less than 25 feet

from any property line adjacent to a residential zoning district line.

- (2) *Maximum area and height.* The sign shall comply with the height and area requirements established in section 10.28.100.

- (3) *Sign mounting.* The sign shall be mounted on one or more posts or have a solid monument-type base. Posts shall not have a diameter greater than 12 inches.

- (4) *Pole signs.* Pole signs should not be so large as to obscure the patterns of front facades and yards.

(d) *Monument signs.* A monument sign is a permanent sign where the entire bottom of the sign is affixed to the ground, not to a building.

- (1) *Location.* The sign may be located only along a site frontage adjoining a public street.

- (2) *Maximum area and height.* The sign shall comply with the height and area requirements established in section 10.28.100.

- (3) *Design.* The design of a monument sign shall be consistent with the overall scale of the building. The design and placement of the sign shall not obstruct traffic safety sight distance areas. Project monument signs shall contain only the name and address of the project which it identifies.

- (4) *Landscaping requirements.* Landscaping shall be provided at the base of the supporting structure equal to twice the area of one face of the sign. For example, 20 square feet of sign area equals 40 square feet of landscaped area. The planning commission may reduce or waive this requirement if it is determined that the additional landscaping would not contribute significantly to the overall aesthetic character of the project.

(e) *Off-premises signs.* Off-premises signs, also known as off-site signs, are permitted with a conditional use permit.

- (1) *Business district identification signs.* A business district identification sign is an off-premises sign for the identification of a specific business district or center identified in the comprehensive plan or a business improvement or redevelopment area approved by the board. Business district signs shall not:

- a. Interfere with pedestrian or vehicular safety;
- b. Detract from the pedestrian quality of the surrounding area; or
- c. Add to an over-proliferation of signs on one property or in an area.

- (2) *Church and civic club off-premises signs.* A church or civic club off-premises sign is an off-premises sign intended to direct people to the church or civic club and/or state meeting dates and times. Such signs shall not:

- a. Interfere with pedestrian or vehicular safety;
- b. Detract from the pedestrian quality of the surrounding area;
- c. Add to an over-proliferation of signs on one property or in an area;
- d. Be allowed for any organization that has not proven "nonprofit" status;
- e. Measure more than four square feet; or
- f. Number more than five for any organization.

(f) *Projecting signs.* A projecting sign is any sign supported by a building wall and projecting at least 12 inches or more horizontally beyond the surface of the building to which the sign is attached.

- (1) *Location.* Projecting signs shall be placed only on a ground floor facade, except for businesses located above the ground level with direct exterior pedestrian access. Mount projecting signs so they generally align with others in the block and fit with architectural detail of the structure. This helps to create a "canopy line" that gives scale to the sidewalk.

- (2) *Maximum area and height.* Projecting signs shall not be higher than the wall from which the sign projects if attached to a single-story building, or the height of the bottom of any second story window if attached

to a multi-story building. Projecting signs must have eight feet of vertical clearance and may not extend more than four feet from the building wall except where the sign is an integral part of an approved canopy or awning. The size of projecting signs is limited to three feet wide and six square feet per face.

- a. *Sign structure.* Sign supports and brackets shall be compatible with the design and scale of the sign.
- b. *Quantity.* The number of projecting signs is limited to one per business. Projecting signs are not permitted in conjunction with wall-mounted or pole signs.

(g) *Standard brand-name signs.*

- (1) A standard brand-name sign is any sign devoted to the advertising of any standard brand-name commodity or service which is not the principal commodity or service being sold or rendered on the premises or are not a part of the name or business concern involved.
- (2) Maximum area. Not more than 20 percent of the total allowable sign area for any permitted use shall be devoted to the advertising of any standard brand-name commodity or service.

(h) *Time and/or temperature signs.* A time and/or temperature sign is any sign intended to be displayed for a limited period of time and capable of being viewed from any public right-of-way, parking area or neighboring property.

- (1) *Maximum area.* Time and/or temperature signs which do not exceed ten square feet shall not be required to be included in the allowable sign area permitted in section 10.28.060; provided, however, that any identification or advertising which is attached to or made part of the same sign structure shall be included in the allowable sign area for the premises.
- (2) *Design.* The sign shall be designed in a manner that is compatible with other signs on the site and with the structure on which it is placed.
- (3) *Maintenance.* It shall be the responsibility of the owner of such signs to maintain such signs and ensure that they are kept accurate. If these conditions are not met, the sign shall be repaired or removed at owner's expense per section 10.28.030(b).

(i) *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.

- (1) *Location.* The sign shall not be placed to obstruct any portion of a window, doorway or other architectural detail. Locate wall signs on buildings at the first-floor level only for retail uses. No part of a wall sign shall be located more than 25 feet above grade level.
- (2) *Maximum area and height.* Wall signs shall not be higher than the eave line of the principal building. The sign shall comply with the height and area requirements established in section 10.32.290.
- (3) *Projection from wall.* No sign part, including cut-out letters may project from the surface upon which it is attached more than required for construction purposes and in no case more than 12 inches.
- (4) *Design.* Wall signs shall identify the individual business, building or building complex by name or trademark only.

(j) *Window signs.* A window sign is a sign that is painted on, applied or attached to a window or that can be read through the window from the public right-of-way, placed at or below the second floor level.

- (1) *Maximum area.* When a sign is displayed in a window and is visible beyond the boundaries of the lot upon which the sign is displayed, the total area of such sign shall not exceed:
  - a. 25 percent of the window or door area at the ground floor level; and
  - b. 25 percent of the total allowable sign area for the premises.
- (2) *Lighting.* All illuminated window signs shall be included in the total allowable sign area for the premises. Temporary posters announcing or advertising events sponsored by noncommercial organizations shall be exempt from limitations for window signs.

(Code 1999, § 7.28.090; Ord. No. 679, § 2(exh. A), 11-16-2017)

**Sec. 10.28.100. Sign standards by zoning district.**

(a) *Residential signs, RLD, RHD and MHR zone districts.* Signs in the RLD, RHD and MHR zoning districts may include, and shall be limited to:

<i>Type of Sign</i>	<i>Number of Signs</i>	<i>Maximum Area (sq. ft.)</i>	<i>Maximum Height of Freestanding Signs</i>	<i>Comments</i>
Identification sign (freestanding or wall sign)	1 per SF. <sup>98</sup> duplex or mobile home	2	4'	Wall signs may be no higher than the eave line of the principal building
	1 per multifamily or triplex	16	6'	Wall signs may be no higher than the eave line of the principal building
	1 per public or quasi-public use	20	8'	Wall signs may be no higher than the eave line of the principal building
	1 per subdivision entrance (monument sign)	32 per face	6'	Direct illumination only: when placed on subdivision entry features. only the sign face shall be used to calculate the area
Bed and breakfast	1 per street frontage	4	Below edge of roof 4' freestanding	May be lighted, name and address of facility only
Childcare center	1	10	5'	Unlighted
Commercial uses (legal nonconforming only)	1 per tenant space	1 for each lineal foot of building frontage: 25 maximum	6'	Direct light source only: may not be illuminated between 11:00 p.m. and 6:00 a.m. if within 500' of existing residential
Home occupation	1	4	5'	Unlighted
Temporary signs	See section 10.28.040			

(b) *Business and commercial signs, HD and SC zone districts.* Signs in the HD and SC zoning districts may include, and shall be limited to:

<i>Type of Sign</i>	<i>Number of Signs</i>	<i>Maximum Area (sq. ft.)</i>	<i>Maximum Height of Freestanding Signs</i>	<i>Comments</i>
Identification sign (freestanding, wall,	Project entry monument sign: 1 per	64 per face	6'	

<sup>98</sup> ATTENTION TOWN: Please advise on term "SF." here.

window, awning, canopy, projecting)	entrance			
	Arterial street pole sign 1 even 1,500' of street frontage	64 per face	12'	In place of project monument sign: not allowed on local or collector streets
	Wall sign 1 per individual tenant building frontage		n/a	The sum of all wall signs on a given wall shall not exceed 5% of the wall area
	Canopy or awning sign 1 per individual building tenant		Minimum 8' above finished grade	Allowed in place of a wall sign
	Window sign 1 per business	25% of window or door area	n/a	May be placed on the window or door, but not both: cannot exceed 25% of the total allowable sign area for the premises
	Information signs	5	6'	Permitted at rear and loading door entrances
	Pole signs adjacent to State Highway 1 per frontage, maximum of 2 with over 800' of street frontage	64 total	15'	Permitted along with entry monument sign: can be no closer than 150' from each other
Time and/or temperature	1	10	6' monument. 12' pole	Identification or advertising that is part of sign structure must be included in allowable sign area
Standard brand-name	Varies	See comments	6' monument. 12' pole	Not more than 20% of the total allowable sign area
Temporary signs	See section 10.28.040			

(c) *Business and commercial signs, AC zone district.* Signs in the AC zoning district may include and shall be limited to:

<i>Type of Sign</i>	<i>Number of Signs</i>	<i>Maximum Area (sq. ft.)</i>	<i>Maximum Height of Freestanding Signs</i>	<i>Comments</i>
Identification sign (freestanding, wall, window, awning, canopy, projecting)	Wall sign or projecting sign 1 per individual tenant building frontage	1 square foot for the first 100 lineal feet of building frontage plus 1 square foot for each 2 lineal feet of building frontage up to 200 square feet maximum	n/a	The sum of all wall signs on a given wall shall not exceed 5% of the wall area: cannot be 25' above grade level or higher than the eave line of the principal building: first floor level only for retail uses

	Canopy or awning sign 1 per individual building tenant	10 if main business sign: 4 if an auxiliary business sign	Minimum 8' above finished grade	May not be in addition to a wall sign: auxiliary on valance only
	Window sign 1 per business	25% window or door area	n/a	May be placed on the window or door, but not both: cannot exceed 25% of the total allowable sign area for the premises
	Information signs	5	6'	Permitted at rear and loading door entrances
	Pole signs adjacent to State Highway, 1 every 500' of frontage	64 total	15'	Permitted along with entry monument sign: can be no closer than 150' from each other
Time and/or temperature	1	10	6' monument, 12' pole	Identification or advertising that is part of sign structure must be included in allowable sign area
Standard brand-name	Vanes	See comments	6' monument, 12' pole	Not more than 20% of the total allowable sign area
Temporary signs	See section 10.28.040			

(d) *Industrial signs, 1-1 and 1-2 zone districts.* Signs in the 1-1 and 1-2 zoning districts may include and shall be limited to:

<i>Type of Sign</i>	<i>Number of Signs</i>	<i>Maximum Area (sq. ft.)</i>	<i>Maximum Height of Freestanding Signs</i>	<i>Comments</i>
Identification sign (freestanding, wall)	1 project monument sign per entrance to site	64 per face	6'	No pole signs are permitted
	Wall sign 1 per individual tenant building frontage	16	n/a	May not exceed one per tenant or one per building entry: must be flush mounted: cannot be 25' above grade level or higher than the eave line of the principal building
	Information signs	5	6'	Permitted at rear and loading door entrances
	Pole signs adjacent to State Highway: 1 every 600' of frontage. Max of 2	64 total	15'	Permitted along with entry monument sign: can be no closer than 150' from each other

	signs			
Temporary signs	See section 10.28.040			

(e) *Open District signs, O zone district.* Signs in the O zoning district may include and shall be limited to:

<i>Type of Sign</i>	<i>Number of Signs</i>	<i>Maximum Area (sq. ft.)</i>	<i>Maximum Height of Freestanding Signs</i>	<i>Comments</i>
Identification sign (freestanding, wall)	1 per principal use	48 per face	12'	Minimum setback equal to height of sign: minimum spacing 50' between signs on separate frontage, 300' between signs on same frontage
Temporary signs	See section 10.28.040			

(Code 1999, § 7.28.100; Ord. No. 679, § 2(exh. A), 11-16-2017)

#### **Sec. 10.28.110. Creative signs.**

(a) *Purpose.* This section establishes standards and procedures for the design, review and approval of creative signs. The purposes of this creative sign program are to:

- (1) Encourage signs of unique design, and that exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit; and
- (2) Provide a process for the application of sign regulations in ways that will allow creatively designed signs that make a positive visual contribution to the overall image of the town, while mitigating the impacts of large or unusually designed signs.

(b) *Applicability.* An applicant may request approval of a sign permit under the creative sign program to authorize on-site signs that employ standards that differ from the other provisions of this chapter but comply with the provisions of this section.

(c) *Approval authority.* A sign permit application for a creative sign shall be subject to approval by the planning commission.

(d) *Application requirements.* A sign permit application for a creative sign shall include all information required by the town, and the filing fee based on the same fee schedule as a building permit.

(e) *Design criteria.* In approving an application for a creative sign, the planning commission shall ensure that a proposed sign meets the following design criteria:

- (1) *Design quality.* The sign shall:
  - a. Constitute a substantial aesthetic improvement to the site and shall have a positive visual impact on the surrounding area;
  - b. Be of unique design, and exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit; and
  - c. Provide strong graphic character through the imaginative use of graphics, color, texture, quality materials, scale, and proportion.
- (2) *Sign context criteria.* The sign shall contain at least one of the following elements:
  - a. Classic historic design style.
  - b. Creative image reflecting current or historic character of the town.

- c. Inventive representation of the use, name or logo of the structure or business.
- (3) *Architectural criteria.* The sign shall:
- a. Utilize and/or enhance the architectural elements of the building; and
  - b. Be placed in a logical location in relation to the overall composition of the building's facade and not cover any key architectural features/details of the facade.

(Code 1999, § 7.28.110; Ord. No. 679, § 2(exh. A), 11-16-2017)

## **CHAPTER 10.32. FLOOD REGULATIONS\***

~~\*Editor's note — Ord. No. 686, § 1, adopted May 3, 2018, amended Ch. 7.32 in its entirety to read as herein set out. Former Ch. 7.32, §§ 7.32.010 — 7.32.150, pertained to similar subject matter and derived from Ord. No. 679, § 2(exh. A), 11-16-2017; Ord. No. 685, § 1, 5-3-2018.~~

### **ARTICLE I. IN GENERAL**

#### **Sec. 10.32.010. Statutory authorization.**

The legislature of the state has, in ~~Title 29, Article 20~~ C.R.S. § 29-20-101 et seq., delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town Council does hereby adopt the following floodplain management regulations.

(Code 1999, § 7.32.010; Ord. No. 686, § 1, 5-3-2018)

#### **Sec. 10.32.020. 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 and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(Code 1999, § 7.32.020; Ord. No. 686, § 1, 5-3-2018)

#### **Sec. 10.32.030. Statement of purpose.**

It is the purpose of this chapter 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) Ensure that potential buyers are notified that property is located in a flood hazard area.

(Code 1999, § 7.32.030; Ord. No. 686, § 1, 5-3-2018)

#### **Sec. 10.32.040. Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter 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 floodwaters;
- (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 floodwaters or which may increase flood hazards to other lands.

(Code 1999, § 7.32.040; Ord. No. 686, § 1, 5-3-2018)

**Secs. 10.32.050--10.32.140. Reserved.**

## ARTICLE II. DEFINITIONS

### **Sec. 10.32.150. General.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application. 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:

*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 "100-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term "100-year flood" 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 one-hundred-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 "500-year flood" 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 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.

*Conditional letter of map revision (CLOMR)* means FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

*Critical facility* means a structure or related infrastructure, but not the land on which it is situated, as specified in section 10.32.660, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See section 10.32.660.

*Development* means any manmade 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.

*DFIRM database* means database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA mapping specifications and guidelines outline requirements for the development and maintenance of DFIRM databases.

*Digital flood insurance rate map (DFIRM)* means FEMA digital floodplain map. These digital maps serve as regulatory floodplain maps for insurance and floodplain management purposes.

*Elevated building* means a nonbasement building 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 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, the term "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 floodwaters.

*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 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.

*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 floodprone 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 ordinance.

*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.

*Floodplain management regulations* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term "floodplain management regulations" describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*Floodproofing* means any combination of structural and/or nonstructural 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 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 "functionally dependent use" 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 the 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 district 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.

*Letter of map revision (LOMR)* means FEMA's official revision of an effective flood insurance rate map (FIRM), or flood boundary and floodway map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA).

*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.

*Levee* means a manmade 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.

*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.

*Material safety data sheet (MSDS)* means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

*Mean sea level*, for purposes of the National Flood Insurance Program, means 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 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.

*No-rise certification* means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A "no-rise certification" must be supported by technical data and signed by a registered state professional engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the flood insurance rate map (FIRM) or flood boundary and floodway map (FBFM).

*Physical map revision (PMR)* means FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

*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 "substantial improvement" 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."

*Threshold planning quantity (TPQ)* means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the state that such facilities are subject to emergency planning requirements.

*Variance* means a grant of relief to a person from the requirement of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (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.

(Code 1999, § 7.32.110; Ord. No. 686, § 1, 5-3-2018)

**Secs. 10.32.160--10.32.250. Reserved.**

### ARTICLE III. GENERAL PROVISIONS

**Sec. 10.32.260. Lands to which this chapter applies.**

The chapter shall apply to all 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.

(Code 1999, § 7.32.210; Ord. No. 686, § 1, 5-3-2018)

**Sec. 10.32.270. Basis for establishing the special flood hazard area.**

The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Town of Hayden," dated February 4, 2005, with accompanying flood insurance rate maps and/or flood boundary-floodway maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter. These special flood hazard areas identified by the FIS and attendant mapping are the minimum area of applicability of this chapter and may be supplemented by studies designated and approved by the town. The floodplain administrator shall keep a copy of the flood insurance study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

(Code 1999, § 7.32.220; Ord. No. 686, § 1, 5-3-2018)

**Sec. 10.32.280. Establishment of floodplain development permit.**

A floodplain development permit shall be required to ensure conformance with the provisions of this chapter.

(Code 1999, § 7.32.230; Ord. No. 686, § 1, 5-3-2018)

**Sec. 10.32.290. Compliance.**

No structure or land shall hereafter be located, altered, or have its use changed within the special flood hazard area without full compliance with the terms of this chapter 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 state water conservation board and the National Flood Insurance Program.

(Code 1999, § 7.32.240; Ord. No. 686, § 1, 5-3-2018)

**Sec. 10.32.300. Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, nor deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Code 1999, § 7.32.250; Ord. No. 686, § 1, 5-3-2018)

**Sec. 10.32.310. Interpretation.**

In the interpretation and application of this chapter, 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.

(Code 1999, § 7.32.260; Ord. No. 686, § 1, 5-3-2018)

**Sec. 10.32.320. Warning and disclaimer of liability.**

(a) The degree of flood protection required by this chapter 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 manmade or natural causes.

(b) This chapter 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 chapter 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 chapter or any administrative decision lawfully made thereunder.

(Code 1999, § 7.32.270; Ord. No. 686, § 1, 5-3-2018)

**Sec. 10.32.330. Severability.**

This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter 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.

(Code 1999, § 7.32.280; Ord. No. 686, § 1, 5-3-2018)

**Secs. 10.32.340--10.32.430. Reserved.****ARTICLE IV. ADMINISTRATION****Sec. 10.32.440. Designation of the floodplain administrator.**

The town manager is hereby appointed as floodplain administrator to administer, implement and enforce the provisions of this chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

(Code 1999, § 7.32.410; Ord. No. 686, § 1, 5-3-2018)

**Sec. 10.32.450. Duties and responsibilities of the floodplain administrator.**

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by section 10.32.460.
- (2) Review, approve, or deny all applications for floodplain development permits required by adoption of this chapter.
- (3) Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

- (4) Review permits for proposed development to ensure 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 USC 1334) from which prior approval is required.
- (5) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this chapter, including proper elevation of the structure.
- (6) 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.
- (7) When base flood elevation data has not been provided in accordance with section 10.32.270, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state, or other source, in order to administer the provisions of article V of this chapter.
- (8) For waterways with base flood elevations for which a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.
- (9) Under the provisions of 44 CFR chapter 1, section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (conditional letter of map revision), fulfills the requirements for such revisions as established under the provisions of section 65.12 and receives FEMA approval.
- (10) Notify, in riverine situations, adjacent communities and the state coordinating agency, which is the state water conservation board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- (11) Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(Code 1999, § 7.32.420; Ord. No. 686, § 1, 5-3-2018)

#### **Sec. 10.32.460. Permit procedures.**

(a) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him 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. 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;
- (2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
- (3) A certificate from a registered state professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 10.32.600(2);
- (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 10.32.450.

(b) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this chapter 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 transport of the floodwaters 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.

(Code 1999, § 7.32.430; Ord. No. 686, § 1, 5-3-2018)

#### **Sec. 10.32.470. 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 chapter.

(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 chapter.

(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, without regard to the procedures set forth in the remainder of this chapter.

(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 10.32.460 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 chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter as stated in section 10.32.030.

(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 an 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) through (i) of this section 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.

(Code 1999, § 7.32.440; Ord. No. 686, § 1, 5-3-2018)

**Sec. 10.32.480. Penalties for noncompliance.**

(a) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor.

(b) Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of town and/or county. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

(Code 1999, § 7.32.450; Ord. No. 686, § 1, 5-3-2018)

**Secs. 10.32.490--10.32.580. Reserved.**

**ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION**

**Sec. 10.32-590. General standards.**

In all special flood hazard areas, 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 floodwaters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
- (8) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Code 1999, § 7.32.510; Ord. No. 686, § 1, 5-3-2018)

#### **Sec. 10.32.600. Specific standards.**

In all special flood hazard areas where base flood elevation data has been provided as set forth in section 10.32.270, 10.32.450(7), or 10.32.650, the following provisions are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered state professional engineer, architect, or land surveyor. Such certification shall be submitted to the floodplain administrator.
- (2) *Nonresidential construction.* With the exception of critical facilities, outlined in section 10.32.660, new construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered state professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the floodplain administrator, as proposed in section 10.32.460.

- (3) *Enclosures.*
  - a. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
  - b. Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:
    - 1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
    - 2. The bottom of all openings shall be no higher than one foot above grade.
    - 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) *Manufactured homes.*
  - a. All manufactured homes that are placed or substantially improved within zones A1-30, AH, and AE on the community's FIRM on sites:
    - 1. Outside of a manufactured home park or subdivision;
    - 2. In a new manufactured home park or subdivision;

3. In an expansion to an existing manufactured home park or subdivision; or
  4. In an existing manufactured home park or subdivision on which manufactured home has incurred substantial damage as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- b. All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:
1. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one foot above the base flood elevation; or
  2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (5) *Recreational vehicles.* All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
- a. Be on the site for fewer than 180 consecutive days;
  - b. Be fully licensed and ready for highway use; or
  - c. Meet the permit requirements of section 10.32.460, and the elevation and anchoring requirements for manufactured homes in subsection (4) of this section.
- A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- (6) *Prior approved activities.* Any activity for which a floodplain development permit was issued by the town or a CLOMR was issued by FEMA prior to May 3, 2018, may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this chapter if it meets such standards.

(Code 1999, § 7.32.520; Ord. No. 686, § 1, 5-3-2018)

#### **Sec. 10.32.610. Standards for areas of shallow flooding (AO/AH Zones).**

(a) Located within the special flood hazard area established in section 10.32.270, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) *Residential construction.* All new construction and substantial improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the floodplain administrator.
- (2) *Nonresidential construction.* With the exception of critical facilities, outlined in section 10.32.660, all new construction and substantial improvements of nonresidential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and

other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 10.32.460, are satisfied.

(b) Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures.

(Code 1999, § 7.32.530; Ord. No. 686, § 1, 5-3-2018)

#### **Sec. 10.32.620. Floodways.**

Floodways are administrative limits and tools used to regulate existing and future floodplain development. The state has adopted floodway standards that are more stringent than the FEMA minimum standard (see definition of the term "floodway" in article II of this chapter). Located within special flood hazard area established in section 10.32.270, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a no-rise certification) in flood levels within the community during the occurrence of the base flood discharge.
- (2) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of article V of this chapter.
- (3) Under the provisions of 44 CFR chapter 1, section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

(Code 1999, § 7.32.540; Ord. No. 686, § 1, 5-3-2018)

#### **Sec. 10.32.630. 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, deposition, 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 state professional engineer or certified professional hydrologist.
- (5) All activities within the regulatory floodplain shall meet all applicable federal, state and town floodplain requirements and regulations.
- (6) Within the regulatory floodway, stream alteration activities shall not be constructed unless the project

proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, otherwise known as a no-rise certification, unless the community first applies for a CLOMR and floodway revision in accordance with section 10.32.620.

- (7) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

(Code 1999, § 7.32.550; Ord. No. 686, § 1, 5-3-2018)

#### **Sec. 10.32-640. Properties removed from the floodplain by fill.**

A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA letter of map revision based on fill (LOMR-F), unless such new structure or addition complies with the following:

- (1) *Residential construction.* The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the base flood elevation that existed prior to the placement of fill.
- (2) *Nonresidential construction.* The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the base flood elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads or effects of buoyancy.

(Code 1999, § 7.32.560; Ord. No. 686, § 1, 5-3-2018)

#### **Sec. 10.32.650. Standards for subdivision proposals.**

(a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. 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 10.32.280; section 10.32.460; and the provisions of article V of this chapter.

(c) 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 10.32.270 or section 10.32.450.

(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.

(Code 1999, § 7.32.570; Ord. No. 686, § 1, 5-3-2018)

#### **Sec. 10.32.660. Standards for critical facilities.**

A critical facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the rules and regulations for regulatory floodplains in the state, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

- (1) *Classification of critical facilities.* It is the responsibility of the Town Council to identify and confirm that specific structures in their community meet the following criteria. Critical facilities are classified

under the following categories: essential services; hazardous materials; at-risk populations; and vital to restoring normal services.

- a. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines. These facilities consist of:
  1. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
  2. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
  3. Designated emergency shelters;
  4. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
  5. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
  6. Air transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWTP), nonpotable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the town that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the town on an as-needed basis upon request.

- b. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include:
  1. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
  2. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
  3. Refineries;
  4. Hazardous waste storage and disposal sites; and
  5. Aboveground gasoline or propane storage or sales centers.

Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a material safety data sheet (MSDS) on file for any chemicals stored or used in the workplace, and the chemical is stored in quantities equal to or greater than the threshold planning quantity (TPQ) for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 CFR § 302 (2010), also known as extremely hazardous substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the state department of public health and environment. OSHA requirements for

MSDS can be found in 29 CFR § 1910 ~~(2010)~~. The Environmental Protection Agency (EPA) regulation Designation, Reportable Quantities, and Notification, 40 CFR § 302 ~~(2010)~~ and OSHA regulation Occupational Safety and Health Standards, 29 CFR § 1910 ~~(2010)~~ are incorporated herein by reference and include the regulations in existence at the time of the promulgation this chapter but exclude later amendments to or editions of the regulations. Specific exemptions to this category include:

1. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
2. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
3. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this article.

- c. At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
  1. Elder care (nursing homes);
  2. Congregate care serving 12 or more individuals (day care and assisted living);
  3. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children;
- d. Facilities vital to restoring normal services including government operations. These facilities consist of:
  1. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
  2. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Town Council that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this chapter, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town Council on an as-needed basis upon request.

- (2) *Protection for critical facilities.* All new and substantially improved critical facilities and new additions to critical facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this chapter, protection shall include one of the following:
  - a. Location outside the special flood hazard area; or
  - b. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the base flood elevation.
- (3) *Ingress and egress for new critical facilities.* New critical facilities shall, when practicable as determined by the Town Council, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

(Code 1999, § 7.32.580; Ord. No. 686, § 1, 5-3-2018)



Title 11  
**RESERVED**

PROOFS

## Title 12

**HEALTH AND SAFETY\***

~~\*Editor's note—Ord. No. 665, § 1, adopted May 7, 2015, repealed former Title 8, §§ 8.02.010—8.36.050, and § 2 enacted a new Title 8 as set out herein. Former Title 8 pertained to similar subject matter. For prior history, see Ordinance List and Disposition Table.~~

~~\*State law reference—For Statutory provisions authorizing municipalities to promote health and suppress disease, see C.R.S. 1973 § 31-15-401(1)(b) (1975 Supp.).~~

**CHAPTER 12.04. IN GENERAL (RESERVED)****CHAPTER 12.08. ALARM SYSTEMS****Sec. 12.08.010. General provisions and 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:

*Alarms, distinguishable*, means alarms received at the designated dispatch center must be distinguishable by type, and no alarm shall be for multi-purpose usage.

- (1) Robbery-in-progress or robbery-just-occurred;
- (2) Burglary-in-progress or intrusion;
- (3) Trouble (fight or other disturbance); or
- (4) Fire/smoke.

*Alarm owner* means any person, firm or corporation which leases an alarm system to any other person, firm or corporation. The term "alarm owner" also includes the subscriber.

*Burglary-in-progress or intrusion alarm* means any alarm, as is defined in this section, which is designed to indicate a burglary is in progress or intrusion into the premises. The term "intrusion" shall mean any entry into the premises which is unauthorized during which time a business or firm is closed to the public or an intrusion into a residence by an unauthorized person.

*Dialing alarms* means those alarms which automatically dial the telephone number of the police or fire department and shall be subject to all the provisions of this chapter.

*False alarm* means any signal emanating from an alarm, as defined in this section, to which the police or fire department respond to investigate, and shall be unlawful if the alarm results from:

- (1) False activation, including activating an alarm for a purpose for which the alarm was not designed;
- (2) Alarm malfunction, except mechanical or electrical failure over which the subscriber or owner had no control to prevent;
- (3) Activation of an alarm by the subscriber, owner or agent due to negligence or oversensitive settings; or
- (4) Activation of the alarm system for testing purposes when the police or fire department had not been given prior notice or did not approve the testing.

*Fire/smoke alarm* means any alarm, as defined in this section, which is designed to indicate the presence of fire or smoke.

*General alarm* means any device which, when activated by any means, produces and/or transmits a signal, visual or audible, to indicate intrusion, trouble, fire, smoke or other activity for which the alarm was designed and/or used which notifies any person, or causes any person to summon the police or fire department to respond to the premises, from which the alarm emanates, to investigate.

*Misuse of alarm* means any use of an alarm system, by a subscriber or alarm owner, for a purpose for which the alarm system was not designed, for which a permit was not granted, and is unlawful.

*Robbery-in-progress* or *robbery-just-occurred* alarm means any alarm, as defined in this section, which is designed to indicate that a robbery is in progress or that a robbery just occurred.

*Subscriber* means any person, firm or corporation which installs, subscribes to or uses any alarm or alarm system in or about its residence, business or other premises.

*Trouble alarm* means any alarm, as defined in this section, which is designed to indicate a fight or a threat to life or limb.

*Vehicle alarm* means an alarm installed in a motor vehicle and shall not be subject to the provisions of this chapter.

*Year* means a calendar year (365 days), beginning January 1 of each year.

(Code 1999, § 8.16.010; Ord. No. 665, § 2, 5-7-2015)

#### **Sec. 12.08.020. Fee; false alarms.**

(a) The subscriber shall pay to the town a fee for false alarms per the adopted town fee schedule. It shall be prima facie evidence of a false alarm if the police or fire department responds and discovers that the alarm was false based on its investigation.

(b) The false alarm fee schedule shall be per the adopted town fee schedule.

(Code 1999, § 8.16.020; Ord. No. 665, § 2, 5-7-2015)

#### **Sec. 12.08.030. Violation, penalty.**

Any person, firm or corporation that violates any of the provisions of this section shall be punished in accordance with section 1.12.010. Each day's violation thereof shall constitute a separate offense.

(Code 1999, § 8.16.030; Ord. No. 665, § 2, 5-7-2015)

### **CHAPTER 12.12. FIREWORKS\***

**\*State law reference**—For statutory provisions authorizing municipalities to regulate and restrain the use of fireworks, see C.R.S. § 31-15-601(1)(j) (1975 Supp.)

#### **Sec. 12.12.010. 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:

*Fireworks* means and includes 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, the type of balloon which requires fire underneath to propel the same, except hot air balloons used for transportation, firecrackers, torpedoes, skyrockets, roman candles and dago bombs. The term "fireworks" does not include toy pistols, toy guns, sparklers or torches which do not contain explosive charges or other devices which contain paper caps manufactured in accordance with United States Interstate Commerce Commission regulations for packing and shipment of toy paper caps, manufactured as provided in this chapter.

~~B. "Governing body" means the Town Council of the town.~~

~~C. "Person" includes an individual, partnership, co partnership, firm, company, association or corporation.~~

(Code 1999, § 8.10.010; Ord. No. 665, § 2, 5-7-2015)

#### **Sec. 12.12.020. Unlawful to sell or use.**

Except as provided in sections 12.12.030 and 12.12.040, it is unlawful for any person to offer for sale or to sell or to use or explode any fireworks within the corporate limits of the town.

(Code 1999, § 8.10.020; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.12.030. Permits for display.**

The Town Council may grant permits for supervised public displays of fireworks within the corporate limits of the town. Application for such a permit shall be made in writing to the Town Council at least 15 days in advance of the date of display. Every such 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 Town Council in accordance with such rules and regulations as shall be adopted by the Town Council for the granting of such permits. No permit shall be transferable or assignable. No permit shall be required for any public display of fireworks at any county fair duly organized under the laws of the state.

(Code 1999, § 8.10.030; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.12.040. Bond required.**

The Town Council shall require each permittee to give a satisfactory bond or liability insurance, in amounts to be determined by the Town Council, which shall ensure the payment of all damages which may be caused either to persons or property by reason of the licensed display and arising from any acts of the permittee, his agents, employees or subcontractors.

(Code 1999, § 8.10.040; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.12.050. Construction of chapter.**

This chapter shall not be construed to prohibit the following, if permitted by the statutes of the state:

- (1) Any person offering for sale, exposing for sale, selling or having in his possession with intent to offer for sale or sell, fireworks to any municipality, fair association, amusement park or other organization or group holding a permit issued as provided in this chapter, or to the governing body of the state fair or of any county or district fair organized under the laws of the state;
- (2) Any person using or exploding fireworks in accordance with the provisions of any permit issued as provided in this chapter or as a part of a supervised public display at the state fair or of any county or district fair organized under the laws of the state;
- (3) Any person offering for sale, exposing for sale, selling or having in his possession with intent to offer for sale any fireworks which are to be and are shipped directly out of the state;
- (4) Any person offering for sale, exposing for sale, selling or having in his possession with intent to offer for sale, or sell, or using or exploding, any article, device or substance for a purpose other than display, exhibition, noise, amusement or entertainment;
- (5) Any person offering for sale, exposing for sale, selling or having in his possession with intent to offer for sale, or sell, or using or exploding, blank cartridges for a show or theater, or for signal or ceremonial purposes, in organized athletics or sports; or
- (6) Any person offering for sale, exposing for sale, selling or having in his possession with intent to offer for sale, or sell, or use of sparklers or torches.

(Code 1999, § 8.10.050; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.12.060. Seizure of fireworks.**

The chief of police, police officer, or designee, 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 the provisions of this chapter.

(Code 1999, § 8.10.060; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.12.070. Violation, penalty.**

Any person, firm or corporation that violates any of the provisions of this section shall be punished in accordance with section 1.12.010. Each day's violation thereof shall constitute a separate offense.

(Code 1999, § 8.10.070; Ord. No. 665, § 2, 5-7-2015)

## CHAPTER 12.16. GARBAGE AND REFUSE

### Sec. 12.16.010. 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:

~~For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them in this section:~~

*Debris* means:

- (1) Discarded automobile parts or tires, household furnishings or equipment;
- (2) Silt or refuse from automobile wash racks and floor drains;
- (3) Manure, other than a light application on lawns or gardens for fertilizing purposes;
- (4) Any refuse resulting from the wrecking, construction or reconstruction of any building, fence, sidewalk or structure of any kind or character;
- (5) Large or bulky boxes, barrels, tanks or containers;
- (6) Any discarded refuse of a highly explosive or inflammable nature; or
- (7) Any waste materials of any unusual or excessive amount.

*Dwelling* means a building designed to be used as the living place for one or more persons or families.

*Garbage* means any and all kitchen refuse, rejected or waste food, meat, fish, fowl, offal, carrion or other similar refuse, accumulation of fruit, vegetable or animal matter that attends the preparation, use, cooking of, dealing in or storage of meats, fish, fowl, fruits, vegetables or other substances which may decompose, or become foul, offensive, unsanitary or dangerous to health.

*Rubbish* means any refuse, excepting garbage, normally accumulated for disposal on and about a dwelling or place of business, such as cans, jars, bottles, containers, papers, glass, ashes, boxes, shavings, excelsior, clothing, dishes, lawn or shrubbery clippings or trash of any kind or character not otherwise classified as garbage or debris in this section.

*Sanitary landfill site* means any site where debris is being dumped.

(Code 1999, § 8.12.010; Ord. No. 665, § 2, 5-7-2015)

### Sec. 12.16.020. Maintenance; unlawful accumulations.

It shall be the duty of every owner or occupant of any premises to keep and maintain the same at all times, including the sidewalk and parking in front and the alley in back thereof, including any easement or other right-of-way, between the property line and the curb or middle of the alley in a clean and orderly condition, permitting no deposit or accumulation of garbage, rubbish, litter, weeds or debris other than as authorized in this chapter. Any unauthorized deposit or accumulation constitutes a nuisance. The owner or proprietor of each business establishment shall be responsible for keeping the sidewalk in front of such establishment free of any accumulation of dirt, papers or rubbish, which shall be taken up and deposited in a proper receptacle with other refuse from such establishment.

(Code 1999, § 8.12.020; Ord. No. 665, § 2, 5-7-2015)

### Sec. 12.16.030. Scattering garbage on streets.

It is unlawful for any person to scatter, deposit, throw or sweep any garbage, rubbish or debris on or into any street, gutter, sewer intake, alley, vacant property or public right-of-way.

(Code 1999, § 8.12.030; Ord. No. 665, § 2, 5-7-2015)

### Sec. 12.16.040. Removal of building materials.

All plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material of any kind resulting from the wrecking, constructing or reconstructing of

any room, basement, wall, fence, sidewalk or building shall be promptly removed or discarded in such a manner as not to be scattered about by the wind or otherwise and as soon as possible be removed by the person responsible for such work. Such person shall be held liable for any scattering of such refuse upon adjacent property.

(Code 1999, § 8.12.040; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.16.050. Spilling and littering unlawful.**

It is unlawful for any person to spill or deposit any rubbish, garbage or debris on any street, alley or any other public or private property, or for rubbish, garbage or debris to be spilled, blown or littered by him upon any street, alley or any other private or public property.

(Code 1999, § 8.12.050; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.16.060. Depositing garbage or refuse in or around others' receptacles.**

It is unlawful for any person to knowingly deposit garbage, refuse or rubbish in or around the dumpster, container or receptacle of another without permission of the owner, occupant, lessor or tenant of the residence. The minimum fine imposed for violation of this section shall be \$100.00 for a first offense and double for a second or subsequent offense in accordance with section 1.12.010.

(Code 1999, § 8.12.060; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.16.070. Refuse escaping from vehicles.**

No vehicle shall be driven or moved on any town street, alley or other public thoroughfare unless such vehicle is constructed or loaded or the load thereof secured to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom; except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

(Code 1999, § 8.12.070; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.16.080. Violation, penalty.**

Any person, firm or corporation that violates any of the provisions of this section shall be punished in accordance with section 1.12.010. Each day's violation thereof shall constitute a separate offense.

(Code 1999, § 8.12.080; Ord. No. 665, § 2, 5-7-2015)

## CHAPTER 12.20. NUISANCES

**Sec. 12.20.010. 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:

~~When used in this chapter, the following words shall be interpreted as follows, unless the context indicates otherwise:~~

*Administrative officer* means the town manager or his designee, the chief of police or his designee or a building official.

*Agent* means and includes any person acting on behalf of or in place of an owner.

*Building* means any dwelling, office building, store, warehouse or structure of any kind, whether or not the building is permanently affixed to the ground upon which it is located, and any trailer, semi-trailer, mobile home or any other vehicle designed or used for occupancy by persons for any purpose.

*Inoperable* means 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.

*Junk* means any material or object, used or new, which is not presently usable, including, but not limited to, scrap metals and their alloys, bones, rags, cloth, rubber pieces, rope, tinfoil, bottles, tools, fixtures, utensils, lumber, boxes, crates, pipes or pipe fittings, automobile or airplane tires, vehicle parts, machinery and appliances. Objects or materials shall be considered junk if they are so worn, deteriorated or obsolete as to make them unusable in their existing condition; if they are not capable of being used in their present location on the property; or if they cannot

legally be used due to the absence of legal prerequisites to use.

*Junk vehicle* means any vehicle not capable of traveling under its own powers, not bearing current registration plates and insurance, or which, for 30 days or more, is inoperable or has not been in a condition to be legally operated on the streets; provided, however, that such definition shall not include vehicles which are capable of travel under their own power but which do not bear current registration plates when such vehicles are located upon vehicle sale lots which hold current auto dealer's licenses or when such vehicles are being repaired at garages, body shops or other vehicle repair businesses which hold current state sales tax licenses.

*Litter* means any and every rubbish, waste material, refuse, garbage, trash, debris, excrement, urine, dead bird, dead fish, fishing line, bait, chemical compound, petroleum product or compound, automobile part or accessory, tire, wheel, junk, paper, cardboard, can, lid, bottle, cap, carton, wrapper, box, wooden object, plastic object, clothing, cloth, metal object, rubber object, leather object, hide, feather, grass clippings, leaves, cut weeds, tree branches, bush clippings, bricks, cinderblock, building material, wood, port-o-potties, paint, concrete, sand, dirt, mud, gravel, stone, glass, asphalt, ashes, cigarette, cigar, food or food product, solvent, dye, beverage, liquid except clean water, offal composed of animal matter or vegetable matter or both or any noxious or offensive matter whatever.

*Owner* means and includes:

- (1) Any owner or holder of any legal or equitable estate in real property, including a dominant or servient estate, except a future or reversionary interest and except the interest of a public trustee, lien holder, mortgagee or beneficiary of a deed of trust.
- (2) The owner of record, as reflected by the records of the office of the county assessor.

~~I. "Person" means and includes any individual, partnership, corporation, association, agent, servant or employee of any individual, partnership, corporation, association or other type of organization.~~

*Public or private property* includes, but is not limited to, the real property, building or structure thereon of any person, state, county, town, public or private corporation of the United States; the right-of-way of any street, road, railroad or highway; any body of water, irrigation ditch or watercourse, including frozen areas thereof and the shores and beaches thereof; any park, playground, building or recreation area; and any school grounds, school building or property used for school purposes.

*Statute* means a statute of the State of Colorado.

*Vehicle* means any trailer (including contents of the trailer), boat or machine, whether or not self-propelled, and any nonaquatic, self-propelled vehicle which, as originally built, contained an engine, regardless of whether it contains an engine at any other time, including, without limitation, automobiles, airplanes, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, wagons, dune buggies and other off-the-road vehicles.

(Code 1999, § 8.08.010; Ord. No. 665, § 2, 5-7-2015)

#### **Sec. 12.20.020. Complaint of nuisance.**

A person may make a complaint of the existence of a nuisance to a police officer, community service officer, a building official, a code enforcement official, the town manager or his designee. <sup>99</sup>~~Such complaint shall be in writing on a form supplied by the town of Hayden and is to include whenever possible the nature of the nuisance, the location, including the address, the name of the owner, occupant or manager of the property, the duration of the nuisance and the name and address of the complainant.~~

(Code 1999, § 8.08.020; Ord. No. 665, § 2, 5-7-2015)

#### **Sec. 12.20.030. Right of entry generally.**

Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever an administrative officer has reasonable cause to believe that there exists in any building or upon any premises any

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<sup>99</sup> The town doesn't allow nuisances to be called in? **Town elected to strike outdated language.**

condition which constitutes a nuisance hereunder, such inspector may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed on him; provided, however, that, if such building or premises is occupied, such inspector shall first present proper credentials and request entry; and, if such building or premises is unoccupied, he shall first make a reasonable effort to locate the owner or occupant or other person or persons having charge or control of the building or premises and, upon locating the owner, occupant or other person or persons, shall present proper credentials and request entry. If entry is refused, the authorized inspector shall give the owner or occupant, or if the owner or occupant cannot be located after a reasonable effort, he shall leave at the building or premises, a written notice of intention to inspect not sooner than 24 hours after the time specified in the notice. After complying with all notice requirements and prior to entry into an occupied premises, the inspector shall first obtain an order from the court finding sufficient probable cause of a violation of the nuisance law and issuing an inspection warrant authorizing entry into the occupied premises. The requirements of this section shall not apply to public places, including privately owned vacant land, as defined in section 12.20.010, which may be inspected by an administrative officer at any time without notice.

(Code 1999, § 8.08.030; Ord. No. 665, § 2, 5-7-2015)

#### **Sec. 12.20.040. Right of entry in an emergency.**

(a) Whenever an administrative officer has reason to believe that a nuisance exists and that such nuisance constitutes an emergency presenting imminent danger of serious injury to persons or property, the administrative officer, his authorized representative or a police officer may immediately enter into any building or upon any premises within the jurisdiction of the town for purposes of inspection and/or abatement.

(b) In the emergency situation, such person or his authorized representative may use such reasonable force as may be necessary to gain entry into the building or upon the premises.

(c) For purposes of this section, an emergency situation includes any situation where there is imminent danger of loss of or injury or damage to life, limb or property. It is unlawful for any owner or occupant of the building or premises to deny entry to any administrative officer or to resist reasonable force used by the authorized official acting pursuant to this section.

(Code 1999, § 8.08.040; Ord. No. 665, § 2, 5-7-2015)

#### **Sec. 12.20.050. Summary abatement; notice to abate; action to abate a nuisance.**

(a) Whenever a nuisance exists which constitutes an emergency presenting imminent danger of serious injury to persons or property, an administrative officer may summarily abate the nuisance or order it abated by removal, destruction or mitigation without notice or judicial action.

(b) Unless a specific provision of this Code states otherwise, when a nuisance does not require summary abatement, an administrative officer, his authorized representative or a police officer shall prepare and serve a notice to abate on the owner, manager, occupant or possessor of any property on which a nuisance exists, or to the person conducting or maintaining the business, occupation, operation or activity which constitutes the nuisance. Such personal service, or such written notice mailed by certified mail to the last known address of the record owner of the property, or to the manager, lessee, occupant, person responsible for conducting or maintaining the nuisance, or the agent of such owner, lessee or occupant, shall be deemed adequate notice. Such notice shall:

- (1) State that the nuisance is a <sup>100</sup>~~Class A~~ violation of the Municipal Code, punishable by a fine and, if the nuisance is not abated within ten days or other appropriate time period as determined by the administrative officer and specified in the notice, an action may be brought in the municipal court for said violation and/or to abate the nuisance, and that if the responsible party fails to abate the nuisance and the nuisance is abated by the town, the costs of abatement, plus 20 percent of such cost for inspection and other administrative costs, shall be assessed against the owner, manager, occupant or possessor of the property on which the nuisance is found and shall become a lien upon the property on which the abatement was performed.

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<sup>100</sup> What is a "Class A" violation? It is not defined in title 1 or anywhere else in the code that we can find. **Town elected to strike.**



- (2) Be served, either in person, by certified mail or by means of posting on the premises upon which the nuisance exists. If notice is served by posting, a copy of the notice shall also be mailed by certified mail, return receipt requested, to the owner of record of the property at his last known address or the address shown on the records of the county assessor.
- (c) When a nuisance has not been voluntarily abated within the time specified in the notice to abate, the town may:
  - (1) Bring a criminal action for enforcement of the ordinance in municipal court;
  - (2) Bring an action in the municipal court to have the nuisance declared as such by the court and for an order enjoining the nuisance or authorizing its restraint, removal, termination or abatement by the owner, manager, occupant, agent or possessor of the property or by an administrative officer of the town, his authorized representative, a police officer, code enforcement official, building official or any person under contract with the town to perform such services; or
  - (3) Bring an action to declare and abate a public nuisance in the name of the people of the town by the filing of a summons and complaint. A summons shall be issued and served as in civil cases.
- (d) The remedies specified in this section shall be in addition to all other remedies provided by law.

(Code 1999, § 8.08.050; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.20.060. Assessment and collection of costs of abatement.**

(a) If the town has abated the nuisance, the owner, manager, occupant or possessor of the property shall pay the costs of inspection and other administrative expenses. Such costs shall be assessed and filed as a lien against any property on which the abatement was performed and shall be a first and prior lien upon the property.

(b) A statement of the costs of the abatement plus 20 percent of such costs for administrative expenses shall be mailed to or personally served upon the owner of the property. The owner may request a hearing before the town manager to contest the cost of abatement. Such request must be made in writing within 15 days of the date the statement was mailed or served. The owner shall be given at least 48 hours' notice of the hearing before the town manager. The decision of the town manager shall be final. If the statement remains unpaid, a lien shall be filed with the county clerk and recorder and the amount shall be certified by the town clerk director to the county treasurer for collection at tax sale.

(Code 1999, § 8.08.060; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.20.070. Acts constitute violation of chapter.**

(a) Any person who makes or causes any nuisance to exist shall be deemed responsible and liable for the nuisance. Moreover, any person who has possession or control of any private ground or premises, whether he is the owner of the property or not, where any nuisance exists or is found, shall be deemed responsible and liable for the nuisance, notwithstanding the fact that he conveys interests in the property to another after such notice or order was issued and delivered.

(b) It shall not be a defense to the determination that a nuisance exists or to an action to abate a nuisance that the property is boarded up or otherwise enclosed, or that the nuisance is not visible by the general public, unless such enclosure or lack of visibility is a defense specified in this chapter.

(Code 1999, § 8.08.070; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.20.080. Specific nuisances declared.**

- (a) The following are specifically declared to be nuisances and are prohibited:
  - (1) Abandoned containers, open wells, cisterns or excavations.
    - a. Abandoning or discarding, in any public or private place accessible to children, any chest, closet, piece of furniture, refrigerator, icebox, motor vehicle or other article having a compartment of a capacity of 1 1/2 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, agent or manager of such place, knowingly permits such abandoned or discarded article to remain in such condition or public or private place.

- b. Wells, cisterns, gasoline storage tanks, excavations containing water and excavations exceeding five feet in depth on private property, unless the same are adequately covered with a locked lid or other covering weighing at least 60 pounds or are securely fenced with a solid fence to a height of at least six feet. Any abandoned or unused well or cistern.
- (2) Attachments to utility poles.
  - a. It is unlawful for any person, firm or corporation to attach, affix, place, install or maintain or permit or suffer to be attached, affixed, placed, installed or maintained, any telegraph, radio, wireless telephone or wireless telegraph apparatus, or any metal, wood or other substance to, on or upon any telegraph, telephone, electric light, electric railway or power wires or poles or attachments belonging to another person, firm or corporation without the consent of such person, firm or corporation given in writing.
  - b. Any person, firm or corporation that violates any of the provisions of this section shall pay, upon conviction, a fine in accordance with section 1.12.010. Each day's violation thereof shall constitute a separate offense.
- (3) Fire hazards. Combustible materials on public or private property within the town which are not stored in conformance with the uniform fire code; dried shrubs, trees, refuse or waste on public or private property which, by reason of its size, location, manner of growth or condition, constitutes a fire hazard to a building, improvement, crop or other property.
- (4) Hazardous or unsanitary property. Any building or real property, whether open to the public or not, which presents a hazard of fire or accident or a hazard to health because of structural defects, decay, deterioration, litter, garbage, rodent infestation, broken glass, stagnant or polluted water, dry rot, termite infestation, accumulated manure or animal waste, dead animals, raw sewage seepage, hazardous or chemical waste.
- (5) Junk or litter. Any articles or materials classified as junk or litter, according to the definition set forth in section 12.20.010, on any vacant land or parcel, or adjacent to or in close proximity to any schoolhouse, church, public park, residence, business or in a zoning district prohibiting outdoor storage or processing of junk unless such junk is screened from public view by an approved solid fence not less than five feet in height or, if the topography requires such an enclosure, in a building with four solid walls and a roof.
- (6) Junk and inoperable vehicles. Any junk or inoperable vehicle, as defined in section 12.20.010, or parts thereof, on public or private property, unless screened from public view by an approved solid fence not less than five feet in height or, if the topography requires such an enclosure, in a building with four solid walls and a roof; or unless such vehicle is stored in a lawful storage, junk or auto wrecking yard in a zone permitting such storage, junk or auto wrecking yard. Nothing in section 12.20.040 shall be deemed or construed to prevent the town from acquiring, operating and maintaining a facility for the storage of motor vehicles, vehicles, boats, machinery or equipment. (The intent of this section is that no junk or inoperable vehicles are visible or an eyesore.)
- (7) Unlawful activities. Any public or private place or premises which has become the location for frequent or repeated criminal activity, including, but not limited to, professional gambling, unlawful use of drugs, unlawful manufacturing, sale or distribution of drugs, furnishing or selling intoxicating liquor or fermented malt beverages to underage persons, solicitation for prostitution, theft, trafficking in stolen property or assaults and disturbances of the peace.
- (8) Any unlawful pollution or contamination of any land, surface or subsurface water in the town or of any water substance or material intended for human consumption.
- (9) Any activity, operation or condition which, after being ordered abated, corrected or discontinued by a lawful order of a department or officer of the town or the county, continues to be conducted or continues to exist in violation of statute or ordinance or in violation of any ordinance, rule or regulation of the town, county or the state.
- (10) 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.

- (11) Any nuisance defined or declared as such by federal or state statute or county resolution.
- (12) Any building, land, substance or personal property:
  - a. The use or condition of which presents a substantial danger or hazard to the physical health or safety of the public; or
  - b. Used repeatedly for any purpose which is in violation of the provisions of any ordinance, law, statute, rule or regulation.
- (13) The conduct or maintenance of any business, occupation, operation or activity in violation of the provisions of any ordinance, law, statute, rule or regulation.
- (14) Any business, occupation, operation, activity or any building, land, substance or personal property, the use or condition of which has been identified as a nuisance in this Code, the Colorado Revised Statutes or the common law.
- (15) Regularly occurring or persistent unusual and/or offensive odors, smells, fragrances, or other olfactory stimulus detectable by any person with a normal sense of smell upon or within any nearby property or unit.

(Code 1999, § 8.08.080; Ord. No. 665, § 2, 5-7-2015; Ord. No. 666, § 3, 2-3-2016)

#### **Sec. 12.20.090. Violation, penalty.**

Any person, firm or corporation that violates any of the provisions of this chapter shall be punished in accordance with section 1.12.010. Each day's violation thereof shall constitute a separate offense.

(Code 1999, § 8.08.090; Ord. No. 665, § 2, 5-7-2015)

### **CHAPTER 12.24. TREES<sup>101</sup>**

#### **Sec. 12.24.010. Town manager powers.**

The town manager shall have the power to promulgate, amend and repeal rules, regulations, and specifications for the trimming, spraying, removal, planting, pruning, and protection of trees, shrubs, vines, hedges, and other plants within the limits of any street, alley, sidewalk or other public place in the town and shall be charged with the enforcement of this chapter.

(Code 1999, § 8.02.010; Ord. No. 665, § 2, 5-7-2015)

#### **Sec. 12.24.020. Trimming, spraying, removal, planting and protecting of trees and other vegetation.**

The town manager shall have the power to have all trees, shrubs, hedges, vines and other plants within the limits of any public street, alley, sidewalk or other public place trimmed, sprayed, removed, planted, and protected; or to require the owner of any property, abutting on any street, alley, sidewalk or other public place, after written notice to such owner and at the expense of such owner, to trim any tree, shrub, vine, hedge or other plant, which may project beyond the property line of such owner, onto or over public property, at a height of less than three meters, or which may obstruct the light from any street lamp, signs, the movement of pedestrians or the vision of drivers of vehicles at intersections, or which may interfere with power lines.

(Code 1999, § 8.02.020; Ord. No. 665, § 2, 5-7-2015)

#### **Sec. 12.24.030. Removal of dead or dangerous trees.**

It shall be the duty of the owner or occupant of any property to remove any dead trees or dead overhanging boughs dangerous to life, limb or property located on the premises of such owner or upon public property abutting

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<sup>101</sup> We recommend comparing this chapter to chapter 12.06. They seem to both cover similar subject area. This language is newer, so the town might want to strike chapter 12.06 and let this language control. **Keep as is.**

the premises of such owner, upon receipt of written notice of the town manager so to do and within such reasonable time as specified in said notice.

(Code 1999, § 8.02.030; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.24.040. Owner responsibility for care of trees.**

The town manager is authorized to require any owner or agent of any premises to plant, trim, spray, remove or otherwise care for trees upon that portion of any public sidewalk or street upon which such premises abut. It shall be the duty of such owner, agent or occupant of such premises to comply with such requirements within a reasonable time after receiving written notice so to do from the town manager, such time to be stated in said notice. In the event the owner, agent or occupant of any premises fails or neglects to comply with notice provided herein or notices provided for in sections 12.24.020, 12.24.030 and this section, the town manager is authorized to take the action required by said notice at the expense of the owner, agent or occupant of the property, which expenses shall be collected in an appropriate action at law to recover or collect any amounts, including, but not limited to, late fees, legal fees, interest and administrative costs, owing under this chapter. Such costs shall be assessed and filed as a lien against such owner's property and shall be a first and prior lien upon the property.

(Code 1999, § 8.02.040; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.24.050. Permit required to plant or remove trees, etc.**

It is unlawful to cut, trim, spray, remove or plant any tree, vine, shrub, hedge or other plant within the limits of any street, alley, sidewalk or other public place within the town without first having obtained a permit from the town manager. No charge shall be made for any such permit. No permit shall be refused by the town manager, except for good and substantial reasons, such as the potential hazard to pedestrian safety in the use of the public sidewalks.

(Code 1999, § 8.02.050; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.24.060. Violation, penalty.**

Any person, firm or corporation violating or failing to comply with any of the provisions of this chapter shall result in a penalty as provided in section 1.12.010.

(Code 1999, § 8.02.060; Ord. No. 665, § 2, 5-7-2015)

## **CHAPTER 12.28. WEEDS AND BRUSH**

**Sec. 12.28.010. 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:

~~As used in this chapter, brush, trees, shrubs and weeds shall have the following meanings:~~

*Brush* is a volunteer growth of bushes or shrubbery over the average height of 12 inches; or any combination of dead brush, tree trimmings and weeds; or poison oak or other injurious, poisonous, unsightly bushes or shrubbery.

*Developed* shall mean any parcel of ground ~~subdivided in accordance with the subdivision regulations of the town or subject to the Development Code Zoning Regulations~~ of the town, on which any improvement has been permitted or which is used for parking or storage.

*Noxious weeds* means plants that are determined by the state, the county or the town as a noxious weed or an alien plant, including, but not limited to, leafy spurge, Russian knapweed, spotted knapweed, diffuse knapweed, Canada thistle, musk thistle, field bindweed, volunteer rye, hounds tongue and jointed goatgrass.

*Trees and shrubs* include all trees, shrubs, bushes and all other woody vegetation.

*Weeds* are herbaceous plants or vegetation over the average height of six inches; or any combination of dead weeds or vegetation; or poison ivy, ragweed or other injurious, poisonous or unsightly plants.

(Code 1999, § 8.14.010; Ord. No. 665, § 2, 5-7-2015)

**Sec. 12.28.020. Nuisance.**

(a) It is unlawful and shall be deemed a nuisance, for the owner or occupant to allow such owner's or occupant's property to become overgrown with weeds or grass of any kind or nature. The owner or occupant shall keep the property substantially free of weeds. Weeds shall be controlled by removal or use of herbicides. It is unlawful and deemed a nuisance for the owner or occupant of any developed lot or parcel located on premises within the corporate limits of the town to allow turf grass to grow to a height of 12 inches or greater.

(b) Exceptions.

- (1) A natural growth of sagebrush, chokecherry or other brush or plants common to this area that are on undeveloped or unsubdivided land shall not be considered a nuisance unless, in the opinion of the town manager or his authorized representative, a fire danger exists to a structure or structures from such natural growth. If such a fire danger exists, the owner, lessee, occupant or an agent of such owner, lessee or occupant shall cut a fire break at least 50 feet wide between the brush or plants and any structures.
- (2) Flowers or vegetable gardens, cultivated or tended shrubbery or agricultural crops, including, but not limited to, hay or grass grown for feed, fodder or forage shall not be considered a nuisance.
- (3) The Town Council may, after written request from the owner or occupant and by resolution, exempt certain areas in the town, whether publicly or privately owned, from the prohibitions contained in this section if the Town Council determines that such areas are: natural open space, natural park, conservation areas, erosion control areas, agricultural zoned property or irrigation or drainage ditch rights-of-way.

(Code 1999, § 8.14.020; Ord. No. 665, § 2, 5-7-2015)

#### **Sec. 12.28.030. Removal required.**

(a) It shall be unlawful for any person who is an owner, lessee, occupant or an agent of such owner, lessee or occupant, having control over any occupied or unoccupied lot or any parcel of land in the town not exempted under section 12.28.020, to permit or maintain on any such lot or parcel of land or on or along the sidewalk, street or alley adjacent to the same, including any easement or other right-of-way, between the property line and the curb or middle of the alley, any growth of weeds, grass, brush and any trees, bushes or other vegetation that interfere with vehicle movement in the alley or street; or any vegetation which conceals junk. It shall also be unlawful for any such person or persons to cause, suffer or allow an accumulation of noxious weeds, poison ivy, ragweed or other poisonous or narcotic plants or plants detrimental to health, to grow on any such lot or land in such manner that seeds, pollen or emanations therefrom may be carried through the air into any public place. The foregoing enumeration is not intended to be all-inclusive but rather is intended to be indicative of those types of plants which are considered a nuisance.

(b) It shall be the duty of such owner, lessee, occupant or agent of such owner, lessee or occupant to cut and remove or cause to be cut and removed, sprayed and destroyed by any other lawful means all such weeds, grass, noxious weeds or other vegetation as often as may be necessary, and it shall be unlawful for any such person to neglect such duty.

(Code 1999, § 8.14.030; Ord. No. 665, § 2, 5-7-2015)

#### **Sec. 12.28.040. Failure to comply.**

If the person upon whom said notice is served fails, neglects or refuses to correct the violation within ten days (or other date established by the authorized representative) of the date said notice was served or received, the town manager or his authorized representative may abate the nuisance, as set forth in section 12.20.070, may cite such person into municipal court, as set forth in section 12.20.060, or may do both.

(Code 1999, § 8.14.040; Ord. No. 665, § 2, 5-7-2015)

#### **Sec. 12.28.050. Violation, penalty.**

Any person, firm or corporation that violates any of the provisions of this section shall be punished in accordance with section 1.12.010. Each day's violation thereof shall constitute a separate offense.

(Code 1999, § 8.14.050; Ord. No. 665, § 2, 5-7-2015)

## CHAPTER 8.06 OPEN BURNING<sup>102</sup>

### **Sec. Definitions.**<sup>103</sup>

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.

A. "Open burn" means the burning of any material or substance, including rubbish, wastepaper, wood, vegetative material or any other flammable material, in the ambient air on any open premises, or on any public street, alley, or other land adjacent to such premises, or in a receptacle where emissions are released directly into the air without passing through a chimney or stack.

B. "Safe containers" include, but are not limited to, non-combustible chimineas, outdoor fireplaces, fire pits, or other approved containers.

### **8.06.010 Open Burning – Within Town Boundaries.**<sup>104</sup>

Open burning in a safe manner of paper, cardboard, untreated wood products, limbs, leaves and weeds accumulated from private households from a non-commercial use shall be allowed within the boundaries of the town after obtaining such permits as may be required.

(Code 1999, § 8.06.010; Ord. No. 665, § 2, 5-7-2015)

### **8.06.020. Open burning – outside town boundaries.**

Open burning in a safe manner of paper, limbs, leaves and weeds accumulated from private households from a non-commercial use shall be allowed within two miles of the boundaries of the town after obtaining such permits as may be required.

(Code 1999, § 8.06.020; Ord. No. 665, § 2, 5-7-2015)

### **8.06.030. Containers.**

All paper burned pursuant to this chapter must be burned in a safe container. Any container used for burning must be covered with a wire mesh screen.

(Code 1999, § 8.06.030; Ord. No. 665, § 2, 5-7-2015)

### **8.06.040. Violation – penalty.**

Any person, firm or corporation that violates any of the provisions of this chapter shall be punished in accordance with Chapter 1.08 of the Municipal Code. Each day's violation thereof shall constitute a separate offense.

(Code 1999, § 8.06.040; Ord. No. 665, § 2, 5-7-2015)

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<sup>102</sup> We recommend renaming this chapter to more accurately reflect the subject matter within.

**Town elected to strike as all burns are controlled at the county level.**

<sup>103</sup> We recommend adding a definitions section, we have inserted suggested terms to define, please feel free to edit. (definitions from the Colorado Dept. of Public Health & Environment)

<sup>104</sup> We recommend adding these to better define what products are allowed.

Title 13  
**RESERVED**

PROOFS

## Title 14

**PUBLIC PEACE, MORALS****CHAPTER 14.04. IN GENERAL (RESERVED)**<sup>105</sup>**CHAPTER 14.08. CONCEALED WEAPONS**<sup>106</sup>**Sec. 14.08.010. Regulations generally.**

Any person, other than a peace officer, who shall, within the limits of the town, carry upon or about his person any pistol, revolver, Bowie knife, dirk, razor, slingshot, sandbag, brass knuckles or knucks made of any other material, or who shall carry concealed upon or about his person any other deadly weapons, shall be deemed in violation of the provisions of this chapter.

(Code 1999, § 9.08.010; Ord. No. 11 § 1, 1906; amended 1978)

**Sec. 14.08.020. Duty of police chief ~~town marshal~~.**<sup>107</sup>

All such weapons confiscated pursuant to this chapter shall be forfeited to the town and destroyed or <sup>108</sup>sold at public auction by the chief of police or their designee ~~Town Marshal~~, and the proceeds of such sale shall inure to the town.

(Code 1999, § 9.08.020; Ord. No. 11 § 3, 1906; amended 1978)

**Sec. 14.08.030. Violation, penalty.**

Any violation of any of the provisions of this chapter shall be punished in accordance with the provisions of section 1.12.010.

(Code 1999, § 9.08.030; Ord. No. 11 § 9, 1906; added 1978)

**CHAPTER 14.12. CURFEW****Sec. 14.12.010. Citation.**

This chapter shall be known and may be cited as the "Town of Hayden Curfew Ordinance."

(Code 1999, § 9.12.010; Ord. No. 267 § 1, 1979)

**Sec. 14.12.020. 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:

~~For the purposes of this chapter, the following terms, phrases and words, and their derivations, shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural.~~

*Minor* means any person under the age of 18 years.

*Parent* means any person having legal custody of a minor as a natural or adoptive parent; as a legal guardian;

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<sup>105</sup> We recommend either conforming this chapter to C.R.S. 18-12-105 or delete as covered in state law. C.R.S. 18-12-105.6 states that some regulations regulating firearms are preempted by the state.

<sup>106</sup> What about concealed permits?

<sup>107</sup> We are assuming there is no longer a Town Marshal? Edit to be Police Chief? **Correct.**

<sup>108</sup> Are confiscated weapons currently sold?



as a person who stands in loco parentis; or as a person to whom legal custody has been given by order of the court.

*Public place* means any public road, street or alley and a place people may legally enter without invitation or restraint.

*Remain* means to stay behind, to tarry and to stay unnecessarily upon the streets, including the congregating of groups (or of interacting minors) totaling four or more persons in which any minor involved would not be using the streets for ordinary or serious purposes such as mere passage or going home.

(Code 1999, § 9.12.020; Ord. No. 372, 1990; Ord. No. 267 § 2, 1979)

#### **Sec. 14.12.030. Curfew for minors.**

(a) Except as may be permitted under section 14.12.040 it is unlawful for any person under the age of 16 years to be or remain upon the streets, alleys or public places within the town between the hours of 10:00 p.m. and 5:00 a.m.

(b) Except as may be permitted under section 14.12.040, it is unlawful for any person who has attained the age of 16 years but is under the age of 18 years to be or remain upon the streets, alleys or public places within the town during the following listed times:

- (1) Sunday through Thursday, inclusive, from September 1 through May 31: 10:00 p.m. to 5:00 a.m.
- (2) Friday and Saturday, from September 1 through May 31: 12:00 midnight to 5:00 a.m.
- (3) Each day commencing June 1 through August 31: 12:00 midnight to 5:00 a.m.

(Code 1999, § 9.12.030; Ord. No. 372, 1990)

#### **Sec. 14.12.040. Exceptions.**<sup>109</sup>

In the following cases, a minor on a street, alley or public place during the period for which section 14.12.030 is intended to provide the maximum limits of regulation, shall not be considered in violation of this chapter:

- (1) When accompanied by a parent of such minor;
- (2) When accompanied by a person of the age of 21 years authorized by a parent of such minor to take the parent's place in accompanying such minor for a designated period of time and purpose within a specified area;
- <sup>110</sup>(3) ~~When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. Such minor shall evidence the bona fides of such exercise by first delivering, to police personnel at the Hayden Police Department, 250 W. Jefferson Avenue, Hayden, Colorado, a written communication, signed by such minor and countersigned, if practicable, by a parent of such minor, with their home address and telephone number, addressed to the Police Chief Town Marshal of Hayden, specifying when, where and in what manner such minor will be on the streets, alleys or public places during the period when this chapter is otherwise applicable to such minor, in the exercise of a First Amendment right specified in such communication;~~
- (4) In the case of a reasonable necessity but only after such minor's parent has communicated to the town police department the fact establishing such reasonable necessity relating to specified areas at a designated time for a described purpose, including points of origin and destination;
- (5) When the minor is required to be on the streets, alleys or public places in the course of the lawful employment of such minor;
- (6) When the minor is, with parental consent, in a motor vehicle for the purposes of normal travel;
- (7) When the minor is traveling to or from a school sanctioned event.

<sup>109</sup> What about going to and from a school event? **Ok to add**

<sup>110</sup> Is the written permission note still required? **Town elected to strike problematic language.**

(Code 1999, § 9.12.040; Ord. No. 267 § 4, 1979)

**Sec. 14.12.050. Parental responsibility.**

It is unlawful for a parent having legal custody of a minor to knowingly permit or by inefficient control to allow such minor to be or remain upon any street, alley or public place, as provided herein, under circumstances not constituting an exception to or otherwise beyond the scope of this chapter. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody.

(Code 1999, § 9.12.050; Ord. No. 267 § 5, 1979)

**Sec. 14.12.060. Violation, penalty.**

Any violation of the provisions of this chapter will be punished in accordance with the provisions of section 1.12.010.

(Code 1999, § 9.12.060; Ord. No. 267 § 6, 1979)

**Sec. 14.12.070. Proof of age.**

In determining the age of a minor, proof of age may be required by the appropriate authority. Proof of age may be provided by a valid driver's license, school activities or picture identification card, or similar evidence on which the investigating party may reasonably rely.

(Code 1999, § 9.12.070; Ord. No. 372, 1990)

## **CHAPTER 14.16. DISORDERLY CONDUCT**

**Sec. 14.16.010. 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:

*Intentionally.* A person acts "intentionally" with respect to conduct or to a result described by a provision defining an offense where his conscious objective is to cause such result or engage in such conduct.

*Knowingly.* A person acts "knowingly" with respect to conduct or to a circumstance described by a provision defining an offense when he is aware that his conduct is of such nature or that such circumstance exists.

*Recklessly.* A person acts "recklessly" when he consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

(Code 1999, § 9.16.010; Ord. No. 266 (part A), 1979)

**Sec. 14.16.020. Acts designated.**

It is unlawful for any person to be disorderly in any public place or in any private home or place to such an extent as to jeopardize or to be injurious to persons, property or public peace and order. Any person who intentionally, knowingly or recklessly conducts himself in any of the following ways is guilty of disorderly conduct, namely:

- (1) Any person who acts in a violent or tumultuous manner toward another whereby any person is placed in fear of safety of his life, limb or health;
- (2) Any person who causes, provokes or engages in any fight, except that self-defense shall be a complete defense;
- (3) Any person who uses abusive, threatening, indecent, profane or vulgar language, and the language by its very utterance tends to incite an immediate breach of the peace;
- (4) Any person who makes an offensive gesture or display and the gesture or display tends to incite an immediate breach of peace;
- (5) Any person who looks into any window, door, skylight or other opening, in any house, room or building, for the purpose of observing the actions of the occupants thereof to such an extent as to harass or to be

injurious to the occupants;

- (6) Any person who urinates or defecates on any public or private property, except in a public or private toilet;
- (7) Any person, not being a police officer, who discharges a firearm or other explosive or combustible material in any place within the limits of the town, unless permitted by law;
- (8) Any person, not being a police officer, who displays a deadly weapon in any place within the limits of the town in a manner calculated to threaten or alarm, unless permitted by law;
- (9) Any person who disturbs the peace or quiet of any neighborhood or person by loud, unusual or unreasonable noise which serves no legitimate purpose.

(Code 1999, § 9.16.020; Ord. No. 266, (part B), 1979)

#### **Sec. 14.16.030. Violation, penalty.**

Any violation of the provisions of this chapter will be punished in accordance with the provisions of section 1.12.010.

(Code 1999, § 9.16.030; Ord. No. 266, (part C), 1979)

### **CHAPTER 14.20. TOWN PARK REGULATIONS<sup>111</sup>**

#### **Sec. 14.20.010. 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:

*Public park* means any park, parkway, recreation area, open space or trail owned by the town, which has been designated by the town manager for public use.

(Code 1999, § 9.02.010; Ord. No. 481, § 1(part), 1999)

#### **Sec. 14.20.020. Destruction of park property.**

It shall be unlawful to cut, mark, remove, break or climb upon, damage or deface trees, shrubs, plants, turf, or any of the buildings, fences, bridges or other structure or property within or upon park premises; or in any other way injure or impair the natural beauty or usefulness of any park or recreation area.

(Code 1999, § 9.02.020; Ord. No. 332, 1983)

#### **Sec. 14.20.030. Erection of tents and buildings.<sup>112</sup>**

It shall be unlawful to build or place any tent, building, booth, stand or other structure in or upon the park or other recreational facility without first having obtained a permit to do so from the town police chief/administrator.

(Code 1999, § 9.02.030; Ord. No. 332, 1983)

#### **Sec. 14.20.040. Animals in the park.**

It shall be unlawful for any person to allow a dog to run at large within the park. They shall be on a leash at all times. It shall be unlawful for any person to ride or lead any horse or other livestock in the park or recreational area except by a special permit.

(Code 1999, § 9.02.050; Ord. No. 332, 1983)

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<sup>111</sup> We recommend relocating this chapter to appear within a renamed chapter titled "Streets, Sidewalks, and other Public Places" as shown in the suggested TOC. **Leave as is.**

<sup>112</sup> Is a permit still required from the police chief/administrator? **Leave as is**

**Sec. 14.20.050. Motorized vehicles.**<sup>113</sup>

It shall be unlawful for any person to drive any type of motorized vehicle within the park or recreational area, except for authorized service and emergency vehicles.

(Code 1999, § 9.02.060; Ord. No. 332, 1983)

**Sec. 14.20.060. Littering.**

It shall be unlawful for any person to litter within the limits of the park or recreational area.

(Code 1999, § 9.02.070; Ord. No. 332, 1983)

**Sec. 14.20.070. Alcoholic beverages.**<sup>114</sup>

It shall be unlawful to have alcoholic beverages other than fermented malt beverages~~3.2 beer~~ within the park or recreational area.

(Code 1999, § 9.02.080; Ord. No. 332, 1983)

**Sec. 14.20.080. Overnight camping.**

It shall be unlawful for any person to camp overnight within the park or recreational area.

(Code 1999, § 9.02.090; Ord. No. 332, 1983)

**Sec. 14.20.090. Compliance with rules and regulations for parks.**

It is unlawful for any person to fail to abide by posted rules, regulations and safety regulations for use of any park.

(Code 1999, § 9.02.095; Ord. No. 489, (part), 2000)

**Sec. 14.20.100. Penalty clause.**

Any violation of this chapter shall be punished in accordance with the provisions of section 1.12.010.

(Code 1999, § 9.02.100; Ord. No. 332, 1983)

## **CHAPTER 14.24. POSSESSION AND USE OF MARIJUANA, MARIJUANA CONCENTRATE AND TOBACCO PRODUCTS BY MINORS**

**Sec. 14.24.010. Intent.**

It is the intent of this chapter to protect the public health, safety, and welfare by prohibiting the possession and use of tobacco and marijuana products by minors.

(Code 1999, § 9.22.010; Ord. No. 665, § 3, 5-7-2015)

**Sec. 14.24.020. 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:

*Marijuana* and *marijuana concentrate* shall be defined in accordance with the definitions set forth in C.R.S. § 18-18-102(18) and (19).

*Minor* means any person under the age of 18 years of age. The term "minor" as it relates to ethyl alcohol and marijuana, marijuana concentrate and paraphernalia is under 21 years of age.

*Tobacco product* means any substance containing tobacco leaf or tobacco product, including, but not limited to, cigarettes, e-cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

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<sup>113</sup> Are there no roads or parking lots within the town parks? **Town confirmed that this provision is correct.**

<sup>114</sup> 3.2 beer has been replaced by "fermented malt beverages" in state statutes. **Town accepted.**

(Code 1999, § 9.22.020; Ord. No. 665, § 3, 5-7-2015)

**Sec. 14.24.030. Unlawful possession or use of tobacco products by minors.**

(a) It is unlawful for any minor to possess any tobacco product.

(b) It is unlawful for any minor to use, either by smoking, ingesting, absorbing or chewing, any tobacco product. The term "smoking" means the holding or carrying of a lighted pipe containing tobacco products, electronic cigarette, lighted cigar or lighted cigarette of any kind containing tobacco products and includes the lighting of a pipe, cigar or cigarette of any kind containing tobacco products.

(c) It is unlawful for any minor to purchase, obtain, or attempt to purchase or obtain any tobacco product by misrepresentation of age or by any other method.

(d) It shall be rebuttably presumed that the substance within a package or container is a tobacco product if the package or container has affixed to it a label which identifies the package or container as containing a tobacco product.

(Code 1999, § 9.22.030; Ord. No. 665, § 3, 5-7-2015)

**Sec. 14.24.040. Unlawful possession or use of marijuana or marijuana concentrate by minors.**

(a) It is unlawful for any minor to possess any marijuana or marijuana concentrate.

(b) It is unlawful for any minor to use, either by smoking, ingesting, absorbing or chewing, any marijuana or marijuana concentrate product. The term "smoking" means the holding or carrying of a lighted pipe containing marijuana or marijuana concentrate products, lighted cigar or lighted cigarette of any kind containing marijuana or marijuana concentrate products and includes the lighting of a pipe, cigar or cigarette of any kind containing marijuana or marijuana concentrate products.

(c) It is unlawful for any minor to purchase, obtain, or attempt to purchase or obtain any marijuana or marijuana concentrate product by misrepresentation of age or by any other method.

(d) It shall be rebuttably presumed that the substance within a package or container is a marijuana or marijuana concentrate if the package or container has affixed to it a label which identifies the package or container as containing marijuana or marijuana concentrate.

(Code 1999, § 9.22.040; Ord. No. 665, § 3, 5-7-2015)

**Sec. 14.24.050. Furnishing cigarettes, tobacco products, e-cigarettes or nicotine to minors; unlawful for a person over 18 years of age to provide tobacco/marijuana products to a juvenile.**

(a) A person shall not give, sell, distribute, dispense, or offer for sale a cigarette, tobacco product, marijuana or marijuana concentrate or nicotine product to any person who is under 18 years of age.

(b) A person shall not give, sell, distribute, dispense, or offer for sale marijuana or marijuana concentrate or marijuana product to any person who is under 21 years of age.

(c) Before giving, selling, distributing, dispensing, or offering to sell to an individual any cigarette, tobacco product, or nicotine product, a person shall request from the individual and examine a government-issued photographic identification that establishes that the individual is 18 years of age or older; except that, in face-to-face transactions, this requirement is waived if the individual appears older than 30 years of age.

(Code 1999, § 9.22.050; Ord. No. 665, § 3, 5-7-2015)

**Sec. 14.24.060. Violation, penalty.**

Any person, firm or corporation that violates any of the provisions of this section shall be punished in accordance with section 1.12.010. Each day's violation thereof shall constitute a separate offense.

(Code 1999, § 9.22.060; Ord. No. 665, § 3, 5-7-2015)

**CHAPTER 14.28. REGULATION OF SEXUALLY ORIENTED BUSINESSES**

**Sec. 14.28.010. 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:

*Adult arcade* means any commercial establishment to which the public is permitted or invited where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image or virtual reality producing machines, for viewing by five or fewer persons per machine at any one time, are used regularly to show films, motion pictures, video cassettes, slides, or other photographic, digital or electronic reproductions describing, simulating or depicting specified sexual activities or specified anatomical areas.

*Adult bookstore, adult novelty store, or adult video store* means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations however produced that depict or describe specified sexual activities or specified anatomical areas; or
- (2) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

*Adult cabaret* means a nightclub, bar, restaurant, concert hall, auditorium or other commercial establishment that features:

- (1) Persons who appear nude or in a state of nudity or seminudity; or
- (2) Live performances that are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities.

*Adult motel* means a hotel, motel or similar commercial establishment that offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other media productions, however produced, which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and which commercial establishment has a sign visible from the public right-of-way which advertises the availability of this adult type of media production.

*Adult motion picture theater* means a commercial establishment that is distinguished or characterized by the showing, for any form of consideration, of films, motion pictures, video cassettes, slides, or similar photographic reproductions, on more than 100 days per year, that have an "X" rating or that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

*Adult theater* means a theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by an emphasis on exposure of specified anatomical areas or by specified sexual activities.

*Commercial establishment* may have other principal business purposes that do not involve the depicting or describing specified sexual activities or specified anatomical areas and still be categorized as a sexually oriented business. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a sexually oriented business so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe specified sexual activities or specified anatomical areas. The term "commercial establishment" includes clubs, fraternal organizations, social organizations, civic organizations or other similar organizations with paid memberships.

*Employee* means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage, or other compensation by the operator of said business.

*Establishment of a sexually oriented business* means and includes any of the following:

- (1) The opening or commencement of any such business as a new business;
- (2) The conversion of an existing business into a sexually oriented business;
- (3) The addition of a different sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of a sexually oriented business.

*Foyer* means an architectural element of a building that consists of an entry hall or vestibule that is completely enclosed and contains one door to provide access to areas outside of the building and a separate door to provide access to areas inside of the building.

*Licensee* means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a sexually oriented business license.

*Licensing officer* means the town clerk or his designee.

*Manager* means an operator, other than a licensee, who is employed by a sexually oriented business to act as a manager or supervisor of employees or is otherwise responsible for the operation of the business.

*Nude model studio* means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

*Nudity or state of nudity* means:

- (1) The appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or
- (2) A state of dress which fails opaquely and fully to cover human buttocks, anus, male or female genitals, pubic region, or areola or nipple of the female breast.

*Operator* means and includes the owner, license holder, custodian, manager, operator, or person in charge of any licensed premises.

*Peep booth* means a room, semi-enclosure or other similar area located within a licensed premises wherein a person may view representations of specified anatomical areas or specified sexual activities.

*Person* means an individual, proprietorship, partnership, corporation, limited liability company, association, or other legal entity.

*Premises or licensed premises* means any premises that requires a sexually oriented business license and that is classified as a sexually oriented business, including parking lots and sidewalks immediately adjacent to the structure containing the sexually oriented business.

*Principal business purpose* means any establishment, having as a substantial or significant portion of its stock in trade the items listed in subsections (1) and (2) of the definition of the term "adult bookstore," "adult novelty store," or "adult video store" and having on the premises at least 30 percent of the establishment's display space occupied by the display of the items described therein.

*Principal owner* means any person owning, directly or beneficially:

- (1) Any membership or partnership interest in a limited liability company or limited liability partnership if such person has any legal control or authority over the management or operation of the entity; or
- (2) In the case of any other legal entity, five percent or more of the ownership interests in the entity, except for shareholders, but including such shareholders who are corporate officers or directors or who otherwise have any legal control or authority over the management or operation of the entity.

*Public park* means an area of land owned by a governmental entity and intended to be used for recreational purposes, but not including any such land that contains no improvements and is intended only for open space purposes, and not including any such land that is intended for use only for pathway purposes.

*Seminude or seminudity* means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breasts, as well as portions of the body covered by supporting straps or devices, which supporting straps or devices are used to support or enable the wearing of such clothing.

*Sexually oriented business* means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, or nude model studio. The definition of the term "sexually oriented business" shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

*Specified anatomical areas*, as used herein, means and includes any of the following:

- (1) Human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, that are not completely and opaquely covered; or
- (2) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

*Specified criminal acts* means sexual crimes against children, sexual abuse, sexual assault, or crimes connected with another sexually oriented business, including, but not limited to, distribution of obscenity, prostitution, or pandering.

*Specified sexual activities* means and includes any of the following:

- (1) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated;
- (4) Human genitals in a state of sexual stimulation, arousal, or tumescence; or
- (5) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (4) of this definition.

*Transfer of ownership or control of a sexually oriented business* means and includes any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities that constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, management arrangement, gift or other similar legal device that transfers ownership or control of the business, including a transfer by bequest or operation of law.

(Code 1999, § 9.17.010; Ord. No. 507, (part), 2001)

#### **Sec. 14.28.020. Interior lighting regulations.**

(a) The interior portion of the premises of a sexually oriented business to which patrons are permitted access shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place (including peep booths) at an illumination of not less than five footcandles as measured at the floor level.

(b) It shall be the duty of the licensee and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.

(Code 1999, § 9.17.020; Ord. No. 507, (part), 2001)

#### **Sec. 14.28.030. Location of sexually oriented businesses and design of the same.**

(a) It is unlawful to operate or cause to be operated a sexually oriented business outside of the accommodations of commercial and industrial district zones.

(b) It is unlawful to operate or cause to be operated a sexually oriented business within the accommodations of commercial and industrial district zones, within 500 feet of:

- (1) Any church;
- (2) Any school meeting all requirements of the compulsory education laws of the state;
- (3) An existing residential dwelling;
- (4) A public park;
- (5) A licensed childcare facility;
- (6) A retirement home.

(c) It is unlawful to cause or permit the operation, establishment, or maintenance of a sexually oriented business within 100 feet of any other sexually oriented business.



(d) All exterior windows in a sexually oriented business shall be opaque to such an extent that interior objects viewed from outside shall be so obscure as to be unidentifiable. Exterior windows in sexually oriented businesses shall not be used for any display or sign except for a sign that complies with the requirements of local codes.

(e) All doors for ingress and egress to a sexually oriented business, except emergency exits used only for emergency purposes, shall be located on the front of the sexually oriented business. For purposes of this subsection, the front of a sexually oriented business shall be deemed to be that facade of the building that faces the front lot line of the lot or parcel on which the business is located. Every sexually oriented business shall have a foyer at every point of ingress or egress, except for emergency exits. In the case of a sexually oriented business having more than one front lot line, the sexually oriented business shall be oriented such that the front of the business faces away from the nearest of any of the land uses listed in subsection (b) of this section.

(Code 1999, § 9.17.030; Ord. No. 507, (part), 2001)

#### **Sec. 14.28.040. Measurement of distance.**

(a) The distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business, or, in the case of a sexually oriented business operating within a condominium estate or leasehold estate, from the closest airspace boundary of such condominium estate or from the closest wall of such leasehold estate.

(b) The distance between any sexually oriented business and any church, school, dwelling, public park or childcare facility shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of the sexually oriented business to the nearest property line of the premises of a church, school, dwelling, public park, childcare facility or retirement home. If the premises where the sexually oriented business is conducted is comprised of a condominium estate or leasehold estate, such distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest airspace boundary of the condominium estate or the nearest wall of the leasehold estate used as part of the premises where the sexually oriented business is conducted to the nearest property line of the premises of a church, school, dwelling, public park, childcare facility or retirement home.

(Code 1999, § 9.17.040; Ord. No. 507, (part), 2001)

#### **Sec. 14.28.050. Other locational regulations.**

(a) Any sexually oriented business lawfully operating on the effective date of the ordinance codified in this chapter that is in violation of section 14.28.030 will be permitted to continue for a period of six months from the effective date hereof.

(b) A sexually oriented business which at the time it received its sexually oriented business license was in compliance with the location requirements of section 14.28.030 does not violate that section if when the sexually oriented business applies to renew its valid sexually oriented business license a church, school, dwelling, public park, childcare facility, or retirement home is now located within five hundred feet of the sexually oriented business. This provision applies only to the renewal of a valid sexually oriented business license and does not apply to an application for a sexually oriented business license that is submitted as a result of the previous sexually oriented business license at the same location expiring or being revoked.

(Code 1999, § 9.17.050; Ord. No. 507, (part), 2001)

#### **Sec. 14.28.060. Stage required in adult cabaret and adult theater.**

Any adult cabaret or adult theater shall have one or more separate areas designated as a stage in the diagram submitted as part of the application for the sexually oriented business license. Entertainers shall perform only upon a stage. The stage shall be fixed and immovable and located inside the building in which the adult use operates. No seating for the audience shall be permitted within three feet of the edge of the stage. No members of the audience shall be permitted upon the stage or within three feet of the edge of the stage.

(Code 1999, § 9.17.060; Ord. No. 507, (part), 2001)

#### **Sec. 14.28.070. Conduct in sexually oriented business.**

(a) No licensee, manager or employee mingling with the patrons of a sexually oriented business, or serving

food or drinks, shall be in a state of nudity. It is a defense to any prosecution for a violation of this subsection that an employee of a sexually oriented business exposed any specified anatomical area only during the employee's bona fide use of a restroom or during the employee's bona fide use of a dressing room that is accessible only to employees.

(b) No licensee, manager or employee shall encourage or knowingly permit any person upon the premises to touch, caress, or fondle the genitals, pubic region, buttocks, anus or breasts of any person.

(Code 1999, § 9.17.070; Ord. No. 507, (part), 2001)

#### **Sec. 14.28.080. Employee tips.**

(a) It is unlawful for any employee of a sexually oriented business to receive tips from patrons except as set forth in subsection (c) of this section.

(b) A licensee that desires to provide for tips from its patrons shall establish one or more boxes or other containers to receive tips. All tips for such employees shall be placed by the patron of the sexually oriented business into the tip box.

(c) A sexually oriented business that provides tip boxes for its patrons as provided in this section shall post one or more signs to be conspicuously visible to the patrons on the premises, in bold letters at least one inch high to read as follows:

All tips are to be placed in the tip box and not handed directly to employees. Any physical contact between a patron and employees is strictly prohibited.

(Code 1999, § 9.17.080; Ord. No. 507, (part), 2001)

#### **Sec. 14.28.090. Unlawful acts.**

It is unlawful for a licensee, manager or employee to violate any of the requirements of this chapter, or knowingly to permit any patron to violate the requirements of this chapter.

(Code 1999, § 9.17.090; Ord. No. 507, (part), 2001)

#### **Sec. 14.28.100. Exemptions.**

The provisions of this chapter regulating nude model studios do not apply to:

- (1) A college, junior college, or university supported entirely or partly by taxation;
- (2) A private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- (3) A business located in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and where, in order to participate in a class, a student must enroll at least three days in advance of the class; and where no more than one nude model is on the premises at any one time.

(Code 1999, § 9.17.100; Ord. No. 507, (part), 2001)

#### **Sec. 14.28.110. Regulation of peep booths.**

It is unlawful for a person who operates or causes to be operated a sexually oriented business with peep booths to violate the following requirements of this section:

- (1) At least one employee must be on duty and situated at each manager's station at all times that any patron is present inside the premises. The interior of the premises shall be configured in such a manner that such employee shall be clearly visible from every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the employee in at least one of the manager's stations from each area of the premises to which any patron is permitted access for any purpose. The view required in this subsection must be by direct line of sight from the manager's station. The view area shall remain unobstructed by any opaque coverings, two-way mirrors, doors, walls, merchandise, display racks, or other materials at all times, and no patron shall be permitted access to any area of the premises that has been designated as an area in which patrons

will not be permitted in the application filed for a sexually oriented business license.

- (2) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video display equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station. The view area shall remain unobstructed by any opaque coverings, two-way mirrors, doors, walls, merchandise, display racks, or other materials at all times, and no patron shall be permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application filed pursuant to a sexually oriented business license.
- (3) No peep booth may be occupied by more than one person at any one time.
- (4) No door, two-way mirror, screen, opaque covering or other covering shall be placed or allowed to remain on any peep booth, and no holes or openings shall be placed or allowed to remain in the wall between any two adjacent peep booths.

(Code 1999, § 9.17.110; Ord. No. 507, (part), 2001)

#### **Sec. 14.28.120. Hours of operation.**

It is unlawful for a sexually oriented business to be open for business or for the licensee, manager or any employee of a licensee to allow patrons upon the licensed premises during the following time periods:

- (1) On any Tuesday through Saturday from 2:00 a.m. until 7:00 a.m.;
- (2) On any Monday, other than a Monday that falls on January 1, from 12:00 midnight until 8:00 a.m.;
- (3) On any Sunday from 2:00 a.m. until 8:00 a.m.;
- (4) On any Monday which falls on January 1 from 2:00 a.m. until 7:00 a.m.

(Code 1999, § 9.17.120; Ord. No. 507, (part), 2001)

#### **Sec. 14.28.130. Minimum age.**

(a) Except for such employees as may be permitted by law, it is be unlawful for any person under the age of 21 years to be upon the premises of a sexually oriented business that operates pursuant to a Type A sexually oriented business license. It is unlawful for any person under the age of eighteen years to be upon the premises of a sexually oriented business.

(b) It is unlawful for the licensee, manager or any employee of the licensee to allow anyone under the age of 21 years, except for such employees as may be permitted by law, to be upon the premises of a sexually oriented business operated pursuant to a Type A sexually oriented business license. It shall be unlawful for the licensee, manager or any employee of the licensee to allow anyone under the age of eighteen years upon the premises of a sexually oriented business.

(Code 1999, § 9.17.130; Ord. No. 507, (part), 2001)

#### **Sec. 14.28.140. Signs for sexually oriented businesses.**

In addition to complying with all local sign regulations, a sexually oriented business shall display a sign, clearly visible and legible at the entrance to the business, that gives notice of the adult nature of the sexually oriented business and of the fact that the premises is off limits to minors or those under the age of 20 years, as the case may be. No sign for a sexually oriented business shall contain flashing lights, words, lettering, photographs, silhouettes, drawings or pictorial representations that emphasize specified anatomical areas or specified sexual activities.

(Code 1999, § 9.17.140; Ord. No. 507, (part), 2001)

## CHAPTER 14.32. RESISTING OFFICER, AIDING\*

~~\*State law reference—For statutory provisions on the Obstruction of public officers, C.R.S. 1973, §§ 18-8-101--18-8-104; for provisions on escape, C.R.S. 1973, §§ 18-8-201 and 18-8-202.~~

### Sec. 14.32.010. Acts prohibited.<sup>115</sup>

(a) (1) A person commits obstructing a peace officer, firefighter, emergency medical service provider, rescue specialist, or volunteer when, by using or threatening to use violence, force, physical interference, or an obstacle, such person knowingly obstructs, impairs, or hinders the enforcement of the penal law or the preservation of the peace by a peace officer, acting under color of his official authority; knowingly obstructs, impairs, or hinders the prevention, control, or abatement of fire by a firefighter, acting under color of his official authority; knowingly obstructs, impairs, or hinders 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 obstructs, impairs, or hinders 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.

(2) 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.

(b) It is not a defense to a prosecution under this section that the peace officer was acting in an illegal manner, if he was acting under color of his official authority. A peace officer acts "under color of his official authority" if, in the regular course of assigned duties, he makes a judgment in good faith based on surrounding facts and circumstances that he must act to enforce the law or preserve the peace.

(c) If a person is alleged to have committed the offense described in subsection (1)(a) or (1)(b) of this section by using or threatening to use an unmanned aircraft system as an obstacle, the offense does not apply if the person who operates the unmanned aircraft system:

(1) Obtains permission to operate the unmanned aircraft system from a law enforcement agency or other entity that is coordinating the response of peace officers, firefighters, emergency medical service providers, rescue specialists, or volunteers to an emergency or accident;

(2) Continues to communicate with such entity during the operation of the unmanned aircraft system; and

(3) Complies immediately with any instructions from the entity concerning the operation of the unmanned aircraft system.

(d) 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:

*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.

*Obstacle* includes an unmanned aircraft system.

*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.

~~(e) Any person who resists any peace officer or member of the police department of the town, or in any manner interferes with, hinders or prevents any such officer from discharging his duties as such, or who attempts to do so, or~~ Any person who assists any other person, charged or convicted of an offense less than a felony, being in the custody or confinement of any such officer, to escape or attempt to escape from such custody or confinement, or who rescues or attempts to rescue any person so in custody or confinement, is in violation of the provisions of

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<sup>115</sup> C.R.S. 18-8-104 has been heavily amended since this provision was added, would the town like to update this language? If not, we recommend deleting this provision and allowing state law to control. **Elected to update to state law during conference call on 7/3/2021.**

this chapter.

(Code 1999, § 9.04.010; Ord. No. 124, § 1, 1960, amended 1978)

**Sec. 14.32.020. Violation, penalty.**

Any violation of any of the provisions of this chapter shall be punished in accordance with the provisions of chapter 1.12.010.

(Code 1999, § 9.04.020; Ord. No. 124, § 2, 1960, amended 1978)

**CHAPTER 14.36. TRESPASS**

**Sec. 14.36.010. Acts prohibited.**

(a) No person shall:

- (1) Enter or remain upon land or premises of another in defiance of a legal request or order by the owner or some other authorized person; or
- (2) Enter into or upon land or a building that is posted, locked or otherwise fenced or enclosed in such a manner that a reasonably prudent person would understand that the owner does not want any such person on the land or in the building.

(b) No person shall enter any motor vehicle of another without permission of the owner. It is a specific defense to a charge under this subsection that the entry was for a brief period of time to secure the vehicle from harm or was directed or authorized by a public official.

(c) No person shall climb on any building or other structure belonging to the town or under the possession and control of the town without having first obtained authorization from the chief of police.

(d) No person shall enter any property belonging to the town or under the possession and control of the town that is fenced or otherwise designed to exclude intruders or is posted with signs that forbid entry without having first obtained authorization from the chief of police.

(Code 1999, § 9.20.010; Ord. No. 480, § 1(part), 1999)

**Sec. 14.36.020. Penalty clause.**

Any violation of the provisions of this chapter shall be punished in accordance with the provisions of chapter 1.12.010.

(Code 1999, § 9.20.020; Ord. No. 480, § 1(part), 1999)

Title 15  
**RESERVED**

PROOFS

## Title 16

## REVENUE AND FINANCE

## CHAPTER 16.04. IN GENERAL (RESERVED)

## CHAPTER 16.08. ACCOMMODATIONS TAX

**Sec. 16.08.010. Title and intent.**

This chapter shall be known as and referred to as the "Town Accommodations Tax." The legislative intent of the Town Council is to allow the town to assist in the funding of services and facilities enjoyed by the visitors to the town who reside in any lodging accommodations located in the town or which are managed, contracted or leased by persons located within the town, by imposing a tax to be collected by vendors furnishing lodging.

(Code 1999, § 3.12.010; Ord. No. 622, § 1, 2009)

**Sec. 16.08.020. 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:

*Accommodations tax* means the tax on lodging authorized by this chapter.

*Engaged in lodging business within the town* means performing or providing from a location within the town the management, contracting or leasing of lodging, regardless of where the lodging accommodations are located. The term "a location within the town" includes, but is not limited to, a building, office, home office, place of work, telephone, call center, computer reservation center or other place of business within the town, whether employed, contracted, owned or leased, directly or indirectly by a vendor.

*Lodging* means the transaction of furnishing rooms or other accommodations by a vendor to a purchaser who, for consideration, uses, possesses or has the right to use or possess any room or other units of accommodation in or at a lodging accommodation. The term "lodging" and the tax authorized by this chapter shall not be imposed upon food, service, beverage, telephone, laundry or like services incidental to the furnishing of lodging and for which a separate charge is customarily made, or for furnishing rooms for meetings or exhibitions.

*Lodging accommodation* means a hotel, motel, motor hotel, lodge, townhome, condominium building, time-share building, guest house, bed and breakfast, guest ranch, mobile home, auto camp, trailer court, trailer park or campground.

~~E. "Person" means a corporation, firm, other body corporate, partnership, association or individual, including an agent, subsidiary corporation, executor, administrator, trustee or receiver or other representative acting in a representative capacity.~~

*Purchase price* means the total amount of rent or compensation paid for lodging.

*Purchaser* means a person to whom lodging is furnished.

*Vendor* means a person furnishing lodging.

(Code 1999, § 3.12.020; Ord. NO. 622, § 1, 2009)

**Sec. 16.08.030. Tax levied.<sup>116</sup>**

~~On or after January 1, 2010,~~ The town hereby levies an accommodations tax of 3 1/2 percent of the purchase price for lodging:

- (1) Within the town; or

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<sup>116</sup> We recommend striking outdated language as no longer necessary. **Town accepted.**

- (2) That is ~~managed~~, owned, contracted or leased by a person engaged in lodging business within the town. <sup>117</sup>

(Code 1999, § 3.12.030; Ord. No. 622, § 1, 2009)

**Sec. 16.08.040. Liability for collecting the tax.**

(a) It shall be a violation for any purchaser to fail to pay the accommodations tax or for any vendor to fail to collect the accommodations tax.

(b) It shall be the responsibility of a vendor claiming that a lodging purchase is not subject to the accommodations tax to prove that the transaction is exempt or otherwise not taxable.

(Code 1999, § 3.12.040; Ord. No. 622, § 1, 2009)

**Sec. 16.08.050. Exemptions.**

The tax imposed in this chapter shall not apply to the following individuals or entities and under the following specific circumstances:

- (1) If a purchaser is a resident of the lodging accommodations for a period of at least 30 consecutive days;
- (2) If the purchaser enters into or has entered into a written agreement for lodging at the lodging accommodation for a period of at least 30 consecutive days;
- (3) If the purchaser is an agency, subdivision or department of the federal government or the government of the state or one of its political subdivisions and is purchasing lodging in a governmental capacity or in direct pursuit of its governmental functions and activities; or
- (4) If the purchaser is a religious, charitable or quasi-governmental organization, but only in the conduct of its regular religious, charitable and quasi-governmental capacities and only if such organization has obtained an exempt organization license and furnishes the exempt tax license to the person who sells lodging to the organization.

(Code 1999, § 3.12.050; Ord. No. 622, § 1, 2009)

**Sec. 16.08.060. Sales tax license required.** <sup>118</sup>

No vendor located within or providing lodging within the town shall engage in such business ~~beginning January 1, 2010,~~ without first obtaining a town sales tax license.

(Code 1999, § 3.12.060; Ord. No. 622, § 1, 2009)

**Sec. 16.08.070. Collection and reporting.**

Every vendor providing lodging subject to the accommodations tax shall collect the tax on behalf of the town and shall act as a trustee therefor. The tax shall be collected from purchasers and remitted to the finance director on or before the 20th day of the month succeeding the month in which the tax has been paid and collected. Every vendor shall make a monthly report which shall be submitted at the same time the collected tax is remitted. Such reports shall be upon such forms as may be provided by the finance director.

(Code 1999, § 3.12.070; Ord. No. 622, § 1, 2009)

**Sec. 16.08.080. Duty of vendors to keep records.**

Vendors shall maintain adequate records at the vendor's place of business within the town, and such records shall be open to inspection by the finance director during reasonable business hours. All such records shall be maintained by vendors for a period of not less than three years.

(Code 1999, § 3.12.080; Ord. No. 622, § 1, 2009)

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<sup>117</sup> **Town elected to amend this provision during conference.**

<sup>118</sup> We recommend striking outdated language that is no longer necessary. **Town accepted via email 10/28.**



**Sec. 16.08.090. Failure to pay or make return; remedial action by town.**

(a) If any vendor makes a return as required by this chapter without paying the accommodations tax due, or neglects or refuses to make a return and pay the accommodations tax, such vendor shall be liable to the town for the tax and a penalty in addition to such tax in the amount of ten percent of the tax due. The penalty imposed in this section shall become immediately due and payable, and the town shall give the delinquent vendor written notice of the estimated tax and penalty, which notice shall be served personally upon the vendor or mailed to the vendor by certified mail at the address reflected on the vendor's sales tax license application.

(b) If any vendor fails to produce records suitable in the reasonable judgment of the finance director to determine the amount of accommodations tax due, the finance director shall make an estimate of the amount of the accommodations tax due, based upon an examination of the vendor's books and records, or upon any other information within the possession of the finance director. Promptly thereafter, the finance director shall furnish the delinquent vendor with written notice of such estimated tax and penalty, which notice shall be served personally upon the vendor or mailed to the vendor by certified mail at the address of the taxable premises as reflected on the sales tax license application for such premises.

(c) If payments are not made by the vendor within 15 days after the furnishing of written notice, the finance director shall cause action to be taken for collection of all taxes due, including, without limitation, any and all penalties assessed thereon, interest on the unpaid taxes at a rate of five percent per month, the cost of collection and reasonable attorney's fees incurred in connection therewith. The vendor's sales tax license may also be revoked.

(Code 1999, § 3.12.090; Ord. No. 622, § 1, 2009)

**Sec. 16.08.100. Administration.**

Administrative duties under this chapter shall be the responsibility of the finance director.

(Code 1999, § 3.12.100; Ord. No. 622, § 1, 2009)

**Sec. 16.08.110. Use of revenues.**

(a) All revenues derived from the accommodations tax, less costs of collection and administration, shall be accounted for separately from other town revenues.

(b) Accommodations tax revenues may be appropriated and expended upon authorization by the Town Council for:

- (1) Tourism and tourism-related marketing and capital improvements;
- (2) Special events sponsored, funded or assisted by the town; and
- (3) Such other uses determined reasonable and necessary by the Town Council.

(Code 1999, § 3.12.110; Ord. No. 622, § 1, 2009)

**Sec. 16.08.120. Right to amend chapter.**

The Town Council shall have the right to amend or repeal the provisions of this chapter, including all provisions regarding collection, administration, use and enforcement of the accommodations tax, except that the amount of the tax and events subject to the tax as approved by the voters on November 3, 2009, shall not be increased, expanded or broadened without additional voter approval.

(Code 1999, § 3.12.120; Ord. No. 622, § 1, 2009)

**CHAPTER 16.12. DISPOSITION OF UNCLAIMED PROPERTY****Sec. 16.12.010. Purpose.**

The purpose of this chapter is to provide for the administration and disposition of unclaimed intangible property which is in the possession of or under the control of the town.

(Code 1999, § 3.20.010; Ord. No. 387, (part), 1992)

**Sec. 16.12.020. 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:

~~Unless otherwise required by context or use, words and terms shall be defined as follows:~~

~~B. "Municipality" means the town of Hayden, Colorado.~~

*Director* means the town clerk or designee thereof.

*Owner* means a person or entity, including a corporation, partnership, association, governmental entity other than the town or a duly authorized legal representative or successor in interest of same, which owns unclaimed property held by the town.

*Property* means tangible property described in C.R.S. § 38-13-205 or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder's business or by a government, governmental subdivision, agency, or instrumentality. The term "property":

(1) Includes all income from or increments to the property;

(2) Includes property referred to as or evidenced by:

- a. Money, virtual currency, interest, dividend, a check, draft, deposit, or payroll card;
  - b. A credit balance, customer's overpayment, stored-value card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or unidentified remittance;
  - c. A security except for:
    - 1. A worthless security; or
    - 2. A security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold, or restriction restricts the holder's or owner's ability to receive, transfer, sell, or otherwise negotiate the security;
  - d. A bond, debenture, note, or other evidence of indebtedness;
  - e. Money deposited to redeem a security, make a distribution, or pay a dividend;
  - f. An amount due and payable under the terms of an annuity contract or insurance policy; and
  - g. An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit-sharing, employee-savings, supplemental-unemployment insurance, or similar benefits; and
- (3) Does not include:
- a. Property held in a plan described in section 529A of the Federal Internal Revenue Code of 1986, as amended, 26 USC 529A;
  - b. Game-related digital content;
  - c. A loyalty card;
  - d. A paper certificate that is redeemable upon presentation for goods or services; or
  - e. Unclaimed capital credit payments held by cooperative electric associations and telephone cooperatives.

<sup>119</sup>~~Unclaimed property~~ means any intangible property ~~as defined by C.R.S. § 38-13-102~~, including any

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<sup>119</sup> Neither "unclaimed property" nor "intangible property" are defined in C.R.S. 38-13-102. This is the definition of property if the town would like to include it: **Town accepted via email 10/28.**

income or increment derived therefrom, less any lawful charges, that is held by or under the control of the municipality and which has not been claimed by its owner for a period of more than one year after it became payable or distributable.

(Code 1999, § 3.20.020; Ord. No. 387, (part), 1992)

#### **Sec. 16.12.030. Procedure for disposition of property.**

(a) Prior to disposition of any unclaimed property having an estimated value of \$50.00 or more, the director shall send a written notice by certified mail, return receipt requested, to the last known address, if any, of any owner of unclaimed property. The last known address of the owner shall be the last address of the owner as shown by the records of the municipal department or agency holding the property. The notice shall include a description of the property, the amount or estimated value of the property, and, when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the director with a written claim for the return of the property within 60 days of the date of the notice, the property shall become the sole property of the town and any claim of the owner to such property shall be deemed forfeited.

(b) Prior to disposition of any unclaimed property having an estimated value of less than \$50.00 or having no last known address of the owner, the director shall cause a notice to be published once a week for two consecutive weeks in a newspaper of general circulation in the municipality. The notice shall include a description of the property, the owner of the property, the amount or estimated value of the property, and when available, the purpose for which the property was deposited or otherwise held. The notice shall state where the owner may make inquiry of or claim the property. The notice shall also state that if the owner fails to provide the director with a written claim for the return of the property within 60 days of the date of the publication of the notice, the property shall become the sole property of the municipality and any claim of the owner to such property shall be deemed forfeited.

(c) If the director receives no written claim within the above 60-day claim period, the property shall become the sole property of the town and any claim of the owner to such property shall be deemed forfeited.

(d) If the director receives a written claim within the 60-day claim period, the director shall evaluate the claim and give written notice to the claimant within 90 days thereof that the claim has been accepted or denied in whole or in part. The director may investigate the validity of a claim and may request further supporting documentation from the claimant prior to disbursing or refusing to disburse the property.

(e) In the event that there is more than one claimant for the same property, the director may, in the director's sole discretion, resolve said claims, or may resolve such claims by depositing the disputed property with the registry of the district court in an interpleader action.

(f) In the event that all claims filed are denied, the property shall become the sole property of the town and any claim of the owner of such property shall be deemed forfeited.

(g) Any legal action filed challenging a decision of the director shall be filed pursuant to Rule 106 of the Colorado Rules of Civil Procedure within 30 days of such decision or shall be forever barred. If any legal action is timely filed, the property shall be disbursed by the director pursuant to the order of the court having jurisdiction over such claim.

(h) The director is authorized to establish and administer procedures for the administration and disposition of unclaimed property consistent with this chapter, including compliance requirements for other municipal officers and employees in the identification and disposition of such property.

(Code 1999, § 3.20.030; Ord. No. 387, (part), 1992)

#### **Sec. 16.12.040. Disposal of unclaimed property.<sup>120</sup>**

(a) The director, ~~within not earlier than three~~ two years after the receipt of unclaimed property, shall sell it

<sup>120</sup> We recommend modifying this provision to comply with C.R.S. 38-13-701. **Town accepted via email 10/28.**

to the highest bidder at public sale in the town. Such sale must be preceded by at least a single publication of notice, and if the sale is to be conducted other than on the internet, the notice must be published at least three weeks but not more than five weeks in advance of the sale, in a newspaper of general circulation in the town. If, in the judgment of the director, the probable cost of sale exceeds the value of the property it need not be offered for sale.

(b) Any unclaimed property not sold at a public sale shall then be offered to a nonprofit organization operating within the county.

(c) The purchaser of property at any sale conducted by the director pursuant to this chapter takes the property free of all claims of the owner, ~~or a previous holder, or a person claiming through the owner or holder, then of record and of all persons claiming through or under them.~~

(Code 1999, § 3.20.040; Ord. No. 387, (part), 1992)

#### **Sec. 16.12.050. Disposition of funds from sale of abandoned property.<sup>121</sup>**

All monies collected under this chapter shall be credited to such fund of the town as the Town Council Board ~~of Trustees of the town~~ may, in its sole discretion, decide.

(Code 1999, § 3.20.050; Ord. No. 387, (part), 1992)

### **CHAPTER 16.16. EXCISE TAX**

#### **Sec. 16.16.010. Title and intent.**

This chapter shall be known and referred to as the "Town Excise Tax." The legislative intent of the Town Council is that an excise tax be imposed on the first sale or transfer of marijuana by a marijuana cultivation facility, as that term is defined by section 8.16.020, within the town. The purpose of this tax is to increase the revenue base for the town for uses determined reasonable and necessary by the Town Council. Revenues from the tax shall be deposited in the general fund and shall be available to pay for the general expenses of government.

(Code 1999, § 3.16.010; Ord. No. 668, (exh. A), 9-3-2015)

#### **Sec. 16.16.020. 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:

*Average market rate* means the amount determined by the state pursuant to C.R.S. § 39-28.8-101(4) or such alternate amount as may be determined by the town manager as the average price of unprocessed retail marijuana that is sold or transferred from retail marijuana cultivation facilities to other retail marijuana establishments, and the average price of unprocessed medical marijuana that is sold or transferred from medical marijuana cultivation facilities to other medical marijuana establishments and individuals.

(B) ~~"Person" means a corporation, firm, other body corporate, partnership, association or individual, including an agent, subsidiary corporation, executor, administrator, trustee or receiver or other representative acting in a representative capacity.~~

*Vendor* means a marijuana cultivation facility, as that term is defined by section 8.04.020.

(Code 1999, § 3.16.020; Ord. No. 668, (exh. A), 9-3-2015)

#### **Sec. 16.16.030. Imposition and rate of tax.<sup>122</sup>**

~~On and after May 1, 2021,~~ There is levied and shall be paid and collected an excise tax of three percent and up to 15 percent thereafter on the average market rate of unprocessed marijuana that is sold by or transferred from a vendor.

<sup>121</sup> Is this currently how the town handles the funds from sales? **Confirmed at conference.**

<sup>122</sup> We recommend striking the outdated language as no longer necessary. **Agreed at conference and wanted to ST "2016".**

(Code 1999, § 3.16.030; Ord. No. 668, (exh. A), 9-3-2015; Ord. No. 704, § 1, 4-15-2021)

**Sec. 16.16.040. Vendor liability for collecting the tax.**

(a) Each vendor shall pay the tax imposed in section 16.16.030 on every sale or transfer of marijuana from the vendor.

(b) The burden of proving that any transaction is not subject to the tax imposed by this chapter is upon the person upon whom the duty to collect the tax is imposed.

(c) All sums of money paid as the excise tax imposed by this chapter are public monies that are the property of the town. The person required to collect and remit the excise tax shall hold such monies in trust for the sole use and benefit of the town until paying them to the town.

(Code 1999, § 3.16.040; Ord. No. 668, (exh. A), 9-3-2015)

**Sec. 16.16.050. Sales tax license required.**<sup>123</sup>

No vendor within the town shall engage in business ~~beginning January 1, 2016~~, without first obtaining a town sales tax license.

(Code 1999, § 3.16.050; Ord. No. 668, (exh. A), 9-3-2015)

**Sec. 16.16.060. Collection and reporting.**

Every vendor with a duty to collect the excise tax shall collect the tax on behalf of the town and shall act as a trustee therefor. The tax shall be collected from purchasers and remitted to the town clerk on or before the 20th day of the month succeeding the month in which the tax has been paid and collected. Every vendor shall make a monthly report which shall be submitted at the same time the collected tax is remitted. A return must be filed even if no sales or transfers were made or if no tax is due for the period. Returns with a "zero" tax must be filed to avoid non-filer notices and penalty assessments. Such reports shall be upon such forms as may be provided by the town clerk.

(Code 1999, § 3.16.060; Ord. No. 668, (exh. A), 9-3-2015)

**Sec. 16.16.070. Duty of vendors to keep records.**

Vendors shall maintain adequate records at the vendor's place of business within the town and such records shall be open to inspection by the town clerk during reasonable business hours. All such records shall be maintained by vendors for a period of not less than three years.

(Code 1999, § 3.16.070; Ord. No. 668, (exh. A), 9-3-2015)

**Sec. 16.16.080. Failure to pay or make return; remedial action by town.**

(a) If any vendor makes a return as required by this chapter without paying the excise tax due, or neglects or refuses to make a return and pay the excise tax, such vendor shall be liable to the town for the tax and a penalty in addition to such tax in the amount of ten percent of the tax due. The penalty imposed in this section shall become immediately due and payable and the town shall give the delinquent vendor written notice of the estimated tax and penalty, which notice shall be served personally upon the vendor or mailed to the vendor by certified mail at the address reflected on the vendor's sales tax license application.

(b) If any vendor fails to produce records suitable in the reasonable judgment of the town clerk to determine the amount of excise tax due, the town clerk shall make an estimate of the amount of the excise tax due, based upon an examination of the vendor's books and records, or upon any other information within the possession of the town clerk. Promptly thereafter, the town clerk shall furnish the delinquent vendor with written notice of such estimated tax and penalty, which notice shall be served personally upon the vendor or mailed to the vendor by certified mail at the address of the taxable premises as reflected on the sales tax license application for such premises.

(c) If payments are not made by the vendor within 15 days after the furnishing of written notice, the town clerk shall cause action to be taken for collection of all excise tax due including, without limitation, any and all

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<sup>123</sup> We recommend striking the outdated language as no longer necessary.

penalties assessed thereon, interest on the unpaid tax at a rate of five percent per month, the cost of collection and reasonable attorney's fees incurred in connection therewith. The vendor's sales tax license may also be revoked.

(Code 1999, § 3.16.080; Ord. No. 668, (exh. A), 9-3-2015)

#### **Sec. 16.16.090. Administration.**

Administrative duties under this chapter shall be the responsibility of the town clerk.

(Code 1999, § 3.16.090; Ord. No. 668, (exh. A), 9-3-2015)

#### **Sec. 16.16.100. Town employee conflicts of interest prohibited.**

No deputy, agent, clerk, or other officer or employee of the town engaged in any activity governed by this chapter shall engage in the business or profession of tax accounting or accept employment with or without compensation from any person holding a sales tax license from the town for the purpose, directly or indirectly, of preparing tax returns or reports required by the town, the state, its political subdivisions, any other state or the United States, or accept any employment for the purpose of advising, preparing materials or data or auditing books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the town, the state, its political subdivisions, any other state, its political subdivisions or the United States.

(Code 1999, § 3.16.100; Ord. No. 668, (exh. A), 9-3-2015)

#### **Sec. 16.16.110. Use of revenues.**

All revenues derived from the excise tax, less costs of collection and administration, shall be accounted for separately from other town revenues. Excise tax revenues may be appropriated and expended upon authorization by the Town Council for uses determined reasonable and necessary by the Town Council.

(Code 1999, § 3.16.110; Ord. No. 668, (exh. A), 9-3-2015)

#### **Sec. 16.16.120. Right to amend article.**

The Town Council shall have the right to amend or repeal the provisions of this chapter, including all provisions regarding collection, administration, use and enforcement of the excise tax, except that the amount of the tax and events subject to the tax as approved by the voters on November 3, 2015, shall not be increased, expanded or broadened without additional voter approval.

(Code 1999, § 3.16.120; Ord. No. 668, (exh. A), 9-3-2015)

### **CHAPTER 16.20. EMERGENCY TELEPHONE CHARGE**

#### **Sec. 16.20.010. Authority.<sup>124</sup>**

Authority is granted by the ~~Board of Trustees~~ Town Council ~~of the town~~ for the county to collect such emergency telephone service charge imposed by this chapter on behalf of the town, and to expend such funds pursuant to C.R.S. §§ 29-11-~~101~~100.5 through 105 and the 2000 ComBoard IGA for the purpose of administration of emergency telephone services within the town.

(Code 1999, § 3.10.010; Ord. No. 495, § 1(part), 2000)

#### **Sec. 16.20.020. Intergovernmental agreement.**

The intergovernmental agreement (2000 ComBoard IGA) authorizes the board of county commissioners to be responsible for administering emergency telephone services throughout the county, subject to recommendation of the ComBoard and ComBoard subcommittee.

(Code 1999, § 3.10.020; Ord. No. 495, § 1(part), 2000)

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<sup>124</sup> C.R.S. 29-11-100.5 was repealed in 2020, we will correct citations. **Town accepted.**

**Sec. 16.20.030. Levy of fee.**

The board imposes an emergency telephone service charge in the amount of \$0.70 per month <sup>125</sup> "exchange access facility," as defined in C.R.S. § 29-11-101(3), and per "wireless communications access," as defined in C.R.S. § 29-11-101(13), within the corporate limits of the town. The monthly charge authorized and established herein shall not be construed to permit any duplication or multiple imposition of the monthly charge upon any exchange access facility or wireless communications access situated concurrently within the incorporated portion of the town and the jurisdiction of any special district party to the 2000 ComBoard IGA.

(Code 1999, § 3.10.030; Ord. No. 495, § 1(part), 2000)

**Sec. 16.20.040. Collection of fees.**

Such emergency telephone service charge shall be collected and expended on behalf of the town by the county pursuant to the provisions of C.R.S. §§ 29-11-~~101~~400.5 through 105 and the provisions of the 2000 ComBoard IGA, and under the direction of the ComBoard subcommittee serving in its capacity as E-911 Authority under the terms of the 2000 ComBoard IGA. The imposition and collection of the emergency telephone charge for wireless communications accesses within the town shall commence immediately upon the effective date of the ordinance codified in this chapter, and, as necessary, the execution of any contracts or arrangements between the county, upon recommendation of the ComBoard subcommittee, and any basic emergency service providers, service suppliers, and equipment suppliers.

(Code 1999, § 3.10.040; Ord. No. 495, § 1(part), 2000)

**CHAPTER 16.24. SALES TAX****Sec. 16.24.010. Definitions.**

For the purpose of this chapter, the definition of words herein contained shall be defined in ~~Part 102, Article 26, Title 39, Colorado Revised Statutes, 1973~~ C.R.S. 39-26-102, as amended, and said definitions are incorporated hereby by this reference.

(Code 1999, § 3.04.010; Ord. No. 351, (part), 1987)

**Sec. 16.24.020. Schedules of sales tax.**

(a) There is hereby imposed on all sales of tangible personal property at retail and the furnishing of services as provided in C.R.S. § 39-26-104, as amended, a tax equal to four ~~and one-half~~ percent of the gross receipts of sales and services consummated within the limits of the town.

(b) The tangible personal property and services taxable by this chapter shall be the same as the tangible personal property and services taxable pursuant to C.R.S. § 39-26-104, as amended. The imposition of the tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the state department of revenue and by ordinance of the town.

(c) The collection, administration and enforcement of this sales tax shall be performed by the director of revenue of the state under the same manner as the collection, administration and enforcement of the state sales tax. The provisions of C.R.S. ~~C.R.S. § 39-26-101 et seq. Article 26, Title 39,~~ as amended hereafter, and all rules and regulations promulgated by the director of revenue shall govern the collection, administration and enforcement of the sales tax imposed by this chapter.

(d) Every retailer or vendor shall, irrespective of the provisions of other sections of this chapter, be liable and responsible for the payment of an amount equivalent to four ~~and one-half~~ percent of all sales made by him of tangible personal property or services specified in this chapter and shall remit an amount equivalent to said four ~~and one-half~~ percent to the director of revenue of the state, as collecting agent for the town.

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<sup>125</sup> "Exchange access facilities" and "wireless communications access" are no longer defined in C.R.S. 29-11-101. Does the town want to add definitions or strike this portion of the provision? **Town elected to ST now outdated language at conference.**

**126**(e) For each license issued under the provisions of this chapter, a fee in an amount to be decided by the Town Council from time to time of five dollars (\$5.00) shall be paid and shall accompany the application. A further fee in an amount to be decided by the Town Council from time to time of five dollars (\$5.00) shall be paid for each calendar year or fraction thereof for which said license is renewed.

(f) No license shall be transferable.

(Code 1999, § 3.04.020; Ord. No. 351, (part), 1987, Ord. No. 461, 1997; Ord. No. 674, (exh. A), 6-16-2016)

#### **Sec. 16.24.030. General provisions and exemptions from taxation.**

(a) The tangible personal property and services taxable pursuant to this chapter shall be the same as the tangible personal property and services taxable pursuant to § 39-26-104, C.R.S., ~~1973~~, and subject to the same exemptions ~~as those specified in § 39-26-114, C.R.S., 1973, except the exemption allowed by § 39-26-114(11), C.R.S., 1973, for purchases of machinery or machine tools, the exemption of sales and purchases of those items in § 39-26-114(1)(a)(XXI), C.R.S., 1973, and the exemption for sales of food specified in § 39-26-114(1)(a)(XX), C.R.S., 1973.~~ **127**

(b) The amount subject to tax under this chapter shall not include the amount of any sales or use tax imposed by ~~Article 26 of Title 39, Colorado Revised Statutes, 1973~~ C.R.S. § 39-26-101 et seq.

(c) For the purpose of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to a destination outside the town or to a common carrier for delivery to a destination outside the limits of the town.

(d) The gross receipts from such sales shall include delivery charges when such charges are subject to the state sales and use tax imposed by ~~Article 26 of Title 39, C.R.S., 1973~~ C.R.S. § 39-26-101 et seq., as amended, regardless of the places to which delivery is made.

(e) In the event a retailer has no permanent place of business in the town or has more than one place of business, the place at which the retail sales are consummated for the purposes of a sales tax imposed by this chapter shall be determined by the provisions of ~~Article 26 of Title 39, C.R.S., 1973~~ C.R.S. § 39-26-101 et seq., as amended, and by rules and regulations promulgated by the state department of revenue.

(f) Notwithstanding any other provision of ~~Article 2 of Title 29, C.R.S., 1973~~ C.R.S. 29-2-101 et seq., as amended, the value of construction and building materials on which a use tax has previously been collected by an incorporated town, city or county, shall be exempt from the sales tax of the town if the materials are delivered by the retailer or his agent to a site within the limits of the town.

(g) For purposes of this chapter, all sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from the sales tax of the town when such sales meet both of the following conditions:

- (1) The purchaser is a nonresident of or has his principal place of business outside the town; and
- (2) Such personal property is registered or required to be registered outside the limits of the town under the laws of the state.

(Code 1999, § 3.04.030; Ord. No. 351, (part), 1987)

**126** We recommend not including specific fee amounts in your published code, as they can quickly become outdated and are harder to amend if they appear within your published code. Instead, we recommend inserting generic language and then moving the fees to appear within the town fee schedule the clerk (or someone else) can then maintain. **Town agreed via email 10/28.**

**127** C.R.S. 39-26-114 was repealed in 2004. If there is another citation the town would like to list here please let us know. FYI Sales and Use Exemptions appear in C.R.S. 39-26-701 et seq. **Town agreed to add exemptions via email 10/28.**



**Sec. 16.24.040. Right of retailer to retain vendor's fee.**<sup>128</sup>

(a) Every retailer shall be entitled to have and to retain a vendor's fee equal to the amount allowed by state law ~~three and one third percent (3 1/3 %)~~ of the sales tax herein imposed.

(b) If the retailer is delinquent in the payment of sales taxes collected, he shall not be entitled to retain the vendor's fee.

(Code 1999, § 3.04.040; Ord. No. 351, (part), 1987)

**Sec. 16.24.050. Penalty.**

Any person convicted of violating any of the provisions of this chapter shall be punished in accordance with the provisions of ~~Article 26 of Title 39, Colorado Revised Statutes, 1973~~ C.R.S. 39-26-101 et seq., as amended.

(Code 1999, § 3.04.050; Ord. No. 351, (part), 1987)

**Sec. 16.24.060. ~~Election and. Amendments.~~**<sup>129</sup>

~~— Upon adoption of the Ordinance codified in this chapter by the Board of Trustees of the town of Hayden, this Ordinance shall be submitted to an election by the registered electors of the town of Hayden for their approval or rejection. There being no regular election within 90 days of the adoption of this Ordinance, such election shall be held on the 5th day of January, 1988, and shall be conducted in the manner provided in the "Colorado Municipal Election Code of 1965," C.R.S. Article 10 of Title 31, as amended.~~

The ~~Council Board of Trustees~~ may amend, alter or change the ordinance codified in this chapter, except as to the four ~~and one half~~ percent rate of tax herein imposed, subject to adoption by a majority vote of the Town Council Board of Trustees. Such amendment, alteration or change need not be submitted to the electors of the town for their approval.

(Code 1999, § 3.04.060; Ord. No. 351, (part), 1987; Ord. No. 674, (exh. A), 6-16-2016)

**3.04.065. ~~Effective date of tax.~~**<sup>130</sup>

~~Upon approval of the sales tax rate increase from 4.0% to 4.5%, referred to Town electors by Ordinance No. 674 and approved by Town electors at the November 8, 2016 regular Town election, the sales tax rate of 4.5% shall become effective and enforced on the first day of January, 2017, and shall apply to all transactions subject to such tax made on or after such date.~~

(Code 1999, § 3.04.065; Ord. 351(part), 1987; Ord. No. 674, (exh. A), 6-16-2016)

**3.04.070. ~~Repeal.~~**<sup>131</sup>

~~On January 1, 2017, and after approval of the tax increase imposed by this chapter by the registered electors of the town of Hayden, all parts of Ordinances of the town of Hayden in conflict herewith shall be deemed repealed. In the event that the tax increase imposed by this chapter is not approved by the registered voters of the town of Hayden, or does not become effective on January 1, 2017 for any reason, or is declared invalid by a court, all prior Ordinances shall remain in full force and effect. The repeal, revision or amendment of Ordinances by this chapter shall not have the effect to release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or~~

<sup>128</sup> We recommend modifying this provision to comply with C.R.S. 39-26-105(1)(d)(I). **Town agreed via email 10/28.**

<sup>129</sup> Assuming this election was held in January of 1988, we recommend deleting this now outdated language. **Town agreed via email 10/28.**

<sup>130</sup> We don't believe this provision is necessary to codify, as it is administrative in nature and section 3.04.020 reflects the increase mentioned in this provision. **Town agreed via email 10/28.**

<sup>131</sup> Assuming the tax increase was approved in 2017, we recommend striking this provision as now obsolete. **Town confirmed that increase was NOT approved, tax rate is 4% via email 10/28.**

~~liability, either civil or criminal, which shall have been incurred under such an Ordinance; and such Ordinance or part of an Ordinance or section of an Ordinance so repealed, amended or revised shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, criminal as well as civil, for the enforcement of such penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions imposing, inflicting or declaring such penalty, forfeiture or liability.~~

~~(Code 1999, § 3.04.070; Ord. 351(part), 1987; Ord. No. 674, (exh. A), 6-16-2016)~~

## **CHAPTER 16.28. TELEPHONE UTILITY TAX\***

**\*State law reference**—Statutory provisions on the power of municipalities to license, regulate and tax any lawful occupation, C.R.S. 1973 § 31-15-501(c) (1975 Supp.).

### **Sec. 16.28.010. Levy of tax.**

There is levied against every telephone utility which is engaged in the business of furnishing local exchange of telephone service within the town a tax privilege of engaging in such business. The amount of such tax shall be \$1,200.00 annually for each year ~~subsequent to 1976.~~ <sup>132</sup>

(Code 1999, § 3.08.010; Ord. No. 220, § 1, 1976)

### **Sec. 16.28.020. Payment of tax.**

The tax levied by this chapter shall be due on the first day of January of each year. The tax shall be payable ~~for years subsequent to 1976~~ in 12 equal monthly installments, each installment to be paid on the last business day of each calendar month.

(Code 1999, § 3.08.020; Ord. No. 220, § 2, 1976)

### **Sec. 16.28.030. Inspection of records.**

The town, and its officers, agents or representatives, shall have the right, at any reasonable time, to examine the books and records of any telephone utility which is subject to the tax imposed by this chapter, and to make copies of the entries or contents thereof.

(Code 1999, § 3.08.030; Ord. No. 220, § 3, 1976)

### **Sec. 16.28.040. Purpose of tax locally.**

The tax provided in this chapter is upon the affected occupations and business in their performance of local functions and is not a tax upon those functions relating to interstate commerce.

(Code 1999, § 3.08.040; Ord. No. 220, § 4, 1976)

### **Sec. 16.28.050. Failure to pay tax.**

If any telephone utility subject to this chapter fails to pay the taxes as provided herein, the full amount thereof shall be due and collected from such company, and the same, together with an addition of ten percent of the amount of taxes due, shall be a debt due and owing from such utility to the town.

(Code 1999, § 3.08.050; Ord. No. 220, § 5, 1976)

### **Sec. 16.28.060. Certain offenses and liabilities to continue.**

All offenses committed and all liabilities incurred prior to the effective date of the ordinance codified in this chapter shall be treated as though all prior applicable ordinances and amendments thereto were in full force and effect for the purpose of sustaining any proper suit, action or prosecution with respect to such offenses and liabilities.

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<sup>132</sup> We recommend striking this language as outdated and no longer necessary. **Town agreed via email 10/28.**

**133** ~~All taxes, the liability for which has been accrued under the terms and provisions of Ordinance No. 174 on or before the effective date of the ordinance codified in this chapter, shall be and remain unconditionally due and payable, and shall constitute a debt to the town payable in conformity with the terms and provisions of Ordinance No. 174 prior to the adoption of the ordinance codified in this chapter; and all of the terms and provisions of Ordinance No. 174 shall be and remain in full force and effect for the purpose of the collection and payment of any and all such taxes due and payable thereunder, notwithstanding the provisions of this chapter.~~

(Code 1999, § 3.08.060; Ord. No. 220, § 6, 1976)

#### **Sec. 16.28.070. Tax in lieu of other occupation taxes.**

The tax provided in this chapter shall be in lieu of all other occupation taxes, or taxes on the privilege of doing business within the town, on any telephone utility subject to the provisions of this chapter.

(Code 1999, § 3.08.070; Ord. No. 220, § 7, 1976)

### **CHAPTER 16.32. USE TAX**

#### **Sec. 16.32.010. Purpose; applicability.**

The purpose of this chapter is to raise revenues and provide a companion tax to the sales tax. The tax imposed herein is a use tax on the use, storage or consumption within the town of construction and building materials purchased at retail outside the town-by-town residents for use, storage or consumption within the town. The legal authority for the ordinance codified herein is contained in ~~Title 29, Article 2, C.R.S. § 29-2-101 et seq.~~

(Code 1999, § 3.06.010; Ord. No. 587, § 1, 2007)

#### **Sec. 16.32.020. Definitions.**

For the purpose of this chapter, the definitions of terms herein contained are as defined in ~~section C.R.S. 39-26-102, C.R.S.~~

(Code 1999, § 3.06.020; Ord. No. 587, § 1, 2007)

#### **Sec. 16.32.030. Exceptions.**

Pursuant to ~~section C.R.S. § 29-2-109, C.R.S.~~, as amended, this tax, known as a use tax, shall not apply:

- (1) To the storage, use or consumption of any tangible personal property, the sale of which is subject to a retail sales tax imposed by the town;
- (2) To the storage, use or consumption of any tangible personal property purchased for resale in the town, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of business;
- (3) To the storage, use or consumption of tangible personal property brought into the town by a nonresident thereof for his own storage, use or consumption while temporarily within the town; however, this exemption does not apply to the storage, use or consumption of tangible personal property brought into this state by a nonresident to be used in the conduct of a business in the state;
- (4) To the storage, use or consumption of tangible personal property by the United States Government, the state or its institutions or its political subdivisions, in their governmental capacities only, or by religious or charitable corporations in the conduct of their regular religious or charitable functions;
- (5) To the storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit or use any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or furnished shipping case thereof;

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**133** **Ord. no. 174 was repealed by ord. no. 220, so we have struck the now outdated language.**

- (6) To the storage, use or consumption of any article of tangible personal property, the sale or use of which has already been subjected to a legally imposed sales or use tax of another statutory or home rule town, city or county equal to or in excess of that imposed by this chapter. A credit shall be granted against the use tax imposed by this chapter with respect to a person's storage, use or consumption in the town of tangible personal property purchased by him elsewhere. The amount of the credit shall be equal to the tax paid by him by reason of the imposition of a sales or use tax of another town, city or county on his purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this chapter;
- (7) To the storage, use or consumption of tangible personal property and household effects acquired outside of the town and brought into it by a nonresident acquiring residency;
- (8) To the storage, use or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let or entered into at any time prior to the effective date of such use tax ordinance; or
- (9) To any sales which the town is prohibited from taxing under the Constitution or laws of the United States or the constitution of the state.

(Code 1999, § 3.06.030; Ord. No. 587, § 1, 2007)

#### **Sec. 16.32.040. Construction and building materials; collection, administration and enforcement.**

(a) For construction and building materials, the use tax imposed by this chapter shall be collected in full prior to issuance of a building permit. The use tax shall be collected by the authorized building department. The ~~Board of Trustees~~ Town Council is hereby authorized to adopt all rules and regulations that may be necessary or appropriate for the collection, administration and enforcement of the use tax on construction and building materials.

(b) For purposes of determining the use tax for construction and building materials, the total valuation, including general contract costs and mechanical, electric and plumbing contract costs, shall be deemed to be the purchase price of such construction and building materials.

(Code 1999, § 3.06.040; Ord. No. 587, § 1, 2007)

#### **Sec. 16.32.050. Refund for overpayment.**

Upon completion of the construction or building project, the taxpayer may apply to the town ~~Treasurer~~ finance manager for a refund for any overpayment of the use tax for construction and building materials, the tax having been computed upon an estimation of value, such application to be supported by a documented itemization of the actual purchases made for construction and building materials actually used or consumed in the project for which the building permit was issued and upon which the tax was paid.

(Code 1999, § 3.06.050; Ord. No. 587, § 1, 2007)

#### **Sec. 16.32.060. Appeal.**

After exhausting all local remedies, a taxpayer may elect to appeal a use tax assessment or claim for a refund to the state department of revenue, pursuant to C.R.S. § 29-2-106.1(3). A notice of this right shall be included in any notice of assessment or denial of refund in clear and conspicuous type.

(Code 1999, § 3.06.060; Ord. No. 587, § 1, 2007)

#### **Sec. 16.32.070. Lien on property.**

If any person fails to pay the use tax within ten days after it is due, the town ~~Treasurer~~ finance manager or a designee thereof shall issue a notice setting forth the name of the taxpayer, the amount of the use tax owed, the date of the accrual thereof and that the town claims a first and prior lien therefor on the real and personal property of the taxpayer, except as to preexisting liens of a bona fide mortgagee, pledgee, judgment creditor or purchasers ~~purchases~~, which right has attached prior to the filing of the notice as hereinafter provided. The notice shall be on forms prepared by the town ~~Treasurer~~ finance manager or a designee thereof and, when filed in the office of the clerk and recorder of any county in the state in which the taxpayer owns real or personal property, such notice shall create a lien as aforesaid on such property in that county and constitute a notice thereof.

(Code 1999, § 3.06.070; Ord. No. 587, § 1, 2007)

**Sec. 16.32.080. Funds deposited.**

All funds received pursuant to this chapter shall be deposited in the town's general fund.

(Code 1999, § 3.06.080; Ord. No. 587, § 1, 2007)

**Sec. 16.32.090. Amendments.**

Except as to the use tax rate provided for in this chapter, and the items taxed and exempted from the use tax hereunder, the ~~Board of Trustees~~ Town Council may amend, alter, delete or change the provisions of this chapter by the adoption of an amending ordinance in accordance with law. Such amendment, alteration, deletion or change need not be submitted to the electors of the town for their approval.

(Code 1999, § 3.06.090; Ord. No. 587, § 1, 2007)

**Sec. 16.32.100. Violation, penalty.**

It shall be a violation of this chapter for any person who, by this chapter, is required to make any return or pay any tax to fail or refuse to make any return or pay any tax required to be made or paid by this chapter; to make any false or fraudulent return or any false statements in any return; to fail or refuse to make payment to the finance manager ~~Town Treasurer~~, town clerk or county clerk of any taxes collected or due the town; or in any manner to evade the collection of any payment of the tax, or any part thereof, imposed by this chapter; or for any person or purchaser to fail or refuse to pay such tax or evade the payment thereof or to aid or abet another in any attempt to evade the payment of the tax imposed by this chapter. Any corporation or officer thereof making a false return or a return containing a false statement shall be guilty of a violation of this chapter and shall be punished as set forth in section 1.12.010.

(Code 1999, § 3.06.100; Ord. No. 587, § 1, 2007)

**CHAPTER 16.36. VEHICLE RENTAL TAX****Sec. 16.36.010. Title and intent.**

This chapter shall be known as and referred to as the "Town of Hayden Vehicle Rental Tax." The legislative intent of the Town Council is to allow the town to assist in the funding of services and facilities enjoyed by the visitors to the town who use vehicle rentals in the town by imposing a tax to be collected by vendors renting vehicles.

(Code 1999, § 3.14.010; Ord. No. 623, § 1, 2009)

**Sec. 16.36.020. 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:

~~C. "Person" means a corporation, firm, other body corporate, partnership, association or individual, including an agent, subsidiary corporation, executor, administrator, trustee or receiver or other representative acting in a representative capacity.~~

*Purchase price* means the total amount of rent or compensation paid for rental.

*Purchaser* means a person to whom the vehicle is furnished.

*Vehicle* means any vehicle or device in, upon or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or flight in the air. The term "vehicle" includes, but is not limited to, motor vehicles, trailers, semitrailers, mobile homes and aircraft. The term "vehicle" shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

*Vehicle rental tax* means the tax on vehicles rented as authorized by this chapter.

*Vendor* means a person furnishing vehicle.

(Code 1999, § 3.14.020; Ord. No. 623, § 1, 2009)

**Sec. 16.36.030. Tax levied.**<sup>134</sup>

~~On or after January 1, 2010,~~ The town hereby levies a vehicle rental tax of 3 1/2 percent of the purchase price for rental of vehicles in addition to the sales tax already collected:

- (1) Within the town; or
- (2) That is managed, contracted or leased by a person engaged in the vehicle rental business within the town.

(Code 1999, § 3.14.030; Ord. 623 § 1, 2009)

**Sec. 16.36.040. Liability for collecting tax.**

(a) It shall be a violation for any purchaser to fail to pay the vehicle rental tax or for any vendor to fail to collect the vehicle rental tax.

(b) It shall be the responsibility of a vendor claiming that a vehicle rental purchase is not subject to the vehicle rental tax to prove that the transaction is exempt or otherwise not taxable.

(Code 1999, § 3.14.040; Ord. 623 § 1, 2009)

**Sec. 16.36.050. Exemptions.**

The tax imposed in this chapter shall not apply to the following individuals or entities and under the following specific circumstances:

- (1) Vehicles commonly used in the construction, maintenance and repair of roadways, buildings or homes;
- (2) Any rental of a vehicle to a person who enters into a written agreement for a period of at least 30 consecutive days;
- (3) If the purchaser is an agency, subdivision or department of the federal government or the government of the state or one of its political subdivisions and is renting a vehicle in a governmental capacity or in direct pursuit of its governmental functions and activities; or
- (4) If the purchaser is a religious, charitable or quasi-governmental organization, but only in the conduct of its regular religious, charitable and quasi-governmental capacities and only if such organization has obtained an exempt organization license and furnishes the exempt tax license to the person who rents vehicles to the organization.

(Code 1999, § 3.14.050; Ord. 623 § 1, 2009)

**Sec. 16.36.060. Sales tax license required.**<sup>135</sup>

No vendor located within or providing vehicle rentals within the town shall engage in such business ~~beginning January 1, 2010,~~ without first obtaining a town sales tax license.

(Code 1999, § 3.14.060; Ord. 623 § 1, 2009)

**Sec. 16.36.070. Collection and reporting.**

Every vendor providing rentals subject to the vehicle rental tax shall collect the tax on behalf of the town and shall act as a trustee therefor. The tax shall be collected from purchasers and remitted to the finance director on or before the 20th day of the month succeeding the month in which the tax has been paid and collected. Every vendor shall make a monthly report which shall be submitted at the same time the collected tax is remitted. Such reports shall be upon such forms as may be provided by the finance director.

(Code 1999, § 3.14.070; Ord. 623 § 1, 2009)

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<sup>134</sup> We recommend striking the outdated language as no longer needed. **Town accepted via email 10/28.**

<sup>135</sup> We recommend striking the outdated language as no longer needed. **Town accepted.**

**Sec. 16.36.080. Duty of vendors to keep records.**

Vendors shall maintain adequate records at the vendor's place of business within the town, and such records shall be open to inspection by the finance director during reasonable business hours. All such records shall be maintained by vendors for a period of not less than three years.

(Code 1999, § 3.14.080; Ord. 623 § 1, 2009)

**Sec. 16.36.090. Failure to pay or make return; remedial action by town.**

(a) If any vendor makes a return as required by this chapter without paying the vehicle rental tax due, or neglects or refuses to make a return and pay the vehicle rental tax, such vendor shall be liable to the town for the tax and a penalty in addition to such tax in the amount of ten percent of the tax due. The penalty imposed in this section shall become immediately due and payable, and the town shall give the delinquent vendor written notice of the estimated tax and penalty, which notice shall be served personally upon the vendor or mailed to the vendor by certified mail at the address reflected on the vendor's sales tax license application.

(b) If any vendor fails to produce records suitable in the reasonable judgment of the finance director to determine the amount of vehicle rental tax due, the finance director shall make an estimate of the amount of the vehicle rental tax due, based upon an examination of the vendor's books and records, or upon any other information within the possession of the finance director. Promptly thereafter, the finance director shall furnish the delinquent vendor with written notice of such estimated tax and penalty, which notice shall be served personally upon the vendor or mailed to the vendor by certified mail at the address of the taxable premises as reflected on the sales tax license application for such premises.

(c) If payments are not made by the vendor within 15 days after the furnishing of written notice, the finance director shall cause action to be taken for collection of all taxes due, including, without limitation, any and all penalties assessed thereon, interest on the unpaid taxes at a rate of five percent per month, the cost of collection and reasonable attorney's fees incurred in connection therewith. The vendor's sales tax license may also be revoked.

(Code 1999, § 3.14.090; Ord. 623 § 1, 2009)

**Sec. 16.36.100. Administration.**

Administrative duties under this chapter shall be the responsibility of the finance director.

(Code 1999, § 3.14.100; Ord. 623 § 1, 2009)

**Sec. 16.36.110. Use of revenues.**

All revenues derived from the vehicle rental tax, less costs of collection and administration, shall be accounted for separately from other town revenues. Vehicle rental tax revenues may be appropriated and expended upon authorization by the Town Council for uses determined reasonable and necessary by the Town Council.

(Code 1999, § 3.14.110; Ord. 623 § 1, 2009)

**Sec. 16.36.120. Right to amend chapter.**

The Town Council shall have the right to amend or repeal the provisions of this chapter, including all provisions regarding collection, administration, use and enforcement of the vehicle rental tax, except that the amount of the tax and events subject to the tax as approved by the voters on November 3, 2009, shall not be increased, expanded or broadened without additional voter approval.

(Code 1999, § 3.14.120; Ord. 623 § 1, 2009)

Title 17  
**RESERVED**

PROOFS



## Title 18

**STREETS AND SIDEWALKS****CHAPTER 18.04. IN GENERAL (RESERVED)****CHAPTER 18.08. EXCAVATIONS<sup>136</sup>****~~12.08.010. Definition.~~**

~~"Person" includes a firm, partnership, corporation, association or other organization acting as a group or unit as well as an individual.~~

~~(Code 1999, § 12.08.010; Ord. No. 182, § 11, 1972)~~

**Sec. 18.08.010. Authority and supervision.**

All work on any excavation, cut, trench or opening in or under any street, sidewalk, curb, gutter, curb walk, alley or other public place within the town shall be done only on authority of a permit issued by the town clerk and under the supervision of the public works officer of the town.

(Code 1999, § 12.08.020; Ord. No. 182, § 1, 1972)

**Sec. 18.08.020. Permit--Required.**

It is unlawful for any person, other than the town and those under contract with the town, to excavate, cut, open or dig a trench in or under any street, sidewalk, curb, gutter, curb walk, alley or other public place within the town without having first obtained a permit from the public works officer.

(Code 1999, § 12.08.030; Ord. No. 182, § 2, 1972)

**Sec. 18.08.030. Permit--Application.**

Every person desiring to do any of the excavation work shall apply to the town clerk for a permit therefore on a form provided by the town, stating the applicant's name and address, the location, length, width, surface area, and purpose of the proposed excavation, the dates of commencement and completion of the work, and a statement that the work will be performed in strict compliance with the requirements of this chapter, and in accordance with the reasonable directions of the public works officer consistent with the provisions of this chapter.

(Code 1999, § 12.08.040; Ord. No. 182, § 3, 1972)

**Sec. 18.08.040. Permit--Fee.<sup>137</sup>**

A fee in an amount to be determined by the Town Council from time to time of eight dollars (\$8.00) per square yard, or fraction thereof, of surface area of the proposed excavation ~~(but not less than twenty five dollars (\$25.00))~~ shall be paid to the town clerk prior to the issuance of any excavation permit in a paved location. A fee in an amount to be determined by the Town Council from time to time of twenty five dollars (\$25.00) shall be paid to the town clerk prior to the issuance of any excavation permit in an unpaved location.

(Ord. No. 182, § 4, 1972)

**Sec. 18.08.050. Bond required.**

Every person applying for an excavation permit, and prior to the issuance thereof, shall file with the town clerk

<sup>136</sup> Does the town still have this permit? If Routt County handles this for the town we recommend striking this chapter. **Yes, public works manages it, town elected to leave as is.**

<sup>137</sup> If the town elects to keep this provision, we will delete the fee amounts, insert generic language, and the town can add these amounts to their fee schedule. **Town agreed.**

a surety bond in favor of the town in an amount to be determined by the Town Council from time to time ~~the penal sum of one thousand dollars (\$1,000.00)~~, and conditioned upon the faithful performance of such work in strict compliance with the specifications, rules, regulations and ordinances of the town, and within the specified time limits, and that such person will indemnify and save harmless the town against and from any and all damages or claims for damages, losses, costs, charges or expenses that may be brought against it by any person by reason of such work.

(Code 1999, § 12.08.050; Ord. No. 182, § 5, 1972)

#### **Sec. 18.08.060. Commencement and completion.**

All work authorized by a permit issued pursuant to this chapter shall be commenced within a reasonable time after issuance of the permit and shall be diligently and continuously performed until completion. In the event that weather, process of law, or any other unexpected obstacle causes work to be stopped for so long a time that public travel shall be unreasonably obstructed, the town public works officer may order the excavation refilled and repaved as if the work contemplated in the permit were actually completed.

(Code 1999, § 12.08.070; Ord. No. 182, § 6, 1972)

#### **Sec. 18.08.070. Barricades and lights.**

Every person making or causing to be made any excavation shall keep the excavation barricaded at all times; and between the hours of sunset and sunrise, shall keep such excavation properly lighted so as to warn all persons thereof.

(Code 1999, § 12.08.080; Ord. No. 182, § 7, 1972)

#### **Sec. 18.08.080. Sidewalks and gutters to be kept clear.**

It is unlawful for any person performing any excavation work to place any dirt or other materials upon any sidewalk or in any gutters, and such work shall be performed so as to permit the free passage of water along the gutters.

(Code 1999, § 12.08.090; Ord. No. 182, § 8, 1972)

#### **Sec. 18.08.090. Width and minimum inconvenience to public.**

No opening or excavation shall be undercut or have greater width at the bottom than at the top. In no case shall more than one-half of the width of any street, alley or other public place be opened or excavated at any one time, and, in all cases, one-half of such street, alley or other public place shall remain untouched for the accommodation of traffic until the other one-half is restored for safe use. All such work shall be performed in such way as to cause minimum inconvenience and restriction to the public and to both pedestrian and vehicular traffic.

(Code 1999, § 12.08.100; Ord. No. 182, § 9, 1972)

#### **Sec. 18.08.100. Backfill--Specifications.**

All such excavations, cuts, openings or trenches will be backfilled in conformity with the specifications set forth in the following sections 18.08.110 through 18.08.140.

(Code 1999, § 12.08.110; Ord. No. 182, § 10, 1972)

#### **Sec. 18.08.110. Backfill--Paved locations.**

Excavations in paved locations shall be filled to within three or nine inches, as the case may be, below actual pavement surface with a granular material. Where, in the opinion of the town's public works officer, it is deemed necessary to return and maintain the street to and in its original condition, a six-inch slab of concrete shall be poured in place on top of the granular material, the top of the concrete slab to be three inches below the actual pavement surface. A three-inch thick asphalt wearing surface shall be poured over the granular backfill material or concrete slab and such additional amount of asphalt as necessary to bring the roadway surface even with the unexcavated portion thereof.

(Code 1999, § 12.08.120; Ord. No. 182, Appendix (part), 1972)

**Sec. 18.08.120. Backfill--Unpaved locations.**

(a) Excavations in unpaved locations shall be filled to actual surface level with granular material.

(b) Additional amounts of such asphalt or granular material shall be added by the permittee upon the order of the town's public works officer, as may be necessary to compensate for any irregularity in the pavement surface that may occur due to settling in the area of excavation during the six months' period next following the closing of the excavation.

(Code 1999, § 12.08.130; Ord. No. 182, Appendix (part), 1972)

**Sec. 18.08.130. Backfill--Placement.**

(a) *Granular backfill.* Granular backfill material shall be deposited and spread without particle segregation in loose layers not to exceed six inches in depth. Each layer shall be thoroughly compacted to 80 percent relative density as determined by the standard bureau of reclamation "relative density tests for cohesion less free draining soil." This material shall not be placed upon a soft, spongy or frozen subgrade or subbase, or other subgrade or subbase which has an unsuitable stability in the opinion of the town's public works officer.

(b) *Concrete.* The concrete slab and any asphalt replacement pavement shall extend a minimum of six inches on each side of the excavation, and the entire length of the excavation.

(Code 1999, § 12.08.140; Ord. No. 182, Appendix (part), 1972)

**Sec. 18.08.140. Backfill--Materials.<sup>138</sup>**

(a) *Granular backfill.* Granular backfill material shall consist of hard, durable particles or fragments of stone or gravel crushed to the required size, and a filler of sand or other finely divided mineral matter. The material shall be free from vegetable matter and lumps or balls of clay and which when placed and compacted will result in a firm, dense, unyielding foundation. Granular backfill material shall meet the following grading requirements:

<i>Standard Size of Sieve</i>	<i>Percent by Weight Passing Sieve</i>
3/4-inch	100 percent
No. 4	30--60 percent
No. 10	25--50 percent
No. 200	5--12 percent
Liquid Limit	25 maximum
Plastic Limit	6 maximum

(b) *Concrete.* Concrete shall have a minimum compressive strength of 3,000 pounds per square inch after 28 days. Not less than six 94 pound sacks of cement shall be used per cubic yard of concrete. Concrete shall have a slump of not less than two inches nor more than four inches.

(Code 1999, § 12.08.150; Ord. No. 182, Appendix (part), 1972)

**Sec. 18.08.150. Violation, penalty.<sup>139</sup>**

Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor, and upon conviction, shall be subject to punishment according to section 1.12.010 ~~a fine of not to exceed three hundred dollars (\$300.00) or by imprisonment in the county jail for a period of not to exceed 90 days, or by both such fine and imprisonment.~~

<sup>138</sup> We recommend reviewing this provision and confirming that it is up to date.

<sup>139</sup> We recommend referencing the general penalty or deleting this provision completely and allowing the general penalty to control. **Reference general penalty**

(Code 1999, § 12.08.160; Ord. No. 182, § 13, 1972)

## **CHAPTER 18.12. STREETS AND SIDEWALKS\***

~~\*State law reference—For statutory provisions authorizing Municipalities authorized to provide for the construction and maintenance of sidewalks, C.R.S. 1973 § 31-15-702(1)(b)(I) (1975 Supp.); for statutory provisions allowing municipalities allowed to regulate the use of sidewalks, C.R.S. § 31-15-702(1)(a)(III) (1975 Supp.).~~

### **Sec. 18.12.010. Sidewalk construction; maintenance; notice.**<sup>140</sup>

Whenever, in the opinion of the Town Council ~~Board of Trustees~~, it shall be necessary to have built, extended or repaired any sidewalks within the limits of the town, the Town Council ~~Board of Trustees~~ shall by resolution, so declare, and require the owner of real property abutting on the street where such sidewalk is required to be built, extended or repaired, to build, extend or repair the sidewalk in front of his or their premises, within 30 days after the service of a notice so to do on such owner, or in case such owner cannot be found, then on the agent of such owner; and if no agent of such owner can be found upon whom to serve the notice, then the same may be served by posting the notice in some conspicuous place on the premises in front of which such sidewalk is required to be built, repaired or extended, and the 30 days required for notice shall begin to run from the date of posting the same. Such notices shall be issued and signed by the town clerk and shall be served by the chief of police, who shall make return thereof to the town clerk, under oath, showing in what manner and upon whom the same was served.

(Code 1999, § 12.04.010; Ord. No. 229, § 1, 1977)

### **Sec. 18.12.020. Maintenance--City action; assessment of property owner.**

Whenever the Town Council ~~Board~~ directs the construction or repair of any sidewalks as provided in section 18.12.010, the town clerk shall, immediately thereafter, notify all owners of property fronting on the same, their agents or persons having charge of such property, in writing, that an order has been made by the Town Council ~~Board~~ requiring construction or repair of such sidewalk. If such property owners do not construct or repair the same according to requirements of such order within fifteen days after the service of such notice upon them, the Town Council ~~Board~~ may order that such sidewalk be constructed or repaired and assess the cost thereof against the property fronting upon the sidewalks so constructed or repaired. The amount so assessed against each lot shall be the actual cost of constructing or repairing that portion of such sidewalk as each of the lots front upon, including the cost of serving such notices. The amount so assessed shall be a lien upon such property until the same is paid, provided, if failure to pay such assessment within ten days after the same has been made, the town clerk shall prepare a notice of such assessment to be given to the owners of all such property by publication in a newspaper published within the town for four successive weeks. This publication shall contain a notice to such property owners of the amount assessed against their property and designate a time and place when the Town Council ~~Board~~ will hear any objections as to the justness and correctness of the amount so assessed. If such assessments are not paid within ten days after the time fixed for hearing such objections, unless the same are sustained, the town clerk shall certify such assessments to the county clerk, or the officer then having the custody of the tax lists for the current year, to be collected in the same manner as other taxes are collected, with ten percent penalty thereon to defray cost of collection, as provided by the laws of the state.

(Code 1999, § 12.04.020; Ord. No. 229, § 2, 1977)

### **Sec. 18.12.030. Maintenance--Owner responsibility.**

All sidewalks in the town shall be constructed and maintained by the owners of property fronting upon the same, at their own expense.

(Code 1999, § 12.04.030; Ord. No. 229, § 3, 1977)

### **Sec. 18.12.040. Survey; owner responsibility.**

In the event the Town Council ~~Board of Trustees~~ determines that a survey is necessary to establish right-of-

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<sup>140</sup> Is this provision still in effect? Should we amend to reference the building code or residential code? **Town elected to leave provision as is.**

way boundaries prior to the construction, extension, or repair of any sidewalks within the limits of the town, all costs of such survey shall be paid by the owner of the real property abutting on the street where such sidewalk is required to be constructed, extended or repaired. In the event the owner fails to survey, the Town Council-Board may order that such survey be made and assess the owner in the same manner provided in section 18.12.020.

(Code 1999, § 12.04.040; Ord. No. 229, § 4, 1977)

#### **Sec. 18.12.050. Specifications.**

All sidewalks built, repaired or extended under the provisions of this chapter shall be done in accordance with the ~~Uniform~~ building code adopted by ~~the town~~ reference on December 2, 1976, by Ordinance No. 222, codified in Chapter 15.04 of the ~~Hayden Municipal Code~~, and in accordance with the director of public works with regard to the width and grade of the sidewalk.

(Code 1999, § 12.04.050; Ord. No. 229, § 5, 1977)

#### **Sec. 18.12.060. Removal of obstructions, generally.**

The town manager is authorized to order any article or thing whatsoever, including buildings, fences and other obstructions, which might encumber or obstruct any street, alley or public landing, to be removed. If such article or thing, building or fence or any other obstruction is not removed within six hours after notice to the owner or person in charge thereof to remove the same, or if the owner cannot be readily found for the purpose of such notice, the town manager shall cause the same to be removed to some suitable place to be designated by him, and the owner of the article so removed shall forfeit a penalty of not more than \$10.00<sup>141</sup> in addition to the cost of removal.

(Code 1999, § 12.04.060; Ord. No. 229, § 6, 1977)

#### **Sec. 18.12.070. Sale of article removed, proceeds.**

Any article or thing which may be removed in accordance with section 18.12.060, if sufficient value to more than pay expenses thereof, shall be advertised once ten days prior to the sale and sold by the town manager unless the same is sooner reclaimed, and a penalty and costs paid by the owner thereof. The proceeds of the sale shall be paid in to the ~~finance department~~ Town Treasurer<sup>142</sup> and the balance, if any, after deducting penalty and costs, shall be paid to any person making satisfactory proof of ownership.

(Code 1999, § 12.04.070; Ord. No. 229, § 7, 1977)

#### **Sec. 18.12.080. Power of ~~town marshal~~ relative to obstructions.**<sup>143</sup>

It shall be the duty of the ~~police department~~ Town Marshal to see to the enforcement of each of the provisions of this chapter, and each police officer shall, whenever there is any obstruction in any street or alley or sidewalk in violation of this chapter, endeavor to remove the same; and in case the obstruction is of such character that the same cannot readily be removed, then the police officer shall report the same to the town manager and the town manager shall have the items removed.

(Code 1999, § 12.04.080; Ord. No. 229, § 8, 1977)

#### **Sec. 18.12.090. Stoops, steps, galleries, etc.**

The town manager is authorized to cause any stoops, steps, gallery, platforms, cellar doors, stairs, signposts, fruit stands or railings erected upon or over any sidewalk, street or alley in the town to be removed within a reasonable time if notice to that effect from the town manager or any police officer has been served upon the owner, agent or other person in possession of the premises where the obstruction occurs, and the owner, agent or person causing the obstruction or permitting the same to remain after the notice shall be guilty of a violation of this chapter and shall pay all costs and expenses of the required removal.

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<sup>141</sup> Is this penalty amount up to date?

<sup>142</sup> Edit ok? **Town accepted.**

<sup>143</sup> Change marshal to police chief, **police department**, or public works department? **Town confirmed police department is correct.**

(Code 1999, § 12.04.090; Ord. No. 229, § 9, 1977)

**Sec. 18.12.100. Snow removal--Duty of abutting property owner.**

It is unlawful for the owner, occupant or agent of any lot, parcel or tract of land to permit snow to remain on the sidewalk on the street upon which such lot, parcel or tract of land abuts for a period exceeding 24 hours after termination of the falling snow.

(Code 1999, § 12.04.100; Ord. No. 229, § 10, 1977)

**Sec. 18.12.110. Snow removal--Default of owner; town may remove.**

If, at the end of the period of 24 hours referred to in section 18.12.100, the snow has not been removed from the sidewalk, the town manager may cause it to be removed.

(Code 1999, § 12.04.110; Ord. No. 229, § 11, 1977)

**Sec. 18.12.120. Snow removal--Assessments for removal by town.**

If the town manager, pursuant to the authority granted him by section 18.12.110, causes the snow to be removed from any sidewalk, the entire cost of such removal, including the cost of inspection and other incidental costs in connection therewith, shall be assessed upon the lot, parcel or tract of land abutting that sidewalk.

(Code 1999, § 12.04.120; Ord. No. 229, § 12, 1977)

**Sec. 18.12.130. Snow removal--Yearly list of assessments.**

At least once a year the town manager shall file with the town clerk a list showing the lot, parcel or tract of land, the time or times when the work of moving snow was performed, the cost of supervision and inspection of such work and the total amount to be assessed against the lot, parcel or tract of land.

(Code 1999, § 12.04.130; Ord. No. 229, § 13, 1977)

**Sec. 18.12.140. Snow removal--Notice of assessment to owner.**

Upon receipt of the list in section 18.12.130, the town clerk shall publish a notice directed to the owners of the real estate upon which assessments are to be made, without naming them, setting forth a list and notifying them that assessments will be made against such real estate unless cause is shown why such assessments should not be made at a designated regular meeting of the Town Council ~~Board~~, to be held not less than ten nor more than 20 days after the date of publication of such notice. Such notice shall further state that if the proposed assessment is made by the council after hearing, it must be paid to the town finance department ~~Town Treasurer~~ on or before 20 days after the Town Council ~~Board~~ meeting, or the assessment will be certified to the county treasurer to be levied on such lot, parcel or tract of land, and collected as general taxes, and that ten percent will be added to the assessment to pay for the publication and cost of collection.

(Code 1999, § 12.04.140; Ord. No. 229, § 14, 1977)

**Sec. 18.12.150. Snow removal--Hearing of objections and exceptions to assessments.**

At the time designated in the notice required in section 18.12.140, the Town Council ~~Board~~ shall hear all objections and exceptions to the amount proposed to be levied against each lot, parcel or tract of land as it shall deem just and proper in the premises.

(Code 1999, § 12.04.150; Ord. No. 229, § 15, 1977)

**Sec. 18.12.160. Snow removal--collection of assessment.**

In case the owner of any lot, parcel or tract of land against which the assessment authorized in section 18.12.120 has been made fails within 20 days of the making of such assessment to make payment of the amount assessed by the Town Council ~~Board~~ against the lot, parcel or tract of land, such assessment, together with a penalty of ten percent added thereto, shall be certified by the town clerk to the county ~~treasurer~~ finance manager, or officer having custody of the tax list at the time such certificate is made, in the same manner as sidewalk taxes are certified to that officer, and the county ~~treasurer~~ finance manager shall collect all assessments in the same manner that general taxes are collected, and all the laws of the state for the assessment and collection of general taxes, including the laws for the sale of property for taxes and the redemption thereof, shall apply to and have full effect for the collection

of all such assessments, and such assessment shall be a lien in the several amounts assessed against each lot, parcel or tract of land until paid, and shall have priority over liens, except general taxes and prior special assessments.

(Code 1999, § 12.04.160; Ord. No. 229, § 16, 1977)

**Sec. 18.12.170. Snow removal--Disposition of funds.**

All the money received by the town ~~finance department~~ ~~Treasurer~~ from the payment or collection of assessments made under section 18.12.160 shall be credited to the fund out of which the expense of such improvement was paid.

(Code 1999, § 12.04.170; Ord. No. 229, § 17, 1977)

**Sec. 18.12.180. Assessment not to relieve criminal liability.**

The fact that an assessment has been made as provided for in this chapter shall not prevent the owner, occupant, agent or lessee from being punished by fine as provided by this chapter, but such fine may be imposed upon any person found guilty of violating the provisions of any other ordinance of the town relating to the removal of snow from sidewalks the same as if the assessment had not been made or paid.

(Code 1999, § 12.04.180; Ord. No. 229, § 18, 1977)

**Sec. 18.12.190. Sidewalk openings--Covers supplied by owners.**

The opening in any vault or coal hole or aperture in the sidewalk over the coal hole or vault shall be covered with a substantial iron plate with a rough surface to prevent accidents, and the entire construction of such coal holes or vaults shall be subject to the direction and supervision of the town manager.

(Code 1999, § 12.04.190; Ord. No. 229, § 19, 1977)

**Sec. 18.12.200. Sidewalk openings--Liability of owner.<sup>144</sup>**

(a) The owner or person in possession of abutting premises in front of which a coal hole, vault, or other aperture is thus permitted to be constructed shall be held responsible to the town for any and all damages to the persons or property in consequence of any defect in the construction of the vault, coal hole or other aperture or for allowing the same, or any portion thereof, to remain out of repair, and such owner shall be required to keep such vault or coal hole, its walk and covering in good order at all times.

(b) The person in possession of any premises abutting on such vault, coal hole or other aperture shall be held responsible to the town for any and all damages occasioned to persons or property in consequence of the aperture in a sidewalk being lifted, exposed or uncovered, or in consequence of the covering thereof being lifted, insecure or unfastened.

(Code 1999, § 12.04.200; Ord. No. 229, § 20, 1977)

**Sec. 18.12.210. Correcting unsafe conditions.**

Whenever any coal hole, vault or elevator under any sidewalk or aperture constructed in any sidewalk is not covered or secured as provided in sections 18.12.190 and 18.12.200, or in the opinion of the town manager is unsafe or inconvenient for the public travel, the town manager may order the same to be placed in a safe condition satisfactory to him; and, if the same shall not be done within two days from the service of notice on the owner or person in possession of the premises, the town manager may make changes, and the expenses thereof shall be paid by the owner or person in possession of the premises.

(Code 1999, § 12.04.210; Ord. No. 229, § 21, 1977)

**Sec. 18.12.220. Responsibility of owner for cleaning sidewalk.**

The owners or agents of the owners of vacant lots, and the owners or agents or occupants of houses, warehouses, stores or tenements and grounds belonging thereto or occupied by them shall keep the sidewalks in

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<sup>144</sup> Would the town like to update this provision at all? I doubt "coal hole's" are currently constructed. **Leave as is**

front of and adjoining such property clean. Any violation of this section shall result in the penalty specified in section 18.12.240.

(Code 1999, § 12.04.220; Ord. No. 229, § 22, 1977)

**Sec. 18.12.230. Use of skateboards, bicycles, roller skates and ski skates on sidewalks and roads.**

(a) No person shall operate a skateboard, bicycle, roller skates, in-line skates, skis, toboggans, coasting sleds, or similar devices, coasters, scooters, motorized scooters, all-terrain vehicles, motorized skateboards, toy vehicles or similar devices on the sidewalks of the town on Jefferson Avenue between Poplar Street and Spruce Street and on Walnut Street between Washington Avenue and Jefferson Avenue.

(b) Notwithstanding the provisions of section 18.12.240, the town parks and recreation director may permit the use of such a vehicle or device on any property under the jurisdiction of the parks and recreation department if the director approves such use and posts a notice in the area where the activity is permitted, describing the area of permitted use and all other terms and conditions of such use.

(c) The parent of any child or guardian of any ward shall not authorize or knowingly permit any child or ward to violate any provision of this section.

(Code 1999, § 12.04.230; Ord. 564 § 1 (part), 2005)

**Sec. 18.12.240. Violation, penalty.**

Any violation of this chapter shall be punished in accordance with the provisions of section 1.12.010.

(Code 1999, § 12.04.240; Ord. No. 229, § 23, 1977; Ord. No. 564, § 1 (part), 2005)

## **CHAPTER 18.16. TREES<sup>145</sup>**

**Sec. 18.16.010. Purpose.**

It is the purpose of this chapter to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the town.

(Code 1999, § 12.06.010; Ord. No. 574, § 1(part), 2005)

**Sec. 18.16.020. 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:

*Large trees* means those trees attaining a height of 45 feet or more.

*Tree lawn* means that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.

(Code 1999, § 12.06.020; Ord. No. 574, § 1(part), 2005)

**~~12.06.030. Tree board.~~<sup>146</sup>**

~~There is hereby created and established a tree board or the town which shall consist of at least three members but no more than five members, citizens and residents of this Town, who shall be appointed by the Town Council Board. Members of the Board shall serve without compensation. The term of the tree board shall be three years, except that the term of one member appointed to the first Board shall be only one year and the term for the next two members of the first Board shall be for two years and the term for any members appointed shall be three years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term. The tree board will assist the parks and recreation department in the development of~~

<sup>145</sup> See the footnote in Title 8, chapter 8.02, regarding this chapter.

<sup>146</sup> Is this board still active? If not, we recommend striking this provision. **Not active, town elected to strike at conference.**



~~a comprehensive plan for the town, including planning, tree planting, and maintenance programs for all public trees. The Board will promote the goals of the tree program.~~

~~(Code 1999, § 12.06.030; Ord. No. 574, § 1(part), 2005)~~

#### **~~12.06.040. Town forester.~~<sup>147</sup>**

~~The Town shall appoint a Town Forester, urban forester, or arborist. This individual shall be employed by the parks department. The urban forester shall have the following general powers and duties: (1) to direct, manage, supervise, and control the town street program to include all planting, removal, maintenance, and protection of all trees and shrubs on public areas; (2) to guard all trees and shrubs within the town to prevent the spread of disease or pests and to eliminate dangerous conditions that may affect the life, health, or safety of persons or property; (3) such other powers and duties as are provided by the laws of Colorado, by ordinance of the town and by the Hayden tree board.~~

~~(Code 1999, § 12.06.040; Ord. No. 574, § 1(part), 2005)~~

#### **~~12.06.050. Authority.~~**

~~The Town Forester shall have the authority and jurisdiction of regulating the planting, maintenance, and removal of trees on streets and other publicly owned property to ensure safety or preserve or enhance the aesthetics of such public sites. The Town Forester shall have the authority to supervise or inspect all work done under a permit issued in accordance with terms of this chapter. The Town Forester shall have the authority to formulate and publish a master tree plan with the advice, hearing, and approval of the tree board.~~

~~(Code 1999, § 12.06.050; Ord. No. 574, § 1(part), 2005)~~

#### **Sec. 18.16.030. Permits.**

No person shall plant, spray, fertilize, preserve, prune, remove, cut above or below ground, or otherwise disturb any tree on any street or municipal-owned property without first filing an application and procuring a permit from the town forester or otherwise specified municipal authority. The person receiving the permit shall abide by the arboricultural specifications and standards of practice adopted by the town forester. The town forester shall have the authority to require posting of a bond adequate to fully repay the town for any and all costs attendant to the completion of the work under the permit. In addition, the contractor is required to show adequate insurance coverage from potential damages during the execution of the work.

(Code 1999, § 12.06.060; Ord. No. 574, § 1(part), 2005)

#### **Sec. 18.16.040. Maintenance.**

All trees planted shall have trunks not less than one-half inch in diameter at six inches above the ground. No tree shall be planted closer than three feet from the curblineline or outer line of the sidewalk. All trees shall be planted in line with each other and at a spacing of 40 to 60 feet depending on the species planted or in groupings using the equivalent number of trees, as approved by the town. No street tree shall be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground utility wire. No trees shall be planted within 30 lateral feet from corners or intersections. All trees and shrubs on public or private property, which have branches overhanging a public street or sidewalk, shall have said branches trimmed to a clearance height of fourteen feet on the street side and ten feet on the sidewalk side. All public trees designated for removal shall be completely removed from the growing site and disposed of in an authorized manner.

(Code 1999, § 12.06.070; Ord. No. 574, § 1(part), 2005)

#### **Sec. 18.16.050. Species, cultivars and varieties.**

The tree board develops and maintains a list of desirable trees for planting along streets in three size classes: small, medium, and large. A list of tree species not suitable for planting as street trees will also be created and enforced by the tree board.

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<sup>147</sup> Does the town currently have a forester, urban forester, or arborist?

(Code 1999, § 12.06.080; Ord. No. 574, § 1(part), 2005)

#### **Sec. 18.16.060. Obstruction.**

It shall be the duty of any person or persons owning or occupying real property bordering on any street, upon which property there may be trees, to prune such trees in a manner that they will not obstruct or shade the streetlights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be ten feet over sidewalks and 14 feet over all streets. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the town to prune such trees with the cost assessed to the owner, as provided by law for in special assessments.

(Code 1999, § 12.06.090; Ord. No. 574, § 1(part), 2005)

#### **Sec. 18.16.070. Nuisance and condemnation.**

All street trees planted in violation of, or not maintained in strict compliance with the provisions of this chapter, or that are dead or dangerous are declared to constitute a public nuisance. The town forester or code enforcement officer shall cause written notice to be served on the property owner requiring such nuisances to be corrected within 30 days ~~or the cost of correction will be assessed against the property owner.~~

(Code 1999, § 12.06.100; Ord. No. 574, § 1(part), 2005)

#### **12.06.110. Protection of trees.<sup>148</sup>**

~~During development, redevelopment, razing, or renovating, no more than fifty percent of the trees shall be cut, damaged, or removed, except by specific permit. No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of twenty feet from any tree. No person shall intentionally damage, cut, carve, attach any rope, wire, nails, advertising posters, or other contrivance to any tree; allow any gaseous, liquid, chemical, or solid substance that is harmful to such trees to come in contact with them; or set fire or permit fire to burn when such fire or the heat will injure any portion of any tree. Tree topping is not allowed on any publicly owned tree.~~

(Code 1999, § 12.06.110; Ord. No. 574, § 1(part), 2005)

#### **12.06.120. Appeals.**

~~Any person who receives an order from the town Forester or code enforcement officer and objects to all or a part thereof, may, within ten days of receipt thereof, notify the town Forester and Town Council Board, in writing, of the nature of the objection and request a hearing thereon. The hearing shall be held within twenty one days of notice to the appellant. Within ten days after such hearing, the Mayor shall notify the appellant and the town Forester of the final decision.~~

(Code 1999, § 12.06.120; Ord. No. 574, § 1(part), 2005)

#### **12.06.130. Interference.**

~~No person shall prevent, delay, or interfere with the town Forester or code enforcement officer in the execution or enforcement of this chapter.~~

(Code 1999, § 12.06.130; Ord. No. 574, § 1(part), 2005)

#### **12.06.140. Penalties.**

~~Any person or firm, or corporation violating or failing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum no less than one dollar, nor more than one thousand dollars, or may be imprisoned for a term not exceeding ninety days, or both.~~

(Code 1999, § 12.06.140; Ord. No. 574, § 1(part), 2005)

### **CHAPTER 12.05 RESERVED**

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<sup>148</sup> Is this provision still enforced or was the intent that the Development Code now control? **Town elected to strike at conference.**

~~**Editor's note**—Ord. No. 679, § 3, adopted Nov. 16, 2017, repealed Ch. 12.05, §§ 12.05.010—12.05.040, which pertained to vacation of streets and alleys, and derived from Ord. No. 288, 1980.~~

PROOFS

Title 19  
**RESERVED**

PROOFS

## Title 20

## VEHICLES AND TRAFFIC

## CHAPTER 20.04. IN GENERAL (RESERVED)

## CHAPTER 20.08. MODEL TRAFFIC CODE\*

~~\*State law reference—For statutory provisions on the Regulation of traffic by local authorities, C.R.S. 1973 §§ 42-4-108 and 42-4-109; for provisions authorizing authorization of municipalities to adopt a model traffic code by reference, C.R.S. 1973 § 42-4-108(1)(b).~~

**Sec. 20.08.010. Short title.**

The ordinance codified in this chapter may be known and cited as the "Municipal Traffic Ordinance."

(Code 1999, § 10.04.010; Ord. No. 270, § 9, 1979)

**Sec. 20.08.020. Interpretation of model traffic code.**

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the local traffic regulations contained herein. Article and section headings of the chapter and adopted Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any chapter or section thereof.

(Code 1999, § 10.04.020; Ord. No. 562, § 1(part), 2005)

**Sec. 20.08.030. Adoption of model traffic code.**

Pursuant to C.R.S. §§ 31-16-101, et seq., and 31-16-201, et seq., there is hereby adopted by reference articles I and II, inclusive of the 2003 Edition of the Model Traffic Code for Colorado Municipalities (the "Code"), promulgated and published as such by the Colorado Department of Transportation, Safety and Engineering Branch, 4201 East Arkansas Avenue, Denver, Colorado 80222. The subject matter of the code relates primarily to comprehensive traffic control regulations for the town. The purpose of the code adopted herein and this chapter is to provide a system of traffic regulations consistent with the state law and generally conforming to similar regulations throughout the state. Three copies of the code adopted herein are now filed in the office of the clerk may be inspected during any regular business hours. The 2003 edition of the Model Traffic Code is adopted, as if set out at length, save and except the following articles and/or sections which are declared to be inapplicable to the municipality and are therefore either expressly deleted or modified.

(Code 1999, § 10.04.030; Ord. No. 562, § 1(part), 2005)

**Sec. 20.08.040. Additions or modifications of model traffic code.**

The said adopted code is subject to the following additions or modifications:

## Appendix to chapter 10.04:

- (1) Schedule I—Sec. 703, Through streets.
- (2) Schedule II—Sec. 1102, Decrease and increase speed limits.
- (3) Schedule III—Sec. 1006, One-way streets.
- (4) Schedule IV—Sec. 109, 603, 1412, Non-motorized traffic and motor-driven cycles excluded.
- (5) Section V—Sec. 1204, Parking prohibited.
- (6) Schedule VI—Sec. 1205(3), Angle parking on certain streets.
- (7) Schedule VII—Sec. 1701, Penalty assessment and schedule.

(Code 1999, § 10.04.040; Ord. No. 562, § 1(part), 2005; Ord. No. 642, § 1, 2012)

**Sec. 20.08.050. Penalties.**<sup>149</sup>

(a) Each person violating any of the provisions of the adopted model traffic code shall be guilty of an offense and, upon conviction thereof, shall be punished according to the model traffic code as hereby adopted or amended in the future.

(b) Each person violating any of the provisions of this chapter shall be guilty of an offense and, upon conviction thereof, shall be punished according to section 1.12.010. The following penalties, herewith set forth in full, shall apply to this chapter:

~~— It is unlawful for any person to violate any of the provisions stated or adopted in this chapter.~~

~~— Every person convicted of a violation of any provision stated or adopted in this chapter shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment not exceeding 90 days, or by both such fine and imprisonment.~~

(Code 1999, § 10.04.050; Ord. No. 562, § 1(part), 2005; Ord. No. 642, § 1, 2012)

**Sec. 20.08.060. Application.**

This chapter shall apply to every street, alley, sidewalk area, driveway, park and to other public way or public parking area, either within or outside the corporate limits of this municipality, the use of which this municipality has jurisdiction and authority to regulate. The provisions of sections 1401, 1402, 1413, and part 16 of the code concerning careless driving, reckless driving, eluding a police officer, and accident and accident reports shall apply not only to public places and ways but also to all areas throughout this municipality, public or private.

(Code 1999, § 10.04.060; Ord. No. 562, § 1(part), 2005)

**10.04.070. Snowmobile operation.**

~~Repealed by Ordinance #342, 1986.~~

~~(Code 1999, § 10.04.070)~~

**Sec. 20.08.070. Parking during snow removal.**

There is added to article I, part 12 of the adopted model traffic code the following:

"1212. Winter parking restrictions. During the months of November through April of each year between the hours of 12:00 o'clock-midnight and 7:00 o'clock-a.m., it shall be unlawful for any person, except a physician or other person on an emergency call, to park a vehicle on a public street, public highway or public alley in or within the Town of Hayden."

(Code 1999, § 10.04.080; Ord. No. 624, § 1, 2009)

**Sec. 20.08.080. Street obstructions and encroachments.**

There is added to article I, part 14, 1406 of the adopted model traffic code the following:

"(6) No obstruction or encroachment whatsoever, including, but not limited to ice, snow, mud, dirt, debris, rubbish and filth, other than provided by law, authorized by the Town Council of the Town of Hayden, or by Ordinance of the town of Hayden, shall be permitted, placed, made, maintained or located upon any public street, public highway or public alley in or within the control of the town of Hayden."

(Code 1999, § 10.04.090; Ord. No. 624, § 1, 2009)

**Sec. 20.08.090. Toy vehicles.**

Toy vehicles are defined as any vehicle with an outside wheel diameter of 14 inches or less and not designed, approved or intended for use on public roadways. Toy vehicles include pocket or mini bicycles, go-peds or other

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<sup>149</sup> We recommend modifying this penalty provision. We specifically request that the town attorney review our suggested language carefully. **Elected to adopt traffic code penalties by reference.**

stand-up scooters, whether gas or electric powered.

(Code 1999, § 10.04.100; Ord. No. 563, § 1, 2005)

### **Sec. 20.08.100. Interpretation.**

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the local traffic regulations contained herein. Article and section headings of the ordinance and adopted code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof.

(Code 1999, § 10.04.110; Ord. No. 642, § 2, 2012)

## **APPENDIX TO CHAPTER 10.04<sup>150</sup>**

### **Schedule I**

### **Sec. 20.08.110. Through streets.**

The list of through streets as approved by resolution by city council is on file in the planning department, the clerk's office, or their designee.

~~In accordance with the provisions of Section 703 of the model traffic code, and when official signs are erected giving notice thereof, drivers of vehicles shall stop or yield as required by such signs at every intersection before entering any of the following streets or parts of streets.~~

Name of Street	Portion Affected (terminal limits)
Jefferson Avenue	From East Town limits to West Town limits
Lincoln Avenue	From Polar Street East to Walnut Street
Lincoln Avenue	From Poplar Street West to 6th Street
Lincoln Avenue	From Walnut Street East to Shelton Lane
Poplar Street	From Jefferson Avenue to North Town limits
Poplar Street	From Jefferson Avenue to South Town limits
Washington Avenue	From Walnut Street East to Shelton Lane
Washington Avenue	From Walnut Street West to Poplar Street
Harvest Drive	From North intersection with Poplar Street to South intersection with Poplar Street
3rd Street	From Washington Avenue South to Breeze Basin Boulevard
Shelton Lane	From Jefferson Avenue South to Hawthorne Street
Shelton Lane	From Jefferson Avenue North to North Town limits
Jackson Avenue	From 1st Street West to 3rd Street
Hawthorne Street	From Jefferson Avenue South to RCR #37
Hayden Parkway	From Hawthorne Street West to Dead End
Crandall Avenue	From Hawthorne Street to Walnut Street

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<sup>150</sup> We don't recommend publishing sign lists in your final code. We recommend keeping them on file with the clerk as they will need to be updated from time to time. We can insert language adopting the schedules by reference and directing constituents to where they can find the schedules. **Accepted during conference call on 7/13/2021.**

Vista Verde Drive	From West intersection with Crandall to East intersection with Crandall
Jackson Street	From Walnut Street East to South Pine
South Pine Street	From Jackson Street to Crandall Avenue
4th Street	From Jefferson Avenue South to Washington Avenue
Breeze Basin Boulevard	From Poplar Street West to West Town limits
Honeysuckle Drive	From West intersection with Harvest Drive to East intersection with Harvest Drive
Lake View Road	From West Hayden Parkway North, West and South to Dead End
Little Bend Road	From Lake View Road West to Dead End
Hayden Parkway	From Poplar Street (RCR 53) West to Dead End
Walnut Street	From Jefferson Avenue South to Jackson Avenue
Walnut Street	From Jefferson Avenue North to North Town limits
Industrial Avenue	From Hawthorne Street West to Capital Street
Capital Street	From Enterprise Lane North to Commerce Street
Enterprise Lane	From Crandall Avenue South to Capital Street
Terminal Drive	From RCR #51a to RCR #51a

(Code 1999, ch. 10.04, app.(sched. I); Ord. No. 642, § 1, 2012)

## Schedule II

### Sec. 20.08.120. Decrease and increase speeds.

The list speed limits as approved by resolution by city council is on file in the public works department, the clerk's office, or their designee.

In accordance with the provisions of Section 1102 of the model traffic code, and when official signs are erected giving notice thereof, drivers of vehicles shall not exceed the posted speed limit as designated by such signs. Drivers are still responsible to drive with due care and safety in regards to road conditions.

Name of Street or Intersection	Portion Affected (terminal limits)	Speed Limit (miles per hour)
Jefferson Avenue	East Town limit to approximately $\pm \frac{1}{10}$ mile East of R/R Crossing Hayden Gulch Terminal	55 mph Westbound
Jefferson Avenue	Approximately $\pm \frac{1}{10}$ mile East of R/R Crossing, Hayden Gulch Terminal to approximately 20 ft. West of Shelton Ln.	45 mph Westbound
Jefferson Avenue	Approximately 20 ft West of Shelton Ln. to approximately 4 ft West of Spruce St	35 mph Westbound
Jefferson Avenue	Approximately 4 ft West of Spruce St to approximately $\pm \frac{1}{10}$ mile West of 8th St except when school beacon is flashing	30 mph Westbound
Jefferson Avenue	Approximately 185 ft West of Poplar St to 24 ft West of 3rd St	25 mph Westbound when school beacon flashing
Jefferson Avenue	Approximately $\pm \frac{1}{10}$ mile West of 8th St to $\pm \frac{1}{10}$ mile East of Mile Marker 106	55 mph Westbound
Jefferson Avenue	Approximately $\pm \frac{1}{10}$ mile East of Mile Marker 106 to West Town limits	65 mph Westbound



Jefferson Avenue	From West Town limits to approximately $\frac{4}{10}$ mile East of Mile Marker 106	65 mph Eastbound
Jefferson Avenue	Approximately $\frac{4}{10}$ mile East of Mile Marker 106 to approximately 1 2 tenths mile West of Mile Marker 107	55 mph Eastbound
Jefferson Avenue	Approximately 1 2 tenths mile West of Mile Marker 107 to approximately 220 ft East of 8th St	45 mph Eastbound
Jefferson Avenue	Approximately 220 ft East of 8th St to approximately 110 ft East of Oak St except when school beacon flashing	30 mph Eastbound
Jefferson Avenue	Approximately 20 ft West of 4th St to approximately 320 ft West of Poplar St	25 mph Eastbound when school beacon flashing
Jefferson Avenue	Approximately 110 ft East of Oak St to approximately 250 ft East of Shelton Ln.	35 mph Eastbound
Jefferson Avenue	Approximately 190 ft East of Shelton Ln. to approximately 250 ft. East of Hawthorne St	45 mph Eastbound
Jefferson Avenue	Approximately 250 ft East of Hawthorne St to East Town limits	65 mph Eastbound
Washington Avenue	Approximately 105 ft East of Pine St to Walnut St	15 mph Westbound
Washington Avenue	Approximately 90 ft East of Walnut St to 25 mph sign approximately 105 ft East of Pine Street	15 mph Eastbound
Hawthorne Street	Approximately 360 ft South of Jefferson Ave to South Town limits	35 mph Southbound
Hawthorne Street	Approximately 100 ft North of Hayden Parkway to Jefferson Ave.	35 mph Northbound
Walnut Street	Approximately 25 ft South of Washington St to Spruce St	15 mph Southbound
Walnut Street	Approximately 100 ft West of Spruce St on Jackson Ave to Washington St	15 mph Northbound
Poplar Street (RCR #53)	Approximately 230 ft South of South entrance of Harvest Dr to South Town limits	40 mph Southbound
Poplar Street (RCR #53)	South Town limits to approximately 320 ft South of South entrance of Harvest Dr	40 mph Northbound
Poplar Street (RCR #53)	Approximately 320 ft South of South entrance of Harvest Dr to approximately 175 ft South of West entrance of Harvest Dr	30 mph Northbound
Poplar Street (RCR #53)	Approximately 175 ft South of West entrance of Harvest Dr to the end of Poplar St	25 mph Northbound
Poplar Street	Approximately $\frac{1}{4}$ mile north of Shady Lane (Just north of bridge/curve in road)	20 mph Northbound School Zone Designation
Poplar Street	Approximately $\frac{1}{4}$ mile south of 1 <sup>st</sup>	20 mph Northbound School Zone Designation
3rd Street	Approximately 60 ft South of Jefferson Ave to Breeze Basin Blvd	20 mph Southbound School Zone Designation
3rd Street	Approximately 220 feet North of Breeze Basin Blvd to Jefferson Ave	20 mph Northbound School Zone Designation

Lake View Road	Approximately 75 ft South of the South Entrance of Little Bend Circle to 75 ft North of the North entrance of Little Bend Circle	15 mph Northbound
Lake View Road	From the intersection with Starlight Ln to 75 ft South of Little Bend Road	15 mph Eastbound and Southbound
All Streets	Meadow Village Trailer Park	15 mph
Breeze Basin Boulevard	Approximately 75 ft West of Poplar Ave to approximately $\frac{2}{10}$ mile West of Poplar Ave	20 mph Westbound School Zone Designation
Breeze Basin Boulevard	Approximately $\frac{2}{10}$ mile West of Poplar Ave to Poplar Ave	20 mph Eastbound School Zone Designation
RCR #51a	Approximately $\frac{1}{10}$ mile South of North Town limits to RCR #51	35 mph Southbound and Eastbound
RCR #51	From East end of RCR #51a to approximately $\frac{1}{10}$ mile South of North Town limits	35 mph Northbound
RCR #51	Approximately $\frac{1}{10}$ mile South of North Town limits to Town limits	45 mph Northbound
RCR #51	North Town limits to approximately 300 feet South of North Town limits	45 mph Southbound
RCR #51	Approximately 300 ft South of North Town limits to RCR #51a	35 mph Southbound
RCR #51a	Approximately 300 ft West of RCR #51 to Hwy #40	35 mph Westbound and Northbound
All Streets	Yampa Valley Regional Airport	15 mph

RCR = Routt County Road.

(Code 1999, ch. 10.04, app.(sched. II); Ord. No. 669, § 2, 7-16-2015)

**Editor's note**—Ord. No. 669, § 1, adopted July 16, 2015, repealed former Schedule II and § 2 enacted a new Schedule II as set out herein. The former schedule derived from Ord. No. 642, § 1, 2012.

### Schedule III

#### Sec. 20.08.130. One-way streets.

The list of one-way streets, as approved by resolution by city council, is on file in the planning department, the clerk's office, or their designee.

In accordance with the provisions of Section 1006 of the model traffic code, and when official signs are erected giving notice thereof, traffic shall move only in the direction indicated upon the following streets:

Name of Street	Portion Affected (terminal limits)	Direction of Traffic Movement
Terminal Drive	Entire Length	South then East then North
Challenger Loop	Entire Length	East then North then West

(Code 1999, ch. 10.04, app.(sched. III); Ord. No. 642, § 1, 2012)

### Schedule IV

**Sec. 20.08.140. Nonmotorized traffic and motor-driven cycles excluded.**

The list of streets as approved by resolution by city council is on file in the planning department, the clerk's office, or their designee.

~~In accordance with the provisions of Section 805(5) of the model traffic code, and when official signs are erected giving notice thereof, no pedestrian, bicyclist or other non-motorized traffic and no person operating a motorized bicycle or a motor-driven cycle shall use any of the following streets or highways or parts thereof:~~

Name of Street	Portion Affected (terminal limits)
100 Block West Jackson	No bicycle traffic allowed downhill (Hospital Hill)

(Code 1999, ch. 10.04, app.(sched. IV); Ord. No. 270, schedule VI, 1979; Ord. No. 642, § 1, 2012)

**Schedule V****Sec. 20.08.150. Parking prohibited at all times on certain streets.**

The list of streets as approved by resolution by city council is on file in the planning department, the clerk's office, or their designee.

~~In accordance with the provisions of Section 1204(3)(b), and when official signs are erected giving notice thereof, no person shall at any time park a vehicle upon any of the following described streets or parts of streets:~~

Name of Street	Portion Affected (terminal limits)
Jefferson Avenue	From Walnut St to 40 ft East of Walnut St and 40 ft West of Walnut St (both North and South sides of Jefferson Ave).
Jefferson Avenue	From Chestnut St to 40 ft East of Chestnut St and 40 ft West of Chestnut St on the South side of Jefferson Ave. From Chestnut St to 40 ft East of Chestnut St on the North side of Jefferson Ave, excluding Northwest corner.
Jefferson Avenue	From Poplar St to 40 ft East of Poplar St and 40 feet West of Poplar St on the South side of Jefferson Ave. From Poplar St 30 ft East of Poplar St on the North side of Jefferson Ave, excluding Northwest corner.

(Code 1999, ch. 10.04, app.(sched. V); Ord. No. 642, § 1, 2012)

**Schedule VI****Sec. 20.08.160. Angle parking on certain streets.**

The list of streets as approved by resolution by city council is on file in the planning department, the clerk's office, or their designee.

Name of Street	Portion Affected (terminal limits)
Walnut Street	East and West side from Jefferson Ave to Washington Ave
Spruce Street	East side only from Jefferson Ave to Washington Ave

(Code 1999, ch. 10.04, app.(sched. VI); Ord. No. 642, § 1, 2012)

**Schedule VII**

**Section 1701 Penalty Assessment Schedule**

MTC Section	Charge	Code	Fine	PT	Construction Zone Fine
<b>ALCOHOL—UNDER THE INFLUENCE</b>					
805(3)	Pedestrian on highway under the influence (Alcohol/Controlled Substance)	803	\$ 50	0	—
805(4)	Animal rider on highway under the influence (Alcohol/Controlled Substance)	802	50	0	—
<b>BICYCLES</b>					
1402(1)	Rode bicycle in careless manner	925	100	0	\$200
1412(3)	Unlawful number of persons on bicycle	925	25	0	50
1412(4)	Bicycle rider attached himself to motor vehicle	925	80	0	160
1412(5)	Bicycle rider failed to ride in the right hand lane as required	925	25	0	50
1412(5)	Bicycle rider failed to ride on right side of lane when being overtaken	925	25	0	50
1412(5)	Bicycle rider failed to ride on suitable paved shoulder	925	25	0	50
1412(6)(a)	Bicycle rider failed to ride single file when required	925	25	0	50
1412(6)(b)	Bicycle rider failed to ride in single lane when riding two abreast	925	25	0	50
1412(7)	Bicycle rider failed to keep at least one hand on handlebars	925	25	0	50
1412(8)(a)	Bicycle rider made improper left turn	925	25	0	50
1412(8)(h)	Bicycle rider intended to turn left disregarding traffic control device	924	40	0	80
1412(9)	Bicycle rider failed to signal intention to turn/stop	925	30	0	60
1412(10)(a)	Bicycle rider on (sidewalk/roadway/crosswalk) failed to yield right of way to pedestrian	925	50	0	100
1412(10)(b)	Rode bicycle on (sidewalk/roadway/pathway) when prohibited by (sign/device)	924	40	0	80
1412(11)	Improper parking of bicycle	924	20	0	40
109(11)	Failed to use bicycle path when directed by official signs	926	25	0	50
<b>BICYCLE EQUIPMENT</b>					
221(2)	Bicycle not equipped with front lamp visible 500 feet to front	931	25	0	
221(3)	Bicycle not equipped with red reflector visible 600 feet to rear	931	25	0	
221(4)	Bicycle not equipped with side reflective	931	\$ 25	0	

	material or lamps				
221(6)	Unlawful use of (siren/whistle) upon a bicycle	551	25	0	
221(7)	Bicycle not equipped with adequate brake	931	25	0	
<b>COMMERCIAL VEHICLE</b>					
235(2)	Commercial carrier failed to comply with D.P.S. rules and regulations governing safety standards and specifications	713	50	0	
509(3)	Failed/refused to stop for weighing load/vehicle	525	50	0	
106	Drove truck/commercial vehicle where prohibited	920	100	0	
106	Truck/commercial vehicle exceeded posted weight limitation (specify posted & actual weights)	530	75	0	
510	Failed to have escort vehicle when required by oversize/overweight permit	527	250	0	
510	Failed to reduce speed when required by oversize/overweight permit	527	250	0	
<b>DRIVER'S LICENSE</b>					
1704	Directed operator of vehicle contrary to law	074	75	0	
<b>EQUIPMENT</b>					
202(1)	Drove a defective/unsafe vehicle or owner allowed	542	50	2	
203	Drove a defective/unsafe vehicle (notice must accompany citation)	576	SUM	2	
1414	Moved exempt construction equipment on highway when vision less than 500 feet	999	50	0	
209	Improper/no red flag/light on projecting load	543	50	0	
213(1)	Insufficient audible/visual signal on emergency vehicle	545	50	0	
213	Defective audible/visual signal on emergency vehicle	546	50	0	
223(1)(b)	Motorcycle/motorized bicycle/bicycle with motor not equipped with one brake	548	50	2	
223(1)(c)	Trailer/semi-trailer did not have breakaway brakes as required	549	50	2	
223(1)(d)	Motor vehicle/trailer/semi-trailer did not have service brake as required	548	50	2	
223(2)	Performance of service/hand brake did not meet requirements	548	\$ 50	2	
224	Vehicle had no/defective horn	550	50	0	
224	Operated vehicle with unauthorized audible signal	551	50	0	

225	Vehicle had defective/improper/no mufflers	552	50	0	
226	Vehicle did not have rearview mirror	553	50	0	
226	Rearview mirror did not permit minimum 200 foot vision	554	50	0	
227(2)	Vehicle had no/defective windshield wipers	555	50	0	
228(1)	Solid rubber tire failed to be at least one inch thick	556	50	0	
228(3)	Tire had block/flange/cleat/spike protruding from rubber	556	50	0	
228(5)	Operated vehicle with improper/unsafe tires	556	50	0	
228(6)	Operated vehicle on highway with tires designed for nonhighway use	556	50	0	
228(9)	Sold a vehicle with improper/unsafe tires	556	SUM	0	
229(4)	Vehicle not equipped with front windshield/safety glass in front windshield	572	50	0	
230	Required vehicle did not have emergency reflective triangles	640	50	0	
230	Failed to use warning signal flashers/emergency reflective triangles as required	641	50	0	
233	Alteration of suspension system	564	80	0	
234(1)	Failed to display slow moving vehicle emblem	565	50	0	
234(3)	Misused slow moving vehicle emblem	565	50	0	
502(3)	Vehicle had chains/rope/wire swinging, dragging or projecting	561	100	0	
608(2)	Vehicle not equipped with turn signals as required	540	50	0	\$100
610	Displayed unauthorized insignia	541	50	0	
<b>FINANCIAL RESPONSIBILITY/INSURANCE</b>					
1409(1)	Owner operated an uninsured motor vehicle on a public road	954	SUM	4	
1409(2)	Operated an uninsured motor vehicle on a public roadway	956	SUM	4	
1409(3)	Failed to present evidence of insurance upon request	957	SUM	4	
<b>IMPROPER/RECKLESS/CARELESS DRIVING AND ACTIONS</b>					
1211(1)	Backed vehicle in parking area when not safe and interfered with traffic	153	50	2	\$100
1211(2)	Backed vehicle on shoulder/roadway of controlled access highway	154	50	2	100
1201	Improper starting from a parked/stopped position	144	50	3	100
709	Driver stopped vehicle in intersection, marked	952	75	3	150

	<del>crosswalk or railroad grade crossing when prohibited</del>				
710(3)	<del>Drove vehicle upon sidewalk</del>	166	75	3	
1008(1)	<del>Following too closely</del>	142	100	4	200
1008(2)	<del>Unlawful following by vehicle drawing another vehicle</del>	165	100	4	200
1008(3)	<del>Following too closely in motorcade</del>	143	100	4	200
1009(1)	<del>Coasted vehicle down grade with gears in neutral</del>	147	75	3	150
1009(2)	<del>Coasted truck/bus down grade with gears in neutral</del>	147	75	3	150
1010	<del>Failed to drive as required on divided/controlled access highway</del>	152	75	3	150
1010	<del>Vehicle crossed roadway dividing space/medial/barrier in unlawful manner</del>	227	75	3	150
1401(1)	<del>Reckless driving</del>	140	SUM	8	
1402(1)	<del>Careless driving</del>	141	100	4	200
1402(2)	<del>Careless driving caused bodily injury</del>	139	SUM	4	
1403	<del>Following too closely behind fire apparatus</del>	149	50	3	100
1404	<del>Drove vehicle over fire hose</del>	150	50	0	
1703	<del>Aiding and abetting (specify the offense or infraction)</del>	998	**	*	
109.5	<del>Operated neighborhood electric vehicle where prohibited</del>	961	SUM	0	
<b>INTERFERENCE</b>					
107	<del>Disregarded lawful order/direction of police officer directing traffic</del>	900	SUM	3	
1716(2)	<del>Failed to obey summons to appear in court</del>	903	SUM	0	
<b>LANE USAGE</b>					
806	<del>Drove vehicle through or within pedestrian safety zone</del>	145	\$ 75	3	\$150
1007(1)(a)	<del>Changed lanes when unsafe</del>	221	100	3	200
1007(1)(a)	<del>Failed to drive in single lane (weaving)</del>	223	100	3	200
1007(1)(b)	<del>Drove vehicle in center lane when unnecessary/prohibited</del>	224	100	3	200
1007(1)(c)	<del>Failed to drive in designated lane</del>	225	100	3	200
1007(1)(d)	<del>Changed lanes where prohibited by official traffic control device</del>	300	100	4	200
<b>LIGHTS/REFLECTORS</b>					
204(1)	<del>Failed to display lamps when required</del>	611	50	2	
202	<del>Operated vehicle with defective/missing headlamps or adjustment</del>	609	50	1	

205(1)	Motor vehicle not equipped with headlamps as required	613	50	0	
205(2)	Motorecycle not equipped with headlamp as required	614	50	0	
205(3)	Height of headlamp failed to meet requirements	612	50	0	
206(1)	Vehicle not equipped with tail lamps as required	615	50	0	
206(2)	Height of tail lamp failed to meet requirements	618	50	0	
206(3)	Vehicle had no/defective license plate lamp	619	50	0	
206(4)	Vehicle failed to have reflector as required	617	50	0	
206(5)	1958 or newer vehicle failed to have two reflectors as required	617	50	0	
206(6)	Height of reflectors failed to meet requirements	616	50	0	
207	Vehicle not equipped with clearance or side marker lamps/reflectors as required	620	50	0	
208	Vehicle had defective/no stop light	623	50	0	
208	Vehicle not equipped with turn signals as required	624	50	0	
211	Farm tractor/equipment/implement of husbandry/animal drawn vehicle not equipped with required lamps/reflectors	627	50	0	
212	Spot lamps/fog lamps/auxiliary passing lamps/auxiliary driving lamps failed to meet requirements	544	50	0	
212	Improper use of spot lamps/fog lamps/auxiliary passing lamps/driving lamps	628	\$ 50	0	
213(4)	Vehicle displayed unauthorized green light	539	50	0	
214	Lamps on service vehicle failed to meet requirements (not yellow)	645	50	0	
214	Failed to display lamps on service vehicle as required	645	50	0	
215	Signal lamps/devices failed to meet requirements	629	50	0	
215	Vehicle did not have turn signals as required	630	50	0	
216	Vehicle had no upper - lower beam switch/indicator	631	50	0	
217(1)	Improper headlight distribution	633	50	0	
217(1)(a)	Failed to dim headlights when approaching an oncoming vehicle	632	50	2	
217(1)(b)	Failed to dim lights when following another vehicle	632	50	2	
218	Single beam headlamps failed to meet requirements	634	50	0	
219	Displayed more than four lamps when prohibited	635	50	0	



205.5(5)(1)(a)	Motor vehicle had high intensity light improperly directed	999	50	0	
205.5(5)(1)(b)	Unauthorized vehicle displayed red/blue lamps to the front	636	50	0	
222(1)	Improper auxiliary signal lamps/audible signal on volunteer fireman's vehicle	638	50	0	
222(1)	Misuse of auxiliary lamps/audible signal by volunteer fireman attendant	644	50	0	
231	Drove on highway with parking lights when headlights required	642	50	0	
<b>MOTORCYCLES</b>					
232(1)	Motorcycle operator/passenger had no protective eyewear as required	161	50	0	
232(2)	Motorcycle not equipped with passenger footrests	161	50	0	
1502	Improper riding on motorcycle (specify violation)	157	50	3	\$100
1503	Illegal operation of motorcycle on laned roads	226	50	3	100
1504	Person on motorcycle clung to another vehicle	158	80	3	160
<b>MOTORIZED BICYCLES—MOTOR-DRIVEN CYCLES</b>					
109(1)	Motorized bicycle rider failed to obey provisions of this code (state violation, i.e., failed to signal, speeding, etc.)	924	\$ 50	0	\$100
109(2)—(6)	Rode motorized bicycle in an improper manner (specify violation)	925	50	0	100
109(11)	Motorized bicycle failed to use bicycle path when directed by official signs	926	50	0	100
220	Motorized bicycle did not have lamp/reflector/audible signal/brake as required (specify)	931	50	0	
224(3)	Unlawful use of siren/whistle upon a motorized bicycle	551	50	0	
220(1)(a)	Motor-driven cycle not equipped with head lamp as required	931	50	0	
232(1)	Motor-driven cycle operator/passenger had no protective eyewear as required	161	50	0	
232(2)	Motor-driven cycle not equipped with passenger footrests	161	50	0	
<b>OBSTRUCTED/OBSCURED VISION—INTERFERENCE WITH DRIVER</b>					
201(1)	Number of persons in front seat of vehicle obstructed vision	450	50	0	
201(1)	Number of persons in front seat of vehicle interfered with driver	451	50	0	

201(2)	Driver of vehicle allowed passenger to ride in an unsafe manner	457	80	0	
201(3)	Television visible to vehicle operator	465	50	0	
201(4)	Driver's vision obstructed through required glass	452	50	0	
1411	Drove vehicle while wearing earphones	467	50	0	
201(5)	Passenger in vehicle interfered with/obstructed vision of driver	453	50	0	
201(5)	Driver of vehicle allowed passenger to interfere with driving	454	50	0	
201(6)	Person (hung on/attached himself) to outside of vehicle	456	80	0	
201(6)	Driver permitted person to (hang on/attach himself) to the outside of vehicle	457	80	0	
227(1)	Material on (windshield/front side windows) presented (nontransparent/metallic/mirrored) appearance (note: metallic/mirrored applies to any window)	466	75	0	
227(3)(b)	Person (installed/covered/treated) (windows/windshield) with material that does not meet requirements	466	SUM	0	
504(5)	Projecting load on vehicle obstructed driver's vision	462	\$100	0	
226(2)	Load obstructed view to rear — no mirrors	554	50	0	
<b>OVERSIZED/OVERWIDTH/OVERLENGTH/OVERWEIGHT/PROJECTING LOADS</b>					
502(1)	Width of (vehicle/load) exceeded 8'6"	510	100	0	
502(2)(a)	Load of loose hay exceeded 12' width	513	100	0	
502(2)(b)	Load of small rectangular hay bales on vehicle exceeded 10'6" in width	513	100	0	
502(4)	Width of bus exceeded 8'6"	511	100	0	
503	Load projected beyond fender of left side of passenger vehicle	515	50	0	
503	Load projected more than 6" on right side of passenger vehicle	516	50	0	
504(6)	Rear projection of load exceeded 10'	529	100	0	
504(5)	Load projected beyond grill assembly or front wheels	517	100	0	
504(1)	Height of vehicle exceeded 13'	518	100	0	
504(1)	Height of vehicle exceeded 14'6" on designated highway	519	100	0	
504(2)	Single vehicle exceeded 45' in length	520	100	0	
504(3)	Bus exceeded 60' in length	520	100	0	
504(4)	Combination of vehicles exceeded (four units 70'	521	100	0	

	in length)				
504(4.5)	Saddle mount combination/laden truck tractor-semitrailer combination/auto or bus transporter exceeded (four units/75')	521	100	0	
505	Operated longer vehicle combination where prohibited	521	100	0	
406(3)	Gross weight of vehicle exceeded posted maximum load limit on street/highway/bridge/viaduct (specify posted weight and actual weight)	530	100	0	
509(3)	Refused/failed to stop for weighing load/vehicle	525	75	0	
510(3)	Failed to have escort vehicle when required by oversize/overweight permit	527	250	0	
510(3)	Failed to reduce speed when required by oversize/overweight permit	527	\$250	0	
510(4)	Operated vehicle in violation of overwidth/overlength permit	527	70	0	
<b>PARKING VIOLATIONS</b>					
210	Failed to display required lights when parked	350	30	0	
1201	Improper starting from a parked position	144	50	3	
1202	Stopped/parked/left standing vehicle on paved portion of highway	350	40	0	
1204	Improper stopping/standing/parking (specify the M.T.C. subsection if not listed)	350	20	0	
1204(5)	Improper moving of parked vehicle	354	20	0	
1205(1)	Parked vehicle more than 12" from curb (specify distance)	350	20	0	
1205(1)	Failed to park as close as practical to edge of shoulder	350	20	0	
1205(2)	Parked vehicle on wrong side of/in wrong direction on roadway	350	20	0	
1206	Failed to (lock ignition of/remove key from) parked vehicle	350	20	0	
1206	Parked vehicle without setting brakes	350	20	0	
1206	Parked vehicle on grade without turning wheels to side of curb	350	20	0	
1207	Opened door/left door open into lane of traffic when not safe/and interfered with traffic	916	40	0	
1208(6)	Improper use of disabled parking privileges when not disabled	362	40	0	
1208(7)	Improper use of disability license plate/placard to receive disability privileges	362	SUM	0	
1205(3)	Angle parking only	350	20	0	

1204(1)(e)	Parked on crosswalk	350	40	0	
<b>PASSING</b>					
802(4)	Passed vehicle stopped for pedestrian in marked/unmarked crosswalk	203	50	3	\$100
1002	Failed to yield one half of the roadway to oncoming vehicles	190	100	4	200
1003(1)(a)	Passed on left in unsafe manner (use when vehicle failed to maintain safe distance from overtaken vehicle during pass or upon return to right lane)	192	\$100	4	\$200
1003(1)(b)	Driver failed to give way when overtaken	193	100	3	200
1004	Passed on right when not permitted/not safe	194	100	4	200
1005(1)	Passed on left when not clear to traffic	195	100	4	200
1005(1)	Passed without giving oncoming traffic sufficient clearance	201	100	4	200
1005(2)(a)	Passed on crest of grade/curve when view obstructed	197	100	4	200
1005(2)(b)	Passed when crossing/within 100 ft. of intersection/railroad crossing	196	100	4	200
1005(2)(c)	Passed within 100 ft. of bridge/tunnel/viaduct when view obstructed	200	100	4	200
1005(3)	Passed on left when prohibited by signs/markings	199	100	4	200
1007(1)(b)	Attempted to pass/passed on shoulder of right hand traffic lane	222	100	4	200
<b>PEDESTRIAN/ANIMAL RIDER VIOLATIONS</b>					
808	Pedestrian failed to yield right of way to disabled person	999	75	0	150
604	Pedestrian disregarded/failed to obey traffic control signal	400	100	0	200
801	Pedestrian disregarded traffic control devices	401	30	0	60
802(3)	Pedestrian suddenly walked/ran into path of vehicle	411	40	0	80
803	Pedestrian failed to yield right of way to vehicle	402	40	0	80
803	Pedestrian failed to cross roadway as required	407	40	0	80
805(2)	Pedestrian solicited rides in roadway	404	40	0	80
805(1)	Pedestrian/animal rider failed to walk/ride along/upon roadway as required	408	40	0	80
805(4)	Animal rider on roadway under the influence of alcohol/controlled substance	802	50	0	100
805(3)	Pedestrian on roadway under the influence of alcohol/controlled substance	803	50	0	100

805(7)	Vehicle endangered/impeded traffic to pick up pedestrian	160	50	0	100
805(8)	Pedestrian/animal rider failed to yield to emergency vehicle	410	\$ 50	0	\$100
109(8)	Road/lead animal on wrong side of highway/roadway	408	40	0	80
109(12)	Parent/guardian knowingly permitted child to violate section 109	901	50	0	100
<b>RECREATIONAL VEHICLES</b>					
109(9)	Used skis/sled/skates/coaster/toy vehicle/on highway/roadway	901	50	0	100
109(12)	Parent/guardian knowingly permitted child to violate section 109	901	50	0	100
<b>RIGHT OF WAY VEHICLE/PEDESTRIAN</b>					
604	Failed to yield right of way on right turn after stop at red light	370	100	3	200
701	Failed to yield right of way as required at uncontrolled intersection	371	100	3	200
703(4)	Failed to yield at yield intersection	372	100	3	200
703(3)	Failed to yield right of way when proceeding from stop sign	373	100	3	200
704	Failed to yield right of way upon entering highway (when vehicle enters from any place other than a roadway)	374	100	3	200
705	Failed to yield right of way to emergency vehicle	375	100	4	200
710(1)	Failed to yield right of way to pedestrian upon emerging from alley/driveway/building	378	80	4	160
710(2)	Failed to yield right of way to pedestrian upon entering alley/driveway/building	378	80	4	160
712(1)	Failed to yield right of way to authorized vehicle/pedestrian in highway work area	382	80	3	160
712(2)	Failed to yield right of way to authorized service vehicle displaying flashing yellow light	382	80	3	160
802(1)	Failed to yield right of way to pedestrian in crosswalk	376	50	4	100
802(5)(a)	Failed to yield right of way to pedestrian at steady walk signal	377	40	4	80
807	Driver failed to exercise due care for pedestrian	381	80	4	160
808	Driver failed to yield right of way to disabled person	380	100	6	200
<b>SAFETY BELT/RESTRAINT</b>					
237(2)	Drove vehicle when safety belt not in use	575	\$ 75	0	

237(2)	Drove vehicle when front seat belt passenger not secured by safety belt	960	75	0	
<b>SCHOOL BUS</b>					
707(1)	School bus/commercial vehicle failed to stop at railroad crossing when required	317	100	4	
1903(1)	Failed to stop for stopped school bus displaying flashing red lights	420	SUM	6	
1903(6)(b)	Failed to stop for stopped school bus displaying flashing red light 2 or more times within 5 years	422	SUM	6	
1903(2)	School bus driver failed to actuate visual signals as required	422	SUM	2	
1903(5)	School bus driver failed to stop as required	421	SUM	3	
<b>SIGNALING</b>					
903	Failed to signal as required/gave improper signal for (turn/stop/sudden decrease in speed)	433	75	2	\$150
903	Improper use of flashing turn signal	433	75	2	150
608(1)	Failed to use turn signals	436	75	2	150
609	Gave improper hand signal	437	30	2	60
<b>SPEED</b>					
1101(1)	Speeding 1—4 mph over prima facie limit	020	40	1	
1101(1)	Speeding 5—9 mph over prima facie limit	004	80	1	
1101(1)	Speeding 10—19 mph over prima facie limit	005	135	4	
1101(1)	Speeding 20—24 mph over prima facie limit	006	200	6	
1101(1)	Speeding 10—14 mph over prima facie limit COMMERCIAL VEHICLE ONLY	015	135	4	270
1101(1)	Speeding 15—19 mph over prima facie limit COMMERCIAL VEHICLE ONLY	770	135	4	270
1101(1)	Speeding 25—39 mph over prima facie limit	006	SUM	6	
1101(1)	Speeding 40 mph or more over prima facie limit	016	SUM	12	
1101(1)	Speeding 1—4 mph over posted limit in construction/school zone	020	*	0	80
1101(1)	Speeding 5—9 mph over posted limit in construction/school zone	004	*	1	160
1101(1)	Speeding 10—19 mph over posted limit in construction/school zone	005	*	4	\$270
1101(1)	Speeding 20—24 mph over posted limit in construction/school zone	006	*	6	400
1101(1)	Speeding 25—39 mph over posted limit in construction/school zone	006	*	6	SUM
1101(1)	Speeding 40 mph or more over posted limit in construction/school zone	006	*	12	SUM

1101(3)	Exceeded safe speed for conditions (indicate actual speed/safe speed)	007	\$100	3	200
1103(1)	Impeded normal flow of traffic	008	50	3	100
1105(1)	Engaged in an acceleration/speed contest/exhibition	001	SUM	12 (speed contest) 5 (exhibition)	
1105(1)	Aiding or abetting an acceleration/speed contest/exhibition	010	SUM	12 (speed contest) 5 (exhibition)	
1105(2)	Obstructed highway incident to a speed contest	010	SUM	12	
1413	Eluded/attempted to elude a police officer Additional eluding charges in State Statutes	011	SUM	12	
<b>SPILLING—LOADS—DAMAGING HIGHWAY</b>					
512	Damaged highway/highway structure	495	75	0	
1406(1)(a)	Left/deposited/threw foreign matter on highway	490	50	0	100
1406(1)(b)	Left/deposited/threw burning material from motor vehicle	491	SUM	0	
1406(2)	Failed to remove lighted/burning/matter left/deposited/thrown on highway	491	50	0	100
1406(3)	Removed wrecked or damaged vehicle from highway without removing injurious substance from highway	999	50	0	100
1406(4)	Excavated on highway without authorization	492	50	0	100
1406(4)	Constructed on highway without authorization	493	50	0	100
1407(1)	Spilled load on highway/failed to cover load	494	\$ 50	0	\$100
1407.5	Splash guards required	579	50	0	
<b>TOWING</b>					
1405	Person rode in trailer	156	50	0	100
506(2)	Failed to use white flag on tow chain/cable/rope	471	50	0	
506(3)	Failed to use safety chain or cable on towed vehicle	472	50	0	
506(1)	Unlawful drawbar	473	50	0	
1108(2)	Unlawful following by vehicle drawing another vehicle	165	100	4	200
<b>TRAFFIC CONTROLS</b>					
603	Failed to observe/disregarded traffic control	300	100	4	200

	device				
604	Failed to obey lane—use control signal	220	100	4	200
604	Failed to obey traffic control signal	304	100	4	200
604	Failed to stop for traffic control signal at place required	305	100	4	200
605	Failed to obey flashing red/yellow signal light as required	310	75	4	150
606	Displayed unauthorized sign/signal/markings device	311	40	0	80
607	Removed/interfered with/alterd/defaced/knocked down/injured traffic control sign/device or attempted to do so	314	50	0	100
612	Failed to proceed with caution/as required at inoperable or malfunctioning control device	320	75	4	150
703	Disregarded/failed to stop as required at stop sign at through highway	319	75	4	150
706	Disregarded railroad signal/crossing gate/barricade/flagman	315	75	4	
706(1)	Disregarded stop sign at railroad crossing	315	75	4	
707	School bus/commercial vehicle failed to stop at railroad crossing when required	317	75	4	
708	Unlawful moving of heavy equipment across railroad grade crossing	318	50	0	
712(3)	Disregarded instructions/signals of flag person in highway work area	914	75	3	150
806	Drove vehicle through safety zone	145	75	3	150
<b>TURNS</b>					
603	Made turn where prohibited by traffic control device	300	\$100	4	\$200
604	Made right/left turn on red light where prohibited by sign	271	100	4	200
702	Failed to yield right-of-way when turning left in front of approaching traffic	278	75	3	150
901(1)(a)	Made right hand turn from wrong position/lane	274	75	3	150
901(1)(b)	Made left turn from wrong position/lane	273	75	3	150
901(1)(c)	Made improper left turn at multi-turn intersection	280	75	3	150
901(2)	Failed to turn as required by traffic control device	276	75	3	150
901(2)	Failed to turn from turn-only lane	276	75	3	150
902(1)	Made U-turn on hill or curve	270	75	3	150
902(2)	Made unsafe U-turn at intersection	270	75	3	150



902(3)	Made U-turn where prohibited	270	75	3	150
1010	Improper turn/turn where prohibited across median of divided highway	279	75	3	150
<b>WRONG WAY—WRONG SIDE</b>					
1001(1)	Failed to drive vehicle on right side of road/in right hand lane as required	250	75	4	150
1001(b)	Failed to yield right of way when forced to drive on left side of road	251	75	4	150
1002	Failed to yield one half of the roadway to oncoming vehicle	190	100	4	200
1006(1)	Drove vehicle wrong way on one way roadway	254	75	3	150

(Ord. No. 642, § 1, 2012)

**Sec. 20.08.170. Yampa Valley Regional Airport area schedule of violations.**

The schedule of violations as approved by resolution by city council is on file in the clerk's office, or their designee.

Violation	H.M.T.C. Section	Fine Amount
Overtime parking	1204(3)(b)	\$ 85
Parked where prohibited	1204(3)(b)	85
No overnight parking	1204(3)(b)	85
Obstruction of snow plow maintenance	1204(3)(b)	85
Police only zone	1204(3)(b)	85
15 feet of fire hydrant	1204(2)(b)	85
Handicapped zone	1208(5)	200
Parked in roadway	1202	85
Parked on a crosswalk	1204(1)(e)	100

**CHAPTER 20.12. PARKING**

**Sec. 20.12.010. Definition.<sup>151</sup>**

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:

Motor vehicle means any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle; except that the term "motor vehicle" does not include electrical assisted bicycles, electric scooters, low-power scooters, wheelchairs, or vehicles moved solely by human power. as used in this chapter, includes all motor propelled bicycles, tricycles, automobiles, auto trucks, trailers and all motor driven vehicles of whatsoever kind.

<sup>151</sup> We recommend modifying this definition to comply with C.R.S. 42-1-102.

(Code 1999, § 10.08.010; Ord. No. 90 § 1, 1947)

**Sec. 20.12.020. Regulation.**<sup>152</sup>

No motor vehicle shall be parked for more than 24 hours on the following streets and avenues of the town: on Jefferson Avenue between its intersection with Spruce Street on the east and its intersection of Chestnut Street on the west; and on Walnut Street between its intersection of Lincoln Avenue on the north and its intersection with Washington Avenue on the south.

(Code 1999, § 10.08.020; Ord. No. 90 § 2, 1947)

**Sec. 20.12.030. Winter parking restrictions.**

There is added to article I, part 12 of the adopted model traffic code the following:

"1212. Winter parking restrictions. During the months of November through April of each year between the hours of 12:00 o'clock-midnight and 7:00 o'clock-a.m., it shall be unlawful for any person, except a physician or other person on an emergency call, to park a vehicle on a public street, public highway or public alley in or within the Town of Hayden."

(Code 1999, § 10.08.030; Ord. No. 624, § 1, 2009)

**Sec. 20.12.040. Providing for towing of vehicles during winter parking restrictions.**

Whenever any vehicle shall be parked on a public street, public highway or public alley located within or under the control of the town during the winter parking restrictions time period, the Town Board of Trustees Council, or its delegated representative, may order the towing of said vehicle with all towing costs to be charged to the legal owner of said vehicle.

(Code 1999, § 10.08.040; Ord. No. 617, § 1, 2009)

**CHAPTER 20.16. USE OF SNOWMOBILES, GOLF CARTS, ALL-TERRAIN VEHICLES, UTILITY-TYPE VEHICLES AND OFF-HIGHWAY VEHICLES**

**Sec. 20.16.010. 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:

*All-terrain vehicle Type I (ATV)* means any motor vehicle 50 inches or less in width, having an unladen dry weight of 800 pounds or less, traveling on four or more low pressure tires, having a seat designed to be straddled by the operator, having a seat height of a minimum of 24 inches when measured at the forward edge of the seat bottom, with handlebars for control and designed for or capable of traveling over unimproved terrain.

*Golf cart* means any recreational vehicle primarily designed to carry one or more people, and which may also carry golf equipment, traveling on four or more low pressure tires, whose top speed is not greater than 25 miles per hour, and having side-by-side seating with a steering wheel for control.

*Insured* means the same insurance requirements needed to operate a street legal motorcycle on highways in the state.

*Off-highway vehicle (OHV)* refers specifically to the vehicles described herein as an ATV, UTV, golf cart and/or snowmobile that has not been otherwise modified from another specific form in order to conform to one of the aforementioned descriptions.

*Operator* means the person who is in actual physical control of a vehicle.

*Registration* means the process by which appointed officials of the town can inspect, establish clear ownership, identify the vehicle, confirm that a vehicle conforms to all requirements set forth herein and, upon the satisfactory completion of all requirements, the issuance and acquisition of official documents and identifying insignia (herein

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<sup>152</sup> We recommend reviewing this provision and confirming that the streets/avenues listed here are complete and up to date.

stickers).

*Snowmobile* means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated.

*Town traffic laws* mean any traffic codes adopted by the town.

*Utility-type vehicle (UTV)* means any recreational vehicle designed for and capable of traveling over unimproved terrain: traveling on four or more low pressure tires, having a width of 30 to 70 inches, having an unladen dry weight of 2,200 pounds or less, having a seat height of 25 to 40 inches when measured at the forward edge of the seat bottom and having side-by-side seating with a steering wheel for control.

*Valid driver's license* means any current, legal license not subject to revocation or suspension.

(Code 1999, § 10.05.010; Ord. No. 658, § 2, 2013)

#### **Sec. 20.16.020. Permitted use.**

A properly registered and operated OHV may be operated on all public streets and alleys within the limits of the town except Jefferson Avenue (Highway 40).

(Code 1999, § 10.05.020; Ord. No. 658, § 2, 2013)

#### **Sec. 20.16.030. Registration.**

(a) Owners wishing to register their vehicle with the town may do so at the police department.

(b) Registration with the town will be completed only when the vehicle being registered meets the criteria set forth by the town in accordance with this chapter and the appropriate registration fee has been paid.

(c) Owners must provide the following:

- (1) Bill of sale, title of vehicle or proof of ownership;
- (2) Proof of current insurance (which must meet requirements of motorcycles licensed by the state to travel on state highways); and
- (3) Valid driver's license (a valid driver's license will be required to operate an OHV on the public streets and alleys of the town).

(d) Owners must display a valid annual town registration sticker in a prominent and visible place on a registered OHV to operate on the public streets and alleys of the town.

(Code 1999, § 10.05.030; Ord. No. 658, § 2, 2013)

#### **Sec. 20.16.040. Requirements.**

(a) Any OHV that operates on any public street within the limits of the town must have the following listed equipment installed and such equipment must be operable:

- (1) Headlamp;
- (2) Tail lamp and reflector;
- (3) Stop lamps on the rear;
- (4) A horn or other audible warning device;
- (5) A muffler and emissions system;
- (6) Rear view mirror;
- (7) A windshield or eye protection for the operator;
- (8) For side-by-side vehicles, a seat belt is required for each occupant;
- (9) Anyone under the age of 16 years who is riding as a passenger on an OHV must wear a helmet; and
- (10) A footrest and hand hold for each passenger.

(b) Any operator of an OHV, operating on any public street within the limits of the town must have in their possession:

- (1) A valid driver's license;
- (2) Proof of current insurance for the OHV in operation (the operator must maintain a minimum of liability insurance coverage); and
- (3) Documentation of registration as described in section 20.16.030(d).

(Code 1999, § 10.05.040; Ord. No. 658, § 2, 2013)

**Sec. 20.16.050. Responsibilities and safety.**

(a) All OHVs, operators thereof and passengers therein, shall accept and comply with all of the following responsibilities:

- (1) The registered owner of the OHV shall be responsible for the operation of that vehicle;
- (2) OHV operators shall obey all state and town traffic laws;
- (3) The operator of any OHV must comply with all town, county and state laws; and
- (4) The operator of any OHV may not exceed the posted speed limit.

(b) All OHVs, operators thereof and passengers therein, shall accept and comply with all of the following safety requirements:

- (1) Use of an OHV is limited to one person unless the vehicle is designed for two or more riders and there are footrests and hand holds for each rider, in which event more than one person may use the OHV at the same time;
- (2) Side-by-side or specifically designed, multiple passenger utility-type vehicles (UTVs) must be equipped with seatbelts for each occupant; and
- (3) All safety equipment on any OHV currently or originally installed by the manufacturer must be in use during operation.

(Code 1999, § 10.05.050; Ord. No. 658, § 2, 2013)

**Sec. 20.16.060. Restrictions.**

(a) No three-wheel ATV and/or OHV type vehicles are allowed on any public street within the limits of the town.

(b) Motor vehicles that have been modified to be used as ATVs, golf carts, snowmobiles or UTVs are not permitted.

(Code 1999, § 10.05.060; Ord. No. 658, § 2, 2013)

**Sec. 20.16.070. Hours of operation.**

An OHV may be operated within the limits of the town between the hours of 4:00 a.m. and 10:30 p.m.

(Code 1999, § 10.05.070; Ord. No. 658, § 2, 2013)

**Sec. 20.16.080. Yield right-of-way.**

OHVs shall yield right-of-way to all other vehicular and pedestrian traffic when operated on any public streets within the limits of the town.

(Code 1999, § 10.05.080; Ord. No. 658, § 2, 2013)

**Sec. 20.16.090. Lighting.**

A minimum of one headlight and one taillight shall be on at all times while OHVs are being operated on any public streets within the limits of the town.

(Code 1999, § 10.05.090; Ord. No. 658, § 2, 2013)

**Sec. 20.16.100. Penalties, violations and fines.**

(a) The penalty for violation of this chapter shall be in accordance with ~~the penalty assessment and schedule as specified in this title~~ section 1.12.010, as may be amended.

(b) Any persons in violation of any town or state traffic laws will be cited and assessed fines that are applicable to said violations. The police department or any other legal policing authority is given all rights to write citations to those individuals breaking laws as outlined in this chapter.

(c) The town shall revoke the registration of any OHV whose registered owner is convicted of three or more violations of any town or state traffic laws within one year.

(Code 1999, § 10.05.100; Ord. No. 658, § 2, 2013)

**Sec. 20.16.110. Limitation of liability.**

Nothing in this chapter shall be construed as an assumption of any duty of care by the town with respect to, or the assumption of any liability by the town for any injuries to persons or property which may result from the operation of an ATV, golf cart, snowmobile, UTV, otherwise referred to as an OHV, on the streets within the town limits.

(Code 1999, § 10.05.110; Ord. No. 658, § 2, 2013)

**CHAPTER 10.06 MISCELLANEOUS TRAFFIC OFFENSES<sup>153</sup>****10.06.010. Mandatory use of safety belt systems.<sup>154</sup>**

~~Unless exempted pursuant to subsection B of this section, every driver of and every front seat passenger in a motor vehicle equipped with a safety belt system shall wear a fastened safety belt while the motor vehicle is being operated on a street or highway in this Town.~~

~~— Definitions, as used in this section:~~

~~— "Motor vehicle" means a self propelled vehicle intended primarily for use and operation on the public highways, including passenger cars, station wagons, vans, taxicabs, ambulances, motor homes and pickup trucks. The term does not include motorcycles, motor scooters, motor bicycles, motorized bicycles, passenger buses, school buses, farm tractors or implements of husbandry designed primarily or exclusively for use in agricultural operations.~~

~~— "Safety belt system" means a system utilizing a lap belt, shoulder belt or any other belt or combination of belts installed in a motor vehicle to restrain drivers and passengers, which system conforms to federal motor vehicle safety standards.~~

~~— Exemptions. The requirements of this section do not apply to:~~

~~— A child required by Section 10.06.030 of this chapter to be restrained by a child restraint system;~~

~~— A member of an ambulance team, other than the driver, while involved in patient care;~~

~~— A police officer, while performing official duties, so long as the performance of said duties is in accordance with rules and regulations applicable to said officer which are at least as restrictive as the requirements of this section, and which only provide exceptions necessary to protect the officer;~~

~~— A person with a physically or psychologically disabling condition whose physical or psychological disability prevents appropriate restraint by a safety belt system if such person possesses a written statement by a physician certifying the condition, as well as stating the reason why such restraint is inappropriate;~~

<sup>153</sup> Because we recommend deleting everything currently in this chapter, we can omit this chapter completely from the code or we can reserve this chapter.

<sup>154</sup> As this subject matter is sufficiently covered by state statute (C.R.S. 42-4-237), we recommend striking this provision.

- ~~— A person driving or riding in a motor vehicle not equipped with a safety belt system due to the fact that federal law does not require such vehicles to be equipped with a safety belt system;~~
- ~~— A rural letter carrier of the United States Postal Service while performing duties as a rural letter carrier; and~~
- ~~— Any person operating a motor vehicle for commercial or residential delivery or pickup service; except that such person shall be required to wear a fastened safety belt during the time period prior to the first delivery or pickup of the day and during the time period following the last delivery or pickup of the day.~~
- ~~— Citation in Conjunction with another Traffic Violation. No driver in a motor vehicle shall be cited for a violation of this section unless such driver was stopped by a police officer for an alleged violation of other state or municipal traffic laws.~~
- ~~— Permitted Testimony.~~
  - ~~— Testimony by a law enforcement officer that he observed the person charged operating a motor vehicle while said operator or passenger was in violation of the requirement of the section; or~~
  - ~~— Evidence that the driver removed the safety belts or knowingly drove a vehicle from which the safety belts had been removed.~~

(Code 1999, § 10.06.010; Ord. 409 (part), 1993)

#### **10.06.020. Violation; penalty.**

Any person who operates a motor vehicle while he or any passenger is in violation of the requirements of Section 10.06.010 shall be deemed guilty of a misdemeanor, punishable as specified in the model traffic code (see section 10.04.040 of this Title, Appendix: Schedule IV — Sec. 1701, Penalty Assessment & Schedule.

(Code 1999, § 10.06.020; Ord. 409 (part), 1993)

#### **10.06.030. Use of child restraints in motor vehicles.<sup>155</sup>**

Unless exempted pursuant to subsection B of this section, every child who is under four years of age and weighs under forty (40) pounds, being transported in this municipality in a privately owned noncommercial passenger vehicle which is driven by a resident of this state, shall be provided with a child restraint system suitable for the child's size and shall be properly fastened into such restraint system which is in a seating position which is equipped with a safety belt or other means to secure said system according to the manufacturer's instructions. It is the responsibility of the driver transporting children subject to the requirements of this section, to ensure that such children are provided with and that they properly use a child restraint system.

- ~~— Definitions, as used in this Section:~~
  - ~~— "Child restraint system" means any device which is designed to protect, hold or restrain a child in a privately owned noncommercial passenger vehicle in such a way as to prevent or minimize injury to the child in the event of a motor vehicle accident and which conforms to all applicable federal motor vehicle safety standards.~~
  - ~~— "Safety belt" means a lap belt, a shoulder belt, or any other or combination of belts installed in a motor vehicle to restrain drivers and passengers, except any such belt which is physically a part of a child restraint system. Safety belt includes the anchorages, the buckles and all other equipment directly related to the operation of safety belts.~~
  - ~~— "Seating position" means any motor vehicle interior space intended by the motor vehicle manufacturer to provide seating accommodation while the motor vehicle is in motion.~~
- ~~— Exemption. The requirement contained in this section shall not apply to a child who is being transported~~

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<sup>155</sup> As this subject matter is sufficiently covered by state statute (C.R.S. 42-4-236), we recommend striking this provision.

~~in a motor vehicle as a result of a medical emergency.~~

- ~~— Nonconforming Equipment. No person shall use a safety belt or child restraint system for children four years of age and under in a motor vehicle unless it conforms to all applicable federal motor vehicle safety standards.~~

~~(Code 1999, § 10.06.030; Ord. 409 (part), 1993)~~

**~~10.06.040. Violation; penalty.~~**

~~Any person who violates any provision of section 10.06.030 shall be deemed guilty of a misdemeanor, punishable as specified in the model traffic code (see section 10.04.040 of this Title, Appendix: Schedule IV—Sec. 1701, Penalty Assessment & Schedule. The fine may be waived or partially waived, at the discretion of the municipal court judge, if the driver presents the municipal court with satisfactory evidence of the acquisition, purchase or rental of an approved child restraint system by the time of the court appearance.~~

~~(Code 1999, § 10.06.040; Ord. 409 (part), 1993)~~

PROOFS

Title 21  
**RESERVED**

PROOFS



## Title 22

WATER AND SEWER<sup>156</sup>~~CHAPTER 22.01. IN GENERAL (RESERVED)~~CHAPTER 22.04. IN GENERAL<sup>157</sup>**Sec. 22.04.010. Definitions.**

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

**~~13.12.010. Bod.~~**

*BOD (biochemical oxygen demand)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, as defined in the current edition of Standard Method for Examination of Water and Wastewater, for five days at 20 degrees centigrade, expressed in milligrams per liter.

~~(Code 1999, § 13.12.010; Ord. No. 226, 'A(1)(a), 1977)~~

**~~13.12.020. Drain, building.~~**

*Building drain* means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

~~(Code 1999, § 13.12.020; Ord. No. 226, 'A(1)(b), 1977)~~

**~~13.12.140. Sewer, building.~~**

*Building sewer* means the extension from the building drain to the public sewer or other place of disposal.

~~(Code 1999, § 13.12.140; Ord. No. 226, 'A(1)(n), 1977)~~

**~~13.12.190. System, combined or joint.~~**

*Combined or joint system* means all of the town's joint water-sewer systems and its water and sewer facilities and properties now owned or hereafter acquired, whether situated within or without the town boundaries.

~~(Code 1999, § 13.12.190; Ord. No. 226, 'A(1), 1977)~~

*Garbage* means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

~~(Code 1999, § 13.12.050; Ord. No. 226, 'A(1)(e), 1977)~~

**~~13.12.200. Wastes, industrial.~~**

*Industrial wastes* means the liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

~~(Code 1999, § 13.12.200; Ord. No. 226, 'A(1)(t), 1977)~~

<sup>156</sup> Generally, we recommend that the Town's Public Works department carefully review this title, as a lot of the content is from the 70s and might be out dated. We will strike any provisions they deem out dated or not currently practiced and will reorganize this title based on their feedback.

<sup>157</sup> We recommend moving these definitions to appear in the "In General" chapter of this title, and also combining all the definitions under one section, like the town does in other titles. **Town accepted.**

**13.12.070. Outlet, natural.**

*Natural outlet* means any outlet into a water course, pond, ditch, lake or other body of surface water or groundwater.

(Code 1999, § 13.12.070; Ord. No. 226, 'A(1)(g), 1977)

**13.12.080. Ph.**

*pH* means the concentration of hydrogen ions, a measurement of which is defined in the current edition of Standard Methods for Examination for Water and Wastewater.

(Code 1999, § 13.12.080; Ord. No. 226, 'A(1)(h), 1977)

**13.12.060. Garbage, properly shredded.**

*Properly shredded garbage* means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

(Code 1999, § 13.12.060; Ord. No. 226, 'A(1)(f), 1977)

**13.12.150. Sewer, public.**

*Public sewer* means a sewer in which all owners of abutting properties have equal rights and which is controlled by a public authority.

(Code 1999, § 13.12.150; Ord. No. 226, 'A(1)(e), 1977)

**13.12.090. Public works manager.**

*Public works director* ~~Manager~~ means the person designated by the Town ~~Board~~ Council as the public works ~~director~~ Manager.

(Code 1999, § 13.12.090; Ord. No. 226, 'A(1)(i), 1977)

**13.12.160. Sewer, sanitary.**

*Sanitary sewer* means a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

(Code 1999, § 13.12.160; Ord. No. 226, 'A(1)(p), 1977)

**13.12.100. Sewage.**

*Sewage* means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments together with such ground waters, surface waters, and storm waters as may be present.

(Code 1999, § 13.12.100; Ord. No. 226, 'A(1)(j), 1977)

**13.12.110. Sewage treatment plant.**

*Sewage treatment plant* means any arrangement of devices and structures used for treating sewage.

(Code 1999, § 13.12.110; Ord. No. 226, 'A(1)(k), 1977)

**13.12.120. Sewage works.**

*Sewage works* means all facilities for collection, pumping, treating and disposing of sewage.

(Code 1999, § 13.12.120; Ord. No. 226, 'A(1)(l), 1977)

**13.12.130. Sewer.**

*Sewer* means a pipe or conduit for carrying sewage.

(Code 1999, § 13.12.130; Ord. No. 226, 'A(1)(m), 1977)

**13.12.170. Slug.**

*Slug* means any discharge of water, sewage or industrial waste which, in the concentration of any given

constituent or in quantity of flow excess for any period of duration longer than 15 minutes, is more than five times the average 24-hour concentration of flows during normal operation.

(Code 1999, § 13.12.170; Ord. No. 226, 'A(1)(q), 1977)

### **13.12.030. Drain, storm.**

*Storm drain* (sometimes termed "storm sewer") means a sewer which carries stormwaters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(Code 1999, § 13.12.030; Ord. 226 'A(1)(e), 1977)

### **13.12.180. Solids, suspended.**

*Suspended solids* means solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

(Code 1999, § 13.12.180; Ord. No. 226, 'A(1)(r), 1977)

### **13.12.040. Fee, tap.**

*Tap fee* means plant investment fee, and the terms may be used interchangeably.

(Code 1999, § 13.12.040; Ord. No. 226, 'A(1)(d), 1977)

### **13.12.050. Garbage.**

### **13.12.210. Waterecourse.**

*Watercourse* means a channel in which a flow of water occurs, either continuously or intermittently.

(Code 1999, § 13.12.210; Ord. No. 226, 'A(1)(u), 1977)

## **CHAPTER 22.08. VIOLATIONS**

### **Sec. 22.08.010. Violation of chapters 22.32 through 22.36, penalty.**

Any person convicted of violating any provision of chapters 22.32 through 22.36 shall, upon conviction, be punished according to section 1.12.010 ~~by a fine of not more than three hundred dollars (\$300.00), or by imprisonment for not more than 90 days, or by both such fine and imprisonment.~~

(Code 1999, § 13.56.010; Ord. No. 226, 'K, 1977)

## **CHAPTER 22.12. BUILDING SEWERS AND CONNECTIONS<sup>158</sup>**

### **Sec. 22.12.010. Unauthorized interference with sewers; permit required.**

No unauthorized person shall uncover, make any connections with or open into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the town clerk.

(Code 1999, § 13.48.010; Ord. No. 226, 'I(1), 1977)

### **Sec. 22.12.020. Permit; classes; fees.**

(a) There shall be two classes of building sewer permits:

- (1) For residential and commercial service; and
- (2) For service to establishments producing industrial wastes.

(b) In either case, the owner or his agent shall make application on a special form furnished by the town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the public works ~~Manager~~ director. A permit and inspection fee of ~~\$10.00~~ in an amount as

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<sup>158</sup> This chapter has not been amended in a long time, so it's possible it has been completely superseded by the building code and/or the development code. We recommend reviewing this chapter and confirming what needs to be deleted.

established by the Town Council from time to time for a residential or commercial building sewer permit and ~~\$15.00~~ in an amount as established by the Town Council from time to time for an industrial building sewer permit shall be paid to the town at the time the application is filed.

(Code 1999, § 13.48.020; Ord. No. 226, I(2), 1977)

**Sec. 22.12.030. Permit; business or industry ~~commencing after July 12, 1977.~~**

For any business or industry which is requesting building sewer permits, ~~if such business or industry is not in existence and doing business within the town until after July 12, 1977,~~ the town may negotiate with said business or industry any charges which are set forth in this chapter which are different from those rates specified in this chapter.

(Code 1999, § 13.48.030; Ord. No. 226, I(3), 1977)

**Sec. 22.12.040. Liability for costs and damages assigned.**

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Code 1999, § 13.48.040; Ord. No. 226, I(4), 1977)

**Sec. 22.12.050. Separate installation for separate buildings; required; exception.**

A separate and independent building sewer shall be provided for every building except when waived by the Town ~~Board~~ Council; where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(Code 1999, § 13.48.050; Ord. No. 226, I(5), 1977)

**Sec. 22.12.060. Old sewers in new buildings.**

Old building sewers may be used in connection with new buildings only when they are found on examination and test by the public works ~~Manager~~ director to meet all requirements of this chapter and chapter 22.44.

(Code 1999, § 13.48.060; Ord. No. 226, I(6), 1977)

**Sec. 22.12.070. Construction standards; regulations cited.**

The size, slope, alignment and materials of construction of a building sewer, and the methods to be used in excavating, placing the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing code and other applicable rules and regulations of the town. In the absence of code provisions, or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9, as revised, shall apply.

(Code 1999, § 13.48.070; Ord. No. 226, I(7), 1977)

**Sec. 22.12.080. Placement.**

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. All basement or garden level sewer services or any sewer service so designated by the public works ~~manager~~ director to be subject to potential backflow from sewer mains shall be required to be protected by the installation by a licensed plumber of a backwater valve.

(Code 1999, § 13.48.080; Ord. No. 226, I(8), 1977)

**Sec. 22.12.090. Connection of drains carrying surface runoff or groundwater to building sewer and public sanitary sewer prohibited.**

No person shall make connection of roof, down spouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly

or indirectly to a public sanitary sewer.

(Code 1999, § 13.48.090; Ord. No. 226, I(9), 1977)

**Sec. 22.12.100. Connection to public sewer; compliance to specified regulations required.**

The connection of the building sewer to the public sewer shall conform to the requirements of this chapter and the rules and regulations of the town and the procedures set forth in appropriate specifications of the ASTM and the WOCF Manual of Practice No. 9, as revised. All such connections shall be made gas tight and watertight. Any deviations from the prescribed procedures and materials must be approved by the public works ~~manager~~ director before installation.

(Code 1999, § 13.48.100; Ord. No. 226, I(10), 1977)

**Sec. 22.12.110. Connection to public sewer; supervision of public works ~~manager~~ director required.**

The applicant for the building sewer permit shall notify the public works ~~manager~~ director when the building sewer is ready for inspection to the public sewer. The connection shall be made under the supervision of the public works ~~manager~~ director or his representatives.

(Code 1999, § 13.48.110; Ord. No. 226, I(11), 1977)

**Sec. 22.12.120. Excavations; safety precautions prescribed.**

All excavations for building sewer installation shall be in conformance with town, state and federal regulations and shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(Code 1999, § 13.48.120; Ord. No. 226, I(12), 1977)

## **CHAPTER 22.16. COMBINED WATER AND SEWER FACILITIES**

**Sec. 22.16.010. Conformity with state statutes.**

By virtue of and in full conformity with the provisions of C.R.S.-1973 § 31-35-401 et seq.-(1975-Supp.), as amended, the waterworks system and utility and the sanitary sewer system and utility, both being owned and operated by the town, are combined into a joint water and sanitary sewer system and utility.

(Code 1999, § 13.04.010; Ord. No. 207, § 1, 1974)

**~~13.04.020. Operation as joint facility.~~<sup>159</sup>**

~~The former water and sanitary sewer system and utilities shall hereafter be jointly operated as a single joint water and sanitary sewer system.~~

~~(Code 1999, § 13.04.020; Ord. No. 207, § 2, 1974)~~

**Sec. 22.16.020. Authority of town administrators.**

The town mayor and other town administrative officers and personnel are authorized and directed to take all such actions and do all things which may be necessary and appropriate to accomplish the combining of the waterworks and sanitary sewer systems and utilities at the earliest possible time, and thereafter to provide adequately for the economical and efficient operation of the former systems as a joint water and sanitary sewer system.

(Code 1999, § 13.04.030; Ord. No. 207, § 3, 1974)

**Sec. 22.16.030. Authority of town to issue revenue bonds.**

The town shall hereafter be authorized to issue revenue bonds of the joint water and sanitary sewer system and utility, pledging for the payment thereof the joint revenue of the joint system, in accordance with the provisions of C.R.S. 1973 § 31-35-401 et seq.-(1975-Supp.), as amended, provided that a portion of the revenue shall be

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<sup>159</sup> We recommend striking outdated and obsolete language. **Town agreed via email 10/28.**

allocated to accomplish the purposes and requirements of Ordinance No. 157, adopted and approved August 7, 1968.

(Code 1999, § 13.04.040; Ord. No. 207, § 4, 1974)

**~~13.04.050 compliance with ordinance 157.~~<sup>160</sup>**

~~In the accomplishment of the combining of the waterworks and sanitary sewer systems into a joint system, and in the issuance of any revenue bonds of the joint system, due care shall be made for compliance with the requirements of said Ordinance No. 157 (1968) and C.R.S. 1973 § 31-35-401 et seq. (1975 Supp.), as amended.~~

~~(Code 1999, § 13.04.050; Ord. No. 207, § 5, 1974)~~

**Sec. 22.16.040. Establishment.<sup>161</sup>**

The ~~Town Council Board of Trustees~~ hereby establishes the municipal activities as an enterprise of the town. The enterprise shall consist of the business represented by all of the town's municipal activities' facilities and properties, now owned or hereafter acquired, whether situated within or without the town boundaries, including all present or future improvements, extensions, enlargements, betterments, replacements, or additions thereof or thereto (the system). The municipal activities shall have all of the authority, powers, rights, obligations, and duties as may be provided or permitted by the Water Activity Law and the state constitution, and as may be further prescribed by ordinance or resolution of the town.

(Code 1999, § 13.04.060; Ord. No. 404A, (part), 1993)

**Sec. 22.16.050. Governing body.<sup>162</sup>**

The ~~Board of Trustees of the Town Council~~ shall be the governing body of the municipal activities (the "governing body") and shall be subject to all of the applicable laws, rules, and regulations pertaining to the Town Council ~~Board of Trustees~~. Whenever the Town Council ~~Board~~ is in session, the governing body shall also be deemed to be in session. It shall not be necessary for the governing body to meet separately from the regular and special meetings of the Town ~~Board~~Council, nor shall it be necessary for the governing body to specifically announce or acknowledge that actions taken thereby are taken by the governing body of the enterprise. The governing body may conduct its affairs in the same manner and subject to the same laws which apply to the Town ~~Board~~ Council for the same or similar matters; provided, that in accordance with the Water Activity Law the governing body may authorize the issuance of bonds by adoption of a resolution.

(Code 1999, § 13.04.070; Ord. No. 404A, (part), 1993)

**Sec. 22.16.060. Compliance.**

The municipal activities shall, at all times and in all ways, be conducted so as to continue to qualify as a water activity enterprise within the meaning of the Water Activity Law, and as an enterprise within the meaning of C.R.S. § 24-77-102 Amendment 1.<sup>163</sup>

(Code 1999, § 13.04.080; Ord. No. 404A, (part), 1993)

**~~13.04.090. Affirmation of actions.~~**

~~All actions heretofore taken by the officers of the town and the members of the Board of Trustees, not~~

<sup>160</sup> We recommend striking this provision, as unnecessary and outdated language that does not need to be codified. **Town agreed via email on 10/28.**

<sup>161</sup> Is this provision still correct?

<sup>162</sup> Note: we will change all instances of Board of Trustees/Board to Town Council/Council throughout the entire Code but it will not all be marked with strikethrough and underline at this phase of the project.

<sup>163</sup> What does "Amendment 1" refer to? Is there a specific C.R.S. citation the town would like to insert here? **Town suggested C.R.S. § 31-32 or 31-35 but the only definition we could find is the citation entered.**

~~inconsistent with the provisions of this chapter relating to the operation or creation of the municipal activities, are hereby ratified, approved, and confirmed.~~

~~(Code 1999, § 13.04.090; Ord. No. 404A, (part), 1993)~~

### **13.04.100. Repeal of conflicting rules.**

~~All orders, bylaws, ordinances, and resolutions of the town, or parts thereof, inconsistent or in conflict with this chapter, are hereby repealed to the extent only of such inconsistency or conflict.~~

~~(Code 1999, § 13.04.100; Ord. No. 404A, (part), 1993)~~

## **CHAPTER 22.20. CONTROL OF WATER BACKFLOW AND CROSS-CONNECTIONS**

### **Sec. 22.20.010. Responsibility.**

The public works director 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 the judgment of said public works director an approved backflow-prevention assembly is required at the customer's water service connection for the safety of the water system, the public works director or his designated agent shall give notice in writing to said customer to install such an approved backflow-prevention assembly at specific location 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.

(Code 1999, § 13.34.010; Ord. No. 550, § 1(part), 2004)

### **Sec. 22.20.020. Definitions.**

~~As used in this chapter, unless the context otherwise requires:~~

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:

*Air gap* means the 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 as meeting an applicable specification stated or cited in this chapter 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 preventer* 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 change the color or add odor to the water.

*Cross-connection control by containment* means the installation of an approved backflow-prevention assembly at the water service connection to any customer's premises, where it is physically and economically unfeasible to find and permanently eliminate or control all actual or potential cross-connections within the customer's water system; or it shall mean the installation of an approved backflow-prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross-connections that cannot be effectively eliminated or controlled at the point of the cross-connection.

*Cross-connections, controlled*, means a connection between a potable water system and a nonpotable water system with an approved backflow-prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

*Degree of hazard* means a risk based upon an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

*Double check valve assembly* means the approved double check valve assembly consists of two internally loaded 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 nonhealth hazard (that is, a pollutant).

*Hazard, health*, means a cross-connection or potential cross-connection involving any substance that could, if introduced in the potable water supply, cause death, illness, spread disease, or have a high probability of causing such effects.

*Hazard, nonhealthy*, 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 that has not been properly protected by an approved air gap or an approved backflow-prevention assembly.

*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. The term "industrial fluids system" 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; oils, gases, glycerin, paraffins, caustic and acid solutions, and other liquid and gaseous fluids used in industrial or other purposes for firefighting purposes.

*Pollution* means the presence of any foreign substance in water that tends to degrade its quality so as to constitute nonhealth hazard or impair the usefulness of the water.

*Reduced-pressure backflow prevention assembly* means the approved reduced-pressure principle backflow-prevention assembly consists 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 or backflow-prevention assembly located at the point of delivery to the customer's water system. 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 commissioner or health official* means the public works director in charge of the water department of the town and is invested with the authority and responsibility for the implementation of an effective cross-connection control program and for the enforcement of the provisions of the ordinance codified in this chapter.

*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.

(Code 1999, § 13.34.020; Ord. No. 550, § 1(part), 2004)

### **Sec. 22.20.030. Requirements.**

(a) *Water system.*

- (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.

(b) *Policy.*

- (1) No water service connection to any premises shall be installed or maintained by the town unless the water supply is protected as required by state and local laws and regulations and this chapter. Service of water to any premises shall be discontinued by the town if a backflow-prevention assembly required by this chapter is not installed, tested, and maintained, or if it is found that a backflow-prevention assembly has been removed, bypassed, or if an unprotected cross-connection exists on the premises. Service will not be restored until such conditions or defects are corrected.
- (2) The customer's system should be open for inspection at all reasonable times to authorized representatives of the town to determine whether cross-connections or other structural or sanitary hazards, including violations of these regulations, exist. When such a condition becomes known, the public works director shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the customer has corrected the condition in conformance with state statutes and town ordinances relating to plumbing and water supplies and the regulations adopted pursuant thereto.
- (3) An approved backflow-prevention assembly shall be installed on each service line to a customer's water system at or near the property line or immediately inside the building being served; 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 of safe bacteriological or chemical quality and that is not acceptable as an additional source by the public works director, the public water system shall be protected against backflow from the premises by installing an approved backflow-prevention assembly in the service line, appropriate to the degree

- of hazard.
- 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 public water system, the public system shall be protected against backflow from the premises by installing an approved backflow-prevention assembly in the service line, appropriate to the degree of hazard. 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 internal cross-connections that cannot be permanently corrected and controlled, or 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, the public water system shall be protected against backflow from the premises by installing an approved backflow-prevention assembly in the service line.
- (4) The type of protective assembly required under subsections (b)(4)a through c of this section shall depend upon the degree of hazard that exists as reflected below.
- a. In the case of any premises where there is an auxiliary water supply as stated in subsection (b)(3) of this section and it is not subject to any of the following situations, the public 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 public water system, the public 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 public water system, the public water system shall be protected by an approved air-gap separation or an approved reduced-pressure principle backflow prevention assembly. 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 there are uncontrolled cross-connections, either actual or potential, the public water system shall be protected by an approved air gap separation or an approved reduced-pressure principle backflow prevention assembly at the service connection.
  - e. In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete in-plant cross-connection survey, the public water system shall be protected against backflow from the premises by either an approved air-gap separation or an approved reduced-pressure principle backflow-prevention assembly on each service to the premises.
  - f. In the case of any premises where, in the opinion of the public works director, an undue health threat is posed because of the presence of extremely toxic substances, the public works director may require an air gap at the service connection to protect the public water system. This requirement will be at the discretion of the public works director and is dependent on the degree of hazard.
- (5) Any backflow-prevention assembly required herein shall be a model and size approved by public works director. ~~The term "approved backflow prevention assembly" shall mean an assembly that has been manufactured in full conformance with the standards established by the American Water Works Association titled:~~
- ~~AWWA C510 17-89 Standard for Double Check Valve Backflow Prevention Assembly, and~~
  - ~~AWWA C511 17-89 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 of the University of Southern California established~~

~~by "Specification of Backflow Prevention Assemblies" Sec. 10 of the most current issue of the Manual of Cross Connection Control.~~

~~Said AWW and FCCHR standards and specifications have been adopted by the town. Final approval shall be evidenced by a "Certificate of Approval" issued by an approved testing laboratory certifying full compliance with said AWWA standards and FCCHR specifications.~~

~~The testing laboratories will be qualified by the public works director and will be added to an approved list as they are qualified by public works director.~~

~~Backflow preventers that may be subjected to backpressure or back siphonage that have been fully tested and have been granted a certificate of approval by said qualified laboratory and are listed on the laboratory's current list of approved backflow prevention assemblies may be used without further testing or qualification.~~

- (6) It shall be the duty of the customer-user at any premises where backflow-prevention assemblies are installed to have certified inspections and operational tests made at least once per year. In those instances where the public works director deems the hazard to be great enough, certified inspections may be required at more frequent intervals. These inspections and tests shall be at the expense of the water user and shall be performed by the assembly manufacturer's representative, town personnel, or by a certified tester approved by the public works director. It shall be the duty of the public works director to see that these tests are made in a timely manner. The customer-user shall notify the public works director in advance when the tests are to be undertaken so that the customer-user may witness the tests if so desired. These assemblies shall be repaired, overhauled, or replaced at the expense of the customer-user whenever said assemblies are found to be defective. Records of such tests, repairs, and overhaul shall be kept and made available to the public works director.
- (7) All presently installed backflow prevention assemblies that do not meet the requirements of this section but were approved assemblies for the purpose described herein at the time of installation and that have been properly maintained, shall, except for the inspection and maintenance requirements under this subsection (b), be excluded from the requirements of these rules so long as the public works director is satisfied that they will satisfactorily protect the utility system. Whenever the existing assembly is moved from the present location or requires more than minimum maintenance, or when the public works director finds that the maintenance constitutes a hazard to health, the unit shall be replaced by an approved backflow-prevention assembly meeting the requirements of this section.

(Code 1999, § 13.34.030; Ord. No. 550, § 1(part), 2004)

#### **Sec. 22.20.040. Penalties.**

The penalty for violation of this chapter shall be in accordance with the penalty assessment and schedule, as specified in section 1.12.010, as may be amended. In addition to the penalties provided, the person violating the provisions of the ordinance codified in this chapter shall be liable for and shall reimburse the town for any costs, expenses and damages incurred by the town or any other person or entity as a result of such violation of this chapter.

(Code 1999, § 13.34.040; Ord. No. 550, § 1(part), 2004)

### **CHAPTER 22.24. DISTRIBUTION FACILITIES, SPECIFICATIONS<sup>164</sup>**

#### **Sec. 22.24.010. Applicability of regulations generally.**

This chapter shall govern all labor, materials, equipment and services which are required for installation of all water distribution systems including pipe, valves, valve boxes, fittings, fire hydrants, air-vac valves, PRV valves, service taps and line and all appurtenant items as mentioned in this chapter. Also included shall be the flushing, testing and disinfection of all water distribution facilities. All pipes shall be installed in conformance with the state

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<sup>164</sup> Is this chapter currently used? Or does the Town rely on the Colorado Department of Public Health and Environment regulations?

department of public health and environment design disinfection procedure criteria<sup>165</sup>. Wherever in this chapter there is reference to a certain brand name, model number or make of material or equipment; an approved equal of such brand name, number or make of material or equipment shall also be permitted.

(Code 1999, § 13.24.010; Ord. No. 226, 'C(1), 1977)

#### **Sec. 22.24.020. Materials; specifications.**

All materials shall be new, of the highest quality, and meet the specifications and standards currently adopted by public works set forth in Sections 13.24.030 through 13.24.150 of this chapter.

(Code 1999, § 13.24.020; Ord. No. 226, 'C(2), 1977)

#### **13.24.030. Ductile from pipe.<sup>166</sup>**

~~All water mains and services greater than two inches in diameter shall be DIP and shall be in accordance with ANSI Specifications A21.51-71, cement lined in accordance with A21.4-1971, with push-on or mechanical joints in accordance with ANSI Specifications A21.11-1972. All diameters up to and including twelve inch diameter pipe shall have a Class 2 wall thickness. All pipes fourteen inches and larger in diameter shall have a Class 1 wall thickness. All DIP with push on joints shall be connected by electrodes to permit electrical conductivity.~~

(Code 1999, § 13.24.030; Ord. No. 226, 'C(2)(a), 1977)

#### **13.24.040. Gate valves.**

~~Gate valves shall be Pacific States Cast Iron Pipe Co. (PSCIPCO) or approved equal in accordance with AWWA Specifications C500-71, iron body, bronze mounted, open left, non rising stem, "O" ring stem seal, two inch operating nut with mechanical joints in accordance with ANSI Specifications A21.11-1972. All valves shall be rated for two hundred psi working pressure.~~

(Code 1999, § 13.24.040; Ord. No. 226, 'C(2)(b), 1977)

#### **13.24.050. Valve boxes.**

~~Valve boxes shall be Buffalo type Mueller H 10360, which are cast iron, five and one half inch shaft with screw type adjustment and a flare base. Valve boxes for valves over twelve inches in size shall be Buffalo type Mueller H 10357.~~

(Code 1999, § 13.24.050; Ord. No. 226, 'C(2)(c), 1977)

#### **13.24.060. Fittings.**

~~Fittings shall be ductile iron in accordance with ANSI Specifications A21.1071, with mechanical joints in accordance with ANSI Specifications A21.11-1972.~~

(Code 1999, § 13.24.060; Ord. No. 226, 'C(2)(d), 1977)

#### **13.24.070. Fire hydrants.**

~~Fire hydrants shall be Pacific State Cast Iron Pipe Co. (PSCIPCO) Model 2 and shall have a six inch mechanical joint bottom connection and automatic drain feature (drip valve), open left, one and one half inch pentagonal operating nut, two two and one half inch NST thread hose nozzles, one four and one half inch NST thread steamer nozzle, red in color, and be of adequate length for a seven foot trench.~~

(Code 1999, § 13.24.070; Ord. No. 226, 'C(2)(e), 1977)

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<sup>165</sup> Do these criteria currently exist? Our quick search on the website didn't find anything. **Town confirmed via email on 10/28.**

<sup>166</sup> We recommend reviewing this section and the next 14 sections and confirming that they are current. We recommend striking any sections that are no longer relevant, have been superseded, or are no longer required by the Town. **Town agreed, wants to ST all specifications and standards and wants to refer to those currently adopted by Public Works via email on 10/28.**

**13.24.080. Tapping sleeves.**

Tapping sleeves shall be Smith Blair Type 622 or approved equal for static head pressures up to one hundred twenty five psi. For static head pressures in water mains greater than one hundred twenty five psi, the tapping sleeves shall be Clow List 15's or approved equal.

(Code 1999, § 13.24.080; Ord. No. 226, 'C(2)(f), 1977)

**13.24.090. Corporation stops.**

Corporation stops shall be a Ford F 600 or approved equal and shall have an AWWA Taper Thread (three-fourths inch or one inch CC) with an outlet for flared copper connections. Corporation stops larger than one inch shall be Mueller with flared fittings or approved equal.

(Code 1999, § 13.24.090; Ord. No. 226, 'C(2)(g), 1977)

**13.24.100. Curb stops.**

Curb stops shall be a Ford Z22 33 for three fourths inch and Ford Z22 444 or approved equal for one inch key valve with flared copper fittings. Curb stops larger than one inch shall be Mueller H 15025 or approved equal.

(Code 1999, § 13.24.100; Ord. No. 226, 'C(2)(h), 1977)

**13.24.110. Curb boxes.**

Curb boxes shall be Mueller H 10334 with Mueller 88619 lid or approved equal. A stationary rod shall be provided which is approximately one foot below the lid when set to grade. Curb boxes for curb stops larger than one inch shall be Mueller H 10306 with plugged lid or approved equal.

(Code 1999, § 13.24.110; Ord. No. 226, 'C(2)(i), 1977)

**13.24.120. Connections.**

The connections shall be a Ford T222 334 with flared copper fittings or approved equal (or appropriate size in the aforementioned series). The connections for copper services larger than one inch shall be Mueller H 15380 or approved equal.

(Code 1999, § 13.24.120; Ord. No. 226, 'C(2)(j), 1977)

**13.24.130. Airvac valves.**

Airvac valves shall be APCO airvac (Bulletin 601) with cast iron body, bronze trim, stainless steel float and buna N seat or approved equal. The shut off valve shall be a Lukenhimer Figure 2127 series valve or approved equal.

(Code 1999, § 13.24.130; Ord. No. 226, 'C(2)(k), 1977)

**13.24.140. Pressure reducing valves.**

Pressure reducing valves shall be Golden Anderson Figure "40" series or approved equal. Each pressure reducing station requires an individual design; however for dependability and standardization of parts, the Golden Anderson line shall be used.

(Code 1999, § 13.24.140; Ord. No. 226, 'C(2)(l), 1977)

**13.24.150. Copper tubing.**

All service line installed not using ductile iron pipe (generally, any service under two inches in diameter) shall be Type K seamless soft copper tubing. Flexible polyethylene tubing may be permitted with the approval of the town Engineer.

(Code 1999, § 13.24.150; Ord. No. 226, 'C(2)(m), 1977)

**13.24.160. Pipe laying — mains — depth and width requirements.**

— The trench shall be dug so that the pipe can be laid to the alignment and depth required, seven feet being the minimum depth of cover. The trench shall be excavated only so far in advance of pipe laying as permitted by the town Engineer. The trench shall be so braced and drained that the workmen may work therein safely and

efficiently, and pipes can be laid in unwatered conditions. Local, state and federal OSHA safety regulations shall be followed at all times and, when required, trenches shall be of extra width to permit the use of timbers, shoring, bracing, sheeting and trench boxes.

— The width of the trench shall be ample enough to permit the pipe to be laid and jointed properly and the backfill placed as specified. In no case will the trench width be less than 15 inches wider than the outside diameter of the pipe. Should the trench width or depth become excessive, the town Engineer, at his option, may direct that special bedding and backfill measures be used to insure that design loading of the pipe is not exceeded.

(Code 1999, § 13.24.160; Ord. No. 226, 'C(3), 1977)

#### **13.24.170. Pipe laying — service — depth and width requirements.**

The same specifications for main excavation shall be followed. The Town Engineer, at his option, may require any service to be laid deeper than seven feet if site conditions warrant more depth for protection or prevention of freezing.

(Code 1999, § 13.24.170; Ord. No. 226, 'C(4) 1977)

#### **13.24.180. Excavations — classifications.**

— There shall be two classifications of materials excavated from pipe and service line trenches. Criteria for each class of excavated material shall be as follows:

- Earth Excavation. This classification includes all soils and loose, broken and laminated rock or stones and boulders which can be reasonably ripped, broken and removed with skillfully operated, power-driven excavating equipment having a bucket capacity of three fourths yard.
- Rock Excavation. This classification includes all solid rock masses and boulders which cannot be excavated as specified under earth excavation, subdivision 1 of this subsection.

— Where blasting is necessary, suitably weighted plank coverings or mattresses shall be provided to confine all materials lifted by the blasting within the trench or excavation area when a danger from flying debris exists (i.e., houses, structures, traffic). The contractor shall comply with all local, state and federal laws, ordinances, safety codes and OSHA regulations relative to the handling, storage and use of explosives and the protection of life and property. All blasting operations shall be under the direct supervision of a duly licensed person. The contractor shall be responsible for notifying all parties affected by blasting operations and shall be liable for all damages caused by his operations.

(Code 1999, § 13.24.180; Ord. No. 226, 'C(5), 1977)

#### **13.24.190. Excavation — trench preparation.**

— The trench bottom shall be graded so that the pipe or service line will have continuous support over its entire length and will rest either on undisturbed soil or compacted fill. Any rocks over six inches in diameter in the trench bottom shall be removed and the resulting void filled with suitable fines.

— Bell holes shall be provided at each pipe joint to permit the jointing to be made properly. In all cases the trench shall be de-watered during pipe and service line installation.

(Code 1999, § 13.24.190; Ord. No. 226, 'C(6), 1977)

#### **13.24.200. Bedding and backfill — materials.**

Materials for bedding and backfill shall be:

- Suitable Fines. The suitable fines from the excavated material or trench sides shall not include any rock or stones over two inches in size, general debris, organics, expansive clays or frozen material.
- Unclassified Backfill. That portion of the excavated material not having rocks larger than six inches in size, general debris, organics, expansive clays or frozen material.
- Imported Bedding. When the trench bottom is unstable or below the water table, the town Engineer will require a hard, durable one and one half inch washed aggregate bedding in the trench bottom to stabilize it.

- If suitable fines cannot be obtained, the town Engineer, depending on groundwater conditions, will direct the use of one and one half inch washed aggregate bedding of a three fourths inch minus bedding material, meeting the following specifications:

Standard Size of Sieve	Percent Passing Sieve by Weight
¾"	100%
No. 4	30 — 60%
No. 8	25 — 50%
No. 200	5 — 12%

This material is commonly referred to as base material or Class C road base.

(Code 1999, § 13.24.200; Ord. No. 226, 'C(7), 1977)

#### **13.24.210. Bedding — preparation procedure.**

— If the trench has been over excavated or excavated in rock (in which it shall be over excavated a minimum of six inches), the trench shall then be backfilled with suitable fines and compacted to a minimum modified Proctor Test value of ninety two percent (92%) until the pipe or service line can rest with full bearing at the proper invert elevation.

— After shaping the trench bottom so the pipe or service line has continuous support when placed, the bedding shall be inspected by the town Engineer. The trench shall then be backfilled to the spring line of the pipe in one loose lift of suitable fines and compacted to a minimum value of ninety percent (90%) modified Proctor Test. Special care shall be taken with this portion of the backfill to ensure proper filling and compaction under pipe haunches and to avoid damaging or moving the pipe. The trench shall then be filled and compacted using suitable fines from the spring line to 12 inches above the top of the pipe and compacted to a minimum value of ninety percent (90%) modified Proctor Test.

(Code 1999, § 13.24.210; Ord. No. 226, 'C(8), 1977)

#### **13.24.220. Backfill — unclassified.**

The remainder of the trench shall then be backfilled with unclassified backfill. The unclassified backfill shall not be placed by dozing over the edge of the trench, but rather by forming a gentle slope proceeding up grade in the trench and in lifts not to exceed twelve inches. All material shall be compacted to a minimum of ninety percent (90%) modified Proctor Test.

(Code 1999, § 13.24.220; Ord. No. 226, 'C(9), 1977)

#### **13.24.230. Backfill — gravel roads — procedure.**

— Before backfilling in any roads or rights of way, the backfill shall be approved by the town Engineer. This backfill shall meet the general requirements of unclassified backfill and shall also be a granular material or firm, dry clay. Should the town Engineer not approve the excavated material or proposed backfill material, it shall be disposed of by the contractor and suitable material imported. No backfill shall be placed upon a soft, spongy or frozen trench material or subgrade which, in the town Engineer's opinion, has an unsuitable stability.

— The entire length of the pipe or service line trench shall be mechanically compacted in lifts not to exceed 12 inches of loose material. The compaction shall be by means of a whacker, vibratory roller or other means specifically approved by the town Engineer.

— The backfill shall be compacted to a minimum value of ninety three percent (93%) modified Proctor Test. Compaction tests shall be made by the town Engineer or a testing firm directly under his supervision, at the owners or contractor's expense, to determine the adequacy of the compaction effort.

- The top ten inches of the trench shall meet these minimum requirements:

~~— Six inches of compacted subbase material meeting the following specifications:~~

Standard Size of Sieve	Percent Passing Sieve by Weight
3"	100%
2 1/2"	95-100%
2"	50-75%
No. 4	30-60%
No. 8	15-30%
No. 200	5-20%
Liquid Limit	25% (maximum)
Plastic Limit	6% (maximum)

~~— Four inches of compacted base course material meeting the following specifications:~~

Standard Size of Sieve	Percent Passing Sieve by Weight
3/4"	100%
No. 4	30-60%
No. 8	25-30%
No. 200	5-12%
Liquid Limit	25% (maximum)
Plastic Limit	6% (maximum)

~~— The Town Engineer, at his option, may require additional gravels if conditions necessitate such, or if the original roadbed was constructed differently.~~

~~— The aforementioned road gravels shall be compacted to a minimum value of ninety three percent (93%) modified Proctor Test and shall be to the same grades and lines as the existing roads and rights of way.~~

(Code 1999, § 13.24.230; Ord. No. 226, 'C(10), 1977)

#### **13.24.240. Backfill ~~paved roads with gravel rights of way.~~**

~~— The same backfill and road graveling requirements shall be followed as specified in Section 13.24.230 above.~~

~~— Excavation in paved streets shall be kept to a minimum width. The pavement shall be cut to form a vertical face six inches beyond each trench wall. The cut shall be made with a saw or a wide chisel blade on jackhammer and shall be made in a straight line. Protective measures such as mats, planks, cribbing, etc., shall be used at all times to protect the existing pavement from backhoe tracks, outriggers and any such equipment.~~

~~— After the main water line or service lines are laid and the backfill placed, the ten inch course of road gravels shall be laid and compacted to within four inches of the top of the existing road pavement, or to the bottom of the existing mat (whichever is thicker).~~

~~— Asphalt paving shall then be placed and compacted to a minimum four inch depth, or to the same thickness as the existing mat (whichever is thicker), to bring the road to final grade. The final grade and general configuration shall be subject to final inspection and approval by the town Engineer.~~

(Code 1999, § 13.24.240; Ord. No. 226, 'C(11), 1977)

#### **13.24.250. Handling procedure for pipes and accessories at work site ~~responsibility for damage.~~**



~~— Proper alignment, tools and facilities shall be provided and used by the contractor for the safe and efficient prosecution of work. All pipe, fittings, valves, miscellaneous equipment and lines shall be carefully lowered into the trench by means of a derrick, ropes or suitable equipment to prevent damage to the materials, protective coatings and linings. Under no circumstances shall materials be dropped or dumped into the trench.~~

~~— All lumps, blisters, and excess tar coatings shall be removed from the bell and spigot ends of each pipe, and the outside of the spigot and the inside of the bell shall be wire brushed and wiped clean and dry and free from soil and grease before the pipe is laid.~~

~~— The pipe shall be so handled that the coating and lining will not be damaged. If, however, any part of the coating or lining is damaged, the repair shall be made by the contractor at his expense and in a manner satisfactory to the town Engineer.~~

~~(Code 1999, § 13.24.250; Ord. No. 226, 'C(12), 1977)~~

#### **13.24.260. Installation—procedure to keep pipe clear of foreign matter.**

Blocking under the pipe shall not be used. Every precaution shall be taken to prevent foreign material from entering the pipe while it is being placed in the line. If the pipe laying crew cannot put the pipe into the trench and in place without getting earth into it, the town Engineer may require that before lowering the pipe into the trench, a heavy, tightly woven canvas bag of suitable size shall be placed over each end and left there until the connection is to be made to the adjacent pipe. During laying operations no debris, tools, clothing or other material shall be placed in the pipe.

(Code 1999, § 13.24.260; Ord. No. 226, 'C(13), 1977)

#### **13.24.270. Installation—alignment.**

After placing a length of pipe in the trench, the spigot end shall be centered in the bell and the pipe forced home and brought to correct line and grade. Pipe and fittings which do not allow a sufficient and uniform space for joints shall be removed and replaced with pipe and fittings of proper dimensions to insure such uniform space. Precautions shall be taken to prevent dirt from entering the joint space.

(Code 1999, § 13.24.270; Ord. No. 226, 'C(14), 1977)

#### **13.24.280. Installation—cutting of pipe—procedure.**

The cutting of pipe for inserting valves and fittings of closure places shall be done in a neat and workmanlike manner without damage to the pipe or cement lining, leaving a smooth end at right angles to the axis of the pipe. The flame cutting of pipe by means of an acetylene torch shall not be allowed. The cut end shall be beveled to allow the pipe to be jointed without damage to or displacement of the rubber gasket.

(Code 1999, § 13.24.280; Ord. No. 226, 'C(15), 1977)

#### **13.24.290. Installation—direction of pipe laying.**

The direction of pipe laying shall be uphill with bell ends facing in the direction of laying unless otherwise directed by the town Engineer.

(Code 1999, § 13.24.290; Ord. No. 226, 'C(16), 1977)

#### **13.24.300. Installation—pipe deflection—procedure generally.**

Wherever it is necessary to deflect the pipe from a straight line, either in the vertical or horizontal plane, to avoid obstructions or plumb gate valve stems, or where curves are necessary, the allowable amount of deflection shall be that indicated below, in Sections 13.24.310 and 13.24.320.

(Code 1999, § 13.24.300; Ord. No. 226, 'C(17), 1977)

#### **13.24.310. Installation pipe deflection—push on joints.**

~~— The last six inches outside of the spigot and inside of the bell of the push on joint pipe shall be thoroughly cleaned of oil, grit, tar (other than standard coating) and other foreign matter from the joint. The gasket shall be placed in the bell with the large round side of the gasket first so it will spring into place over the bell head. A thin film of manufacturer supplied lubricant furnished with the pipe shall be applied to the inside surface of the gasket~~

and also on the outside of the plain end of the pipe and its beveled edge. The plain end of the pipe shall then be wiped clean with a cloth and lifted and inserted just far enough to make contact with the gasket.

— The plain end shall then be forced all the way into the bell socket by crowbar, spade, jack, choker strings or by other means acceptable to the town Engineer.

— Allowable deflection per joint shall be as follows:

Diameter (inches)	Minimum Radius of Curvature (feet)	Deflection Per 18:2 Length (inches)
4"	205	19"
6"	205	19"
8"	205	19"
10"	205	19"
12"	205	19"
14"	340	11"
16"	340	11"
18"	340	11"

(Code 1999, § 13.24.310; Ord. No. 226, 'C(18), 1977)

### **13.24.320. Installation – pipe deflection – mechanical joints.**

— The last eight inches outside of the spigot and inside of the bell of the mechanical joint shall be thoroughly cleaned to remove oil, grit, tar (other than standard coating) and other foreign matter from the joint, and then painted with a soap solution recommended by the pipe manufacturer. The gland shall then be slipped on the spigot of the gland toward the socket or bell end. The gasket shall be painted with the soap solution and placed on the spigot end with the thick edge toward the gland.

— The entire section of the pipe shall be pushed forward to seat the spigot end in the bell. The gasket shall then be pressed into place within the bell, being careful to have the gasket evenly located around the entire joint. The gland shall be moved along the pipe into position for bolting, all of the bolts inserted and the nuts screwed up tightly with the fingers. All nuts shall be tightened with a suitable (preferably torque limiting) wrench. Torque range for the three fourths inch nuts used with four inch through twenty four inch nuts ductile iron pipe shall be sixty to ninety pounds.

— Nuts spaced one hundred eighty degrees apart shall be partially tightened in an alternate sequence until full torque is reached in order to produce an equal pressure on all parts of the gland and gasket.

— Allowable deflection per joint shall be as follows:

Diameter (inches)	Minimum Radius of Curvature (feet)	Deflection Per 18:2 Length (inches)
4"	125	31
6"	145	27
8"	195	20
10"	195	20
12"	195	20
14"	285	13½
16"	285	13½

18"	340	11
-----	-----	----

(Code 1999, § 13.24.320; Ord. No. 226, 'C(19), 1977)

#### **13.24.330. Installation – gate valves and valve boxes.**

Gate valve locations shall be subject to final approval by the town Engineer and shall be set plumb. Valves shall have the interior cleaned of all foreign matter before installation. Valves shall be inspected in opened and closed positions to insure that all parts are in working condition. A valve box shall be set so that it is centered and plumb over the valve operating nut. The valve boxes shall be set to the following grades:

Area	Grade
Paved Streets	¼ to ½ inches below grade and exposed
Gravel Roads, shoulders & driveways	2 to 3 inches below grade
Areas not in easements or affected by snowplowing operations	Set flush to grade

(Code 1999, § 13.24.330; Ord. No. 226, 'C(20), 1977)

#### **13.24.340. Installation – fire hydrants.**

— Hydrant locations shall be subject to final locations by the town Engineer and in a manner so as to provide complete accessibility and to minimize damage from vehicles. The maximum radius of influence shall be two hundred fifty (250) feet.

— All hydrants shall stand plumb and shall be set with their smaller hose nozzles parallel to the roadway. Hydrants shall be set to the established grade with nozzles at least two feet above the final grade. No hydrant shall be less than ten feet from the shoulder of a dedicated road.

— Each hydrant connection shall have a gate valve and valve box located adjacent to or no more than four feet from the hydrant and shall be connected to the main with a six inch diameter ductile iron lateral. Hydrants shall be provided with drainage weepholes.

— All hydrants in the town will be marked in accordance of direction of the public works director/Manager.

(Code 1999, § 13.24.340; Ord. No. 226, 'C(21), 1977)

#### **13.24.350. Pipeline – disinfection.**

— During pipe laying, the contractor shall maintain the cleanliness of the pipe interior. Any solid material entering the pipe shall be removed prior to jointing.

— All piping shall be disinfected after installation is complete in accordance with the procedures outlined in AWWA C601-68. Calcium hypochlorite tablets in an amount needed to form a minimum fifty ppm free chlorine residual shall be placed in the pipe during laying. When installation has been completed, the main shall be filled with water at a velocity of less than one foot per second. This water shall remain in the pipe for at least twenty four hours, after which a fifty mg/l residual shall persist.

— After the applicable retention period, the heavily chlorinated water shall be flushed from the main until the chlorine concentration in the water leaving the main is no higher than that generally prevailing in the system or less than one ppm. The Town Engineer shall make final tests to determine the chlorine level before the system is approved for domestic use.

(Code 1999, § 13.24.350; Ord. No. 226, 'C(22), 1977)

#### **13.24.360. Pipeline – flushing.**

The contractor shall flush the lines by a means in accordance with good practice to insure that sand, rock, or other foreign material is not left in any of the pipeline interiors. If large quantities of water are not available for flushing, this program shall be coordinated through the town Engineer.

(Code 1999, § 13.24.360; Ord. No. 226, 'C(23), 1977)

**13.24.370. Main testing—pressure and leakage—procedure generally.**

— The contractor shall furnish all labor, materials and equipment and shall perform all operations required to conduct the pressure and leakage tests during such time as the town Engineer is present. Water for testing will be available from the town water supply system when possible.

— Before applying the specified test pressure, all air shall be expelled from the pipe. Where any section is provided with concrete thrust blocks, the test shall not be made until at least two days have elapsed after the concrete was installed, to allow for proper curing.

— The hydrostatic pressure test shall be conducted prior to the leakage test.

— The Town Engineer shall be notified at least 48 hours in advance whenever pipe is to be tested, so that he shall be present during the test.

(Code 1999, § 13.24.370; Ord. No. 226, 'C(24), 1977)

**13.24.380. Main testing—hydrostatic pressure—procedure.**

After the pipeline has been laid and partially backfilled, except for the joints, or except when the town Engineer directs the trench to be backfilled for reasons of public safety, the pipe shall be filled with water and subjected to a hydrostatic pressure test. The pipeline shall be slowly filled with water and the specified test pressure (determined on an individual system basis by the town Engineer and Project Engineer) applied by means of a pump connected to the pipe in a manner satisfactory to the town Engineer. The test pressure shall be at the lowest elevation of the pipeline and shall continue for a minimum duration of one hour. All exposed pipes, fittings, valves, hydrants, and joints will be carefully examined during the test. Any cracked or defective pipes, fittings, valves, hydrants and joints shall be removed and replaced by the contractor with sound material in the manner provided heretofore, and the test repeated until satisfactory to the town Engineer.

(Code 1999, § 13.24.380; Ord. No. 226, 'C(25), 1977)

**13.24.390. Main testing—leakage—procedure.**

The leakage test shall be conducted according to the procedure and conditions specified under Section 13.24.380 above, except that the specified test pressure shall be one hundred fifty (150) psi at the lowest point and shall be maintained for a continuous period of not less than two hours. The system being tested shall be valved off so the smallest test sections possible can be used.

(Code 1999, § 13.24.390; Ord. No. 226, 'C(26), 1977)

**13.24.400. Main testing—leakage—permitted degree.**

The test pressure of one hundred fifty psi shall be maintained for a period of not less than two hours, during which time the leakage shall be measured. No pipe installation will be accepted if the leakage is greater than that determined by the formula:

$$L = ND P / 3700$$

Where L is the allowable leakage in gallons per hour, N is the number of joints in the length of the pipeline tested, D is the nominal diameter of the pipe in inches, and P is the average test pressure during the leakage test in pounds per square inch gauge.

(Code 1999, § 13.24.400; Ord. No. 226, 'C(27), 1977)

**13.24.410. Main testing—leakage—repair.**

Should any test of pipe laid disclose leakage greater than that specified in Section 13.24.400 above, the contractor shall, at his own expense, locate and repair the defective joints until the leakage is within the specified allowance.

(Code 1999, § 13.24.410; Ord. No. 226, 'C(28), 1977)

**13.24.420. Service lines—size.**

~~No service line shall be less than three-fourths inch diameter Type K soft copper.~~

~~All service lines shall be in conformance with the current Uniform Plumbing Code to supply adequately the property being served.~~

~~(Code 1999, § 13.24.420; Ord. No. 226, 'C(29), 1977)~~

#### **13.24.430. Service lines—construction authority.**

~~Water service line construction in Town streets or rights of way shall be done only by the contractor or contractors approved by the town Engineer.~~

~~(Code 1999, § 13.24.430; Ord. No. 226, 'C(30), 1977)~~

#### **13.24.440. Service lines—taps.**

~~— All taps to the town water system for three-fourths inch or one inch services shall be made by a Town crew using their tapping machine. The work shall be at the owner's or contractor's expense. All larger taps shall be made only with the town Engineer's express permission if a Town crew is unable to do the work.~~

~~— No tap-ons for service shall be made prior to the main being tested and approved. All taps are to be wet, that is, tapped to a live, pressurized main.~~

~~(Code 1999, § 13.24.440; Ord. No. 226, 'C(31), 1977)~~

#### **13.24.450. Service lines—connection details.**

~~— All services shall have a corporation stop or gate valve (for larger sizes) at the main. Sections 13.24.040, 13.24.050, and 13.24.060 define the required stops and boxes to be used.~~

~~— All new or reconstructed services shall have a main service shut-off valve at the dwelling unit or structure inside the foundation line in the crawl space or in a vault so constructed for this purpose.~~

~~(Code 1999, § 13.24.450; Ord. No. 226, 'C(32), 1977)~~

#### **13.24.460. Service lines—required depth.**

~~Sections 13.24.040, 13.24.050, and 13.24.090 require that all services be laid to a depth of seven feet or deeper.~~

~~(Code 1999, § 13.24.460; Ord. No. 226, 'C(33), 1977)~~

#### **13.24.470. Service lines—inspection—additional requirements.**

~~The Town Engineer shall inspect and approve all water services prior to backfilling and use. The service shall not leak and shall be buried at least seven feet deep. A wye fitting shall be installed at the tapping saddle to facilitate testing.~~

~~(Code 1999, § 13.24.470; Ord. No. 226, 'C(34), 1977)~~

#### **13.24.480. Service lines—location.**

~~All service line locations are subject to review and approval by the town Engineer and shall be laid in a continuous straight line, perpendicular to the main whenever possible. All services shall be a minimum of five feet from any lot or property corner. All service stubs to undeveloped lots or property shall extend into the lot or property a minimum of five feet.~~

~~(Code 1999, § 13.24.480; Ord. No. 226, 'C(35), 1977)~~

#### **13.24.490. Service lines—separate trench requirements.**

~~— All domestic water services shall be laid so that no point is nearer than ten lateral feet from a sewage service line, sewer main, building drain, any waste discharge line or non-potable water line.~~

~~— Electric, phone or television cables may be laid in the same trench as water service lines if there is a minimum two feet of cover between the water service line and the laid cable.~~

~~— Gas service lines may be laid in the same trench as water service lines if the gas line is steel, cast iron, or plastic with attached location wires and the gas line is a minimum of thirty inches above the water service line.~~

(Code 1999, § 13.24.490; Ord. No. 226, 'C(36), 1977)

#### **13.24.500. Service lines — pumps — town engineer's permission required.**

~~The installation of pumps to increase water pressure and/or flow in service lines is prohibited without the written permission of the town Engineer.~~

(Code 1999, § 13.24.500; Ord. No. 226, 'C(37), 1977)

#### **13.24.510. Electrical connection of push-on joints.**

~~All push-on joint water mains shall be interconnected by Cadwell or approved equal electrical connections as specified in Section 22.17.020.~~

(Code 1999, § 13.24.510; Ord. No. 226, 'C(38), 1977)

#### **13.24.520. Electrical conductivity test.**

~~Electrical conductivity tests performed by the contractor in the presence of the town Engineer shall be the basis for determining whether or not satisfactory electrical conductivity has been established. The pipe shall conduct at least three hundred (300) amperes at 16 volts for a two hundred (200) foot length of pipe section. No pipe section will be accepted if it does not satisfactorily conduct the electricity stated.~~

(Code 1999, § 13.24.520; Ord. No. 226, 'C(39), 1977)

#### **13.24.530. Thrust block requirements.**

~~— Thrust blocks shall extend from the fitting, valve or hydrant to solid, undisturbed earth and shall be installed so all joints are accessible for repair. If in the town Engineer's opinion adequate support or undisturbed earth is not available, the contractor will be directed to secure the thrust block to the fitting, etc., by means of a metal harness or strap.~~

~~— The concrete used for thrust blocks shall have a minimum of three thousand (3,000) psi and shall be allowed to cure a minimum of 48 hours at no less than fifty (50) degrees Fahrenheit prior to backfilling operations.~~

(Code 1999, § 13.24.530; Ord. No. 226, 'C(40), 1977)

### **CHAPTER 22.28. BULK WATER CUSTOMERS**

#### **Sec. 22.28.010. Metered rate.**

The metered rate for water delivered to key pump water users shall be in amounts to be determined by the Town Council from time to time. ~~computed as follows:~~

- ~~— \$.00834 per gallon of metered usage up to a total of three thousand (3,000) gallons of metered usage per billing period;~~
- ~~— \$.00870 per gallon of metered usage more than three thousand and one (3,001) gallons and up to eight thousand (8,000) gallons of metered usage per billing period; and~~
- ~~— \$.01909 per gallon of metered usage more than eight thousand (8,000) gallons of metered usage per billing period.~~

(Code 1999, § 13.80.020; Ord. No. 615, § 2, 2008; Ord. No. 637, § 1, 2010; Ord. No. 662, § 1, 12-18-2014; Ord. No. 670, § 1, 1-21-2016; Ord. No. 671, § 1, 2-18-2016; Ord. No. 680, § 1, 12-7-2017)

#### **Sec. 22.28.020. Technology service fee.**

There shall be a monthly charge in an amount to be determined by the Town Council from time to time ~~of fifty dollars and sixty-eight cents (\$50.68) per month~~ to each key customer to offset the capital costs of the water key pump system, in addition to the metered rate.

(Code 1999, § 13.80.030; Ord. No. 625, § 1, 2009; Ord. No. 637, § 1, 2010; Ord. No. 647 § 1, 2011; Ord. No. 662, § 2, 12-18-2014; Ord. No. 707, § 4, 6-3-2021)

#### **Sec. 22.28.030. Payment; when due.**

The user fees establish shall be payable at time of usage. A user may go on-line to the application/database

and set up a self-maintained account to establish multiple users and restrict or limit usage per user.

(Code 1999, § 13.80.060; Ord. No. 362, 1988; Ord. No. 707, § 7, 6-3-2021)

**Sec. 22.28.040. Disconnect; failure to pay charges.**

Failure to pay due to fraud, stolen card or tampering with equipment will be collected through the fullest extent of the law.

(Code 1999, § 13.80.070; Ord. No. 362, 1988; Ord. No. 707, § 8, 6-3-2021)

**Sec. 22.28.050. Fill devices.**

Hoses and other filling devices shall be furnished by the water customer and shall conform to regulation of the state department of public health and environment regulations relating to backflow prevention devices.

(Code 1999, § 13.80.080; Ord. 362, 1988)

**Sec. 22.28.060. Responsibility.**

The town assumes no responsibility as to the potability of the water as the town has no control over the hoses and other filling devices actually used, nor does it have control over the tanks or other vessels used by the individual customer.

(Code 1999, § 13.80.090; Ord. 362, 1988)

**Sec. 22.28.070. Attorney's fees and costs.**

Any charge incurred by the town in enforcing payment of fees or any other provisions of this section, including court costs and reasonable attorney's fees, shall be paid by the user.

(Code 1999, § 13.80.100; Ord. 362, 1988)

**Sec. 22.28.080. Penalty.**

The penalty for violation of this chapter shall be in accordance with the penalty assessment and schedule as specified in section 1.12.010, as may be amended.

(Code 1999, § 13.80.110; Ord. 362, 1988)

**CHAPTER 22.32. PLANT INVESTMENT FEES**

**Sec. 22.32.010. Plant investment fees designated.**

Plant investment fees for the privilege of tapping or connecting with the town water and sanitary sewer systems to serve properties located within the corporate limits of the town are imposed and established on the basis of the following user classification system. Each meter size classification is assigned a single-family equivalent unit (SFE). ~~The factor-based plant investment fee will be determined by the Town Council from time to time. The SFE is multiplied times seven thousand three hundred dollars (\$7,300.00) to determine the water plant investment fee for each meter size user classification and times five thousand nine hundred dollars (\$5,900.00) to determine the sewer plant investment fee for each meter size user classification.~~

Customer Classification System		
A.	<del>Single family residence, condominium unit, or permanent mobile home, if billed individually</del>	1.0
B.	<del>Multi family residential units, including duplexes, apartments, condominiums; when contained within 1 structure and billed collectively:</del>	
	<del>1. First residential unit</del>	1.0
	<del>2. Each additional sleeping unit with 2 or less bedrooms and no more than 1½ baths</del>	0.8
	<del>3. Each additional unit with 3 or more bedrooms, or 2 or more baths</del>	1.0
	<del>4. Each coin-operated washing machine with a 12 lb. or less load for public use</del>	0.5
	<del>5. Each mobile home located for long term use</del>	1.0

C.	Temporary and/or transient residential units for rent in motels, lodges and residences:	
	1. Basic rate, including manager's quarters	1.0
	2. Each additional sleeping unit without plumbing	0.18
	3. Each additional sleeping unit with plumbing but no cooking facilities	0.27
	4. Each additional sleeping unit with plumbing and cooking facilities	0.65
	5. Each coin-operated washing machine with a 12 lb. or less load capacity for public use	0.5
D.	Bars, restaurants and all establishments serving food and/or beverages:	
	1. Establishments with 25 or less seating capacity	1.36
	2. Each additional seat	0.02
E.	Automobile service stations:	
	1. Without a wash rack	1.36
	2. Additional for each wash rack	0.8
F.	Commercial or public buildings used as stores, offices, warehouses or other similar uses, including small businesses:	
	1. Each building or customer with 1,500 sq. ft. or less or each such use of 400 sq. ft. or less accompanied by 1 living unit	1.0
	2. Each additional sq. ft.	0.00034
	3. Each additional sq. ft. when used as nonoccupied retail, showroom, shop or warehouse space	0.0002
	4. Each additional pair of public restrooms	0.8
G.	Churches and nonprofit organization halls with no residence or regular eating facilities	1.0
H.	Public or private schools:	
	1. Base rate for first 50 students or part thereof	2.0
	2. Each additional student	0.034
I.	Swimming pools in conjunction with other use classifications, for each gallon of swimming pool capacity	0.00004
J.	Coin-operated Laundromats, per machine in service, by load capacity:	
	1. Basic fee, including first standard size machine	1.0
	2. Each additional machine less than 12 lbs. (standard size)	0.5
	3. Each additional machine of 12.1 to 21.0 lb. capacity	0.7
	4. Each additional machine of 21.1 to 31.0 lb. capacity	1.0
	5. Each additional machine of 31.1 to 41.0 lb. capacity	1.3
	6. Each additional machine of 41.1 to 51.0 lb. capacity	1.6
	7. Each additional machine of 51.1 to 61.0 lb. capacity	2.0

(Code 1999, § 13.08.010; Ord. No. 556, § 2(part), 2005; Ord. No. 625 §, 2009; Ord. No. 670, § 1, 1-21-2016; Ord. No. 671, § 1, 2-18-2016; Ord. No. 680, § 1, 12-7-2017)



**~~13.08.011 customers not covered by classification in sec. 13.08.010.~~<sup>167</sup>**

The Town Board of Trustees will set the Plant Investment Fee for any customer which is not covered by the classification in Section 13.08.010.

(Code 1999, § 13.08.011; Ord. 307, 1982)

**~~13.08.020. Individual fees for water tap or sewer tap designated.~~**

~~Repealed by Ordinance #536, 2004.~~

~~(Code 1999, § 13.08.020)~~

**~~13.08.030. Charges limited to a certain size service lines.~~**

~~Repealed by Ordinance #307, 1982.~~

~~(Code 1999, § 13.08.030)~~

**Sec. 22.32.020. Advance payment required.**

The fees imposed shall be paid in advance to the town, and no permit for any such connection, or for the installation, alteration, construction, reconstruction or extension of any water or sewer line shall be issued until the fees have been paid.

(Code 1999, § 13.08.040; Ord. No. 556, § 2(part), 2005)

**Sec. 22.32.030. Additional to other charges.**

The plant investment fees are imposed in addition to all water and sewer use charges heretofore or which may be hereafter established and are also in addition to all charges for fixtures and materials required for making taps into the water and sewer mains heretofore or which may be hereafter established.

(Code 1999, § 13.08.050; Ord. No. 556, § 2(part), 2005)

**Sec. 22.32.040. Applicable within town only; right of town to refuse service.**

The plant investment fees hereby imposed are applicable only to out of town users of town water, if approved not to annex into the town properties located within the corporate limits of the town. The town reserves the right to refuse any connections to the water or sewer systems of the town to serve properties located beyond the corporate limits of the town, or to permit such connections upon such conditions and for such charges as may be determined by the Town Council-Board.

(Code 1999, § 13.08.060; Ord. No. 556, § 2(part), 2005)

**Sec. 22.32.050. Computation of fee.**

Any plant investment fees for more than four EQRs for any single use or structure may be subject to recomputation based upon request by the applicant and based upon documentation supplied by applicant demonstrating that the impact of proposed use is less than the impact reflected in the bases used for the computation of the plant investment fees. The town reserves the right to reject any such documentation and to charge the full fees set forth in this chapter. The fee shall be determined by the Town Council from time to time.

(Code 1999, § 13.08.070; Ord. No. 556, § 2(part), 2005)

**CHAPTER 22.36. PRIVATE SEWAGE DISPOSAL****Sec. 22.36.010. Where permitted.**

Where a public sanitary or combined sewer is not available under the provisions of section 22.44.250, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.

(Code 1999, § 13.52.010; Ord. No. 226, 'J(1), 1977)

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<sup>167</sup> Deleted these three sections based on the email from 10/28.

**Sec. 22.36.020. Permit required; application; fee.<sup>168</sup>**

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the public works ~~manager~~ director. The application for such permit shall be made on a form furnished by the town, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the public works ~~manager~~ director. A permit and inspection fee in an amount to be determined by the council from time to time ~~of fifteen dollars (\$15.00)~~ shall be paid to the town at the time the application is filed.

(Code 1999, § 13.52.020; Ord. No. 226, 'J(2), 1977)

**Sec. 22.36.030. Inspection.**

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the public works ~~manager~~ director. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the public works ~~manager~~ director when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within a reasonable time after the receipt of notice by the public works ~~manager~~ <sup>169</sup> director.

(Code 1999, § 13.52.030; Ord. No. 226, 'J(3), 1977)

**Sec. 22.36.040. Regulations, generally.**

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state department of public health and environment of the State. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 43,560 square <sup>170</sup> feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(Code 1999, § 13.52.040; Ord. No. 226, 'J(4), 1977)

**Sec. 22.36.050. Connection with public sewer required when available.**

At such time as a public sewer becomes available to a property served by a private sewage system, as provided in section 22.44.250, a direct connection shall be made to the public sewer in compliance with this chapter and Chapters 13.44 and 22.12. Any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(Code 1999, § 13.52.050; Ord. No. 226, 'J(5), 1977)

**Sec. 22.36.060. Maintenance responsibility assigned.**

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town.

(Code 1999, § 13.52.060; Ord. No. 226, 'J(6), 1977)

**Sec. 22.36.070. Chapter regulations not exclusive.**

No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the health officer or state health department.

(Code 1999, § 13.52.070; Ord. No. 226, 'J(7), 1977)

**Sec. 22.36.080. Connection with public sewer; procedure.**

When a public sewer becomes available in accordance with section 22.44.050, the building sewer shall be

<sup>168</sup> We recommend confirming that this provision is up to date. We also recommend not including specific fee amounts but instead including them in the town fee schedule. **Town accepted via email on 10/28.**

<sup>169</sup> Is "public works manager" the current job title?

<sup>170</sup> **Town commented that Routt County's minimum area is 5 acres (we believe).**

connected to said sewer within 90 days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

(Code 1999, § 13.52.080; Ord. No. 226, 'J(8), 1977)

## **CHAPTER 22.40. SEWAGE COLLECTION FACILITIES, SPECIFICATIONS<sup>171</sup>**

### **Sec. 22.40.010. Chapter applicability.**

This chapter shall govern labor, materials, equipment and service which are required for the installation of all sewage collections systems, including main lines, laterals, services, manholes, cleanouts and encasements and all appurtenant items as mentioned in this chapter. Also included shall be the flushing and testing of all sewage collection systems. All parts of the system shall be installed in conformance with the state department of public health and environment design criteria<sup>172</sup>. In addition, wherever in this chapter there is a reference to a specific brand name, model or type of material or equipment, an approved equal for any such material or equipment may be substituted with the approval of the town engineer.

(Code 1999, § 13.40.010; Ord. No. 226, 'G(1), 1977)

### **Sec. 22.40.020. Materials--Standards generally.**

All materials shall be new, of the highest quality and meet the specifications currently adopted by the public works department in sections 13.40.030 through 13.40.090 of this chapter.

(Code 1999, § 13.40.020; Ord. No. 226, 'G(2), 1977)

### **Sec. 22.40.030. Materials--Sewer pipe standard generally.**

All materials for sewer mains, laterals and service shall meet the criteria currently adopted by the public works department set forth in sections 13.40.040 through 13.40.060 of this chapter.

(Code 1999, § 13.40.030; Ord. No. 226, 'G(3) (part), 1977)

#### **~~13.40.040. Pvc pipe and fittings.~~**

~~— PVC pipe and fittings shall meet or exceed all of the requirements of ASTM Specification D3034-72, SDR 35. The pipe shall be of first quality and shall be free from cracks and all other defects or damages. All defective or damaged pipes shall be rejected and immediately removed from the work site.~~

~~— Joints shall be "push on" type with a rubber sealing ring meeting or exceeding the requirements of ASTM D-1869.~~

~~— Where water and PVC pipe sewer lines cross and the sewer line is above or less than eighteen inches (18") clear distance below the water line, the sewer shall consist of a twenty foot (20') length of PVC pipe centered above the water line. Refer to section 13.40.060 C(1) and (2) for alternate water line crossing construction details.~~

~~(Code 1999, § 13.40.040; Ord. No. 226, 'G(3) (a), 1977)~~

#### **~~13.40.050. Armeo pipe and fittings.~~**

~~Armeo pipe and fittings shall meet the following requirements:~~

~~— Armeo ES (extra strength) solid wall ABS sewer pipe shall be used for four inch and six inch sewer service and laterals.~~

~~— Armeo truss pipe shall be used for eight inch and larger diameter sewers. The pipe shall be first quality and shall be free from cracks and other defects. All defective or damaged pipes shall be rejected and immediately removed from the work site.~~

<sup>171</sup> This chapter has not been amended in a long time. We recommend reviewing this chapter and confirming what (if anything) needs to be amended/deleted.

<sup>172</sup> Does this design criteria currently exist?

~~— Fittings shall be those which are compatible for use with Armeo truss pipe and ABS pipe.~~

~~— Where water lines and Armeo ABS or truss sewer lines cross and the sewer line is above or less than eighteen inches (18") clear distance below the water line, the sewer line shall be constructed of a section of ductile iron pipe at least eighteen feet (18') long of the same diameter and centered over the water main. Joints between the sewer pipe and the ductile iron pipe shall be bonded rubber transition fittings approved by the town Engineer or shall be encased in a reinforced concrete collar at least six inches (6") thick and extending at least twelve inches (12") on either side of the joint. Refer to section 13.40.060 for alternate water line crossing construction details.~~

(Code 1999, § 13.40.050; Ord. No. 226, 'G(3)(b), 1977)

#### **13.40.060. Vitrified clay pipe and fittings.**

~~— Vitrified clay pipe and fittings shall be extra strength conforming to ASTM Specifications C700-71T. The pipe shall be first quality and shall be free from cracks and other defects. All defective or damaged pipe shall be rejected and immediately removed from the work site.~~

~~— Joints shall be "Perma Joint" or equal, conforming to ASTM Specification Designation C425-71, "Compression Joints for Vitrified Clay Bell and Spigot Pipe," using materials having resilient properties and shall be Type III.~~

~~— Where vitrified clay sewer pipe (VCP) crosses above a water line or less than eighteen inches (18") clear distance vertically below the water main, the crossing must be constructed in one of the following two methods:~~

~~— The VCP shall be installed with a reinforced concrete encasement. The encasement shall be at least six inches (6") thick and extending to a distance of ten feet (10') on either side of the water main.~~

~~— The sewer line crossing shall be made with a section of ductile iron pipe (DIP) at least eighteen feet (18') long of the same diameter and centered above or below the water main. Joints between the sewer pipe and the DIP shall either be encased in a concrete collar at least six inches (6") thick and extending at least twelve inches (12") on either side of the joint, or joined by a bonded rubber transition fitting approved by the town Engineer.~~

~~— In all cases, suitable backfill or other structural protection shall be provided to preclude settling and/or failure of the higher pipe.~~

(Code 1999, § 13.40.060; Ord. No. 226, 'G(3)(c), 1977)

#### **13.40.070. Ductile iron pipe.**

~~Ductile iron pipe shall be in accordance with ANSI Specifications A21.471, with Class II wall thickness.~~

(Code 1999, § 13.40.070; Ord. No. 226, 'G(4), 1977)

#### **13.40.080. Manhole specifications.**

~~— Manholes shall be constructed of precast concrete rings in accordance with ASTM Specifications C478-70T with aluminum steps at sixteen inches (16") o.c. Frade rings shall be of precast concrete with a minimum twenty-eight day strength of three thousand psi and shall be of such dimensions as to allow adjustment of elevation to within two inches. Brick conforming to ASTM Designation C-32, grade NS or ASTM Designation C-73, grade SW or MW may also be used to adjust manholes to the correct height.~~

~~— Joints between manhole sections may be made by a full mortar joint using Type II Portland cement or by using Ramnek Preformed Gaskets as manufactured by the K.T. Snyder Co., Inc., Houston, Texas.~~

~~— Manhole rings and covers shall be Comeco Catalog #C-1040 or C-1070.~~

(Code 1999, § 13.40.080; Ord. No. 226, 'G(5), 1977)

#### **13.40.090. Cleanout covers – construction standards.**

~~Cleanout covers shall be constructed using Comeco Catalog #C-6520.~~

(Code 1999, § 13.40.090; Ord. No. 226, 'G(6), 1977)

**13.40.100. Excavations -- main trenches.**

The trench shall be dug so that the pipe can be laid to the alignment and depth required and it shall be excavated only so far in advance of pipe laying as permitted by the public works director ~~Manager~~. The trench shall be braced and drained so that the workmen may work therein safely and efficiently and pipes can be laid in unwatered conditions. Local, State and OSHA safety regulations shall be followed at all times and, when required, trenches shall be of extra width to permit the use of timbers, shoring, bracing, sheeting and trench boxes. The width of the trench shall be ample to permit the pipe to be laid and jointed properly and the backfill to be placed as specified. Should the trench width become excessive due to back sloping requirements and the town Engineer deems it necessary, special bedding measures shall be required to insure that design loading of the pipe is not exceeded.

(Code 1999, § 13.40.100; Ord. No. 226, 'G(7), 1977)

**13.40.110. Excavations -- service.**

The same specifications as for main excavation shall be followed. The public works director ~~Manager~~, at his option, may require any service to be laid deeper, relocated or insulated if site conditions warrant such to prevent freezing of the line.

(Code 1999, § 13.40.110; Ord. No. 226, 'G(8), 1977)

**13.40.120. Excavations -- classifications -- criteria.**

— There shall be two classifications of materials excavated from pipeline trenches. Criteria for each class of excavated material is as follows:

- Earth Excavation. This classification shall include all soils, and loose, broken and laminated rocks, stones or boulders which can be reasonably ripped, broken and removed with skillfully operated, power-driven excavating equipment having a bucket capacity of three fourths cubic yard.
- Rock Excavation. This classification shall include all solid rock masses and boulders which cannot be excavated as specified under Earth Excavation, subdivision 1 of this subsection.

— Where blasting is necessary, suitably weighted plank coverings shall be provided to confine all materials lifted by the blasting within the trench excavation when a danger from flying debris exists (i.e., houses, structures, traffic). The contractor shall comply with all local, state and OSHA regulations relative to the handling, storage and use of explosives and the protection of life and property. All blasting operations shall be under the direct supervision of a duly licensed person. The contractor shall be responsible for notifying all parties affected by blasting operations and shall be liable for all damage caused by his operations.

(Code 1999, § 13.40.120; Ord. No. 226, 'G(9), 1977)

**13.40.130. Excavations -- trench preparation.**

— The trench bottom shall be graded such that the pipe or service line will have continuous support over its entire length and will rest either on undisturbed soil or compacted fill. Any rocks over six inches in diameter in the trench bottom upon which the pipe will bear shall be removed and the resulting void filled with suitable fines.

— Bell holes shall be provided at each joint to permit the jointing to be made properly. In all cases the trench shall be de-watered during pipe and service line installation.

(Code 1999, § 13.40.130; Ord. No. 226, 'G(10), 1977)

**13.40.140. Bedding and backfill -- materials.**

Materials in bedding and backfill must meet the following standards:

- Suitable Fines. The suitable fines from the excavated material or trench sides shall not include any rocks or stones over two inches (2") in size, general debris, organics, frozen material or expansive clays.
- Unclassified Backfill. That portion of the excavated material not having rocks or stones larger than six inches in size, organics, general debris, frozen materials and expansive clays.
- Imported Bedding. If the trench bottom is unstable, the public works director ~~Manager~~ will require a hard, durable one and one half inch washed aggregate or a three fourths inch minus bedding material

meeting the following specifications:

Standard Size of Sieve	Percent Passing Sieve by Weight
¾"	100%
No. 4	30—60%
No. 8	25—50%
No. 200	5—12%

This material is commonly referred to as base material or Class C road base.

(Code 1999, § 13.40.140; Ord. No. 226, 'G(11), 1977)

#### **13.40.150. Bedding – procedure for backfilling and compaction.**

— If the trench has been over-excavated or excavated in rock (in which it shall be over-excavated a minimum of six inches), the trench shall then be backfilled with suitable fines and compacted to a minimum Modified Proctor Test value of ninety-two percent until the pipe or service lines can rest with full bearing at the proper invert elevation.

— After shaping the trench bottom so the pipe or service line has continuous support when placed, the bedding shall be inspected by the town Engineer. The trench shall then be backfilled to the spring line of the pipe in one loose lift of suitable fines and compacted to a minimum value of ninety percent Modified Proctor Test. Special care shall be taken with this portion of the backfill to ensure proper filling and compaction under pipe haunches and to avoid damaging or moving the pipe. Another layer of suitable fines shall then be laid and compacted to the spring line of the pipe to a minimum value of ninety percent Modified Proctor Test.

— For PVC sewer pipe, suitable fines shall be laid from the spring line of the pipe in four inch uncompacted lifts and compacted to a minimum value of ninety percent Modified Proctor Test until the pipe is covered by uncompacted bedding. More suitable fines material is to be lightly compacted to a minimum depth of twelve inches over the top of the pipe.

— For VCP sewer pipe, suitable fines shall be laid from the spring line on up around and over the pipe and lightly compacted bedding.

— For Armo ABS sewer pipe, suitable fines shall be laid from the spring line of the pipe upwards in six inch uncompacted lifts and compacted to a minimum value of ninety percent Modified Proctor Test until the pipe is covered by compacted bedding. More suitable fines material is to be lightly compacted to a minimum depth of twelve inches over the top of the pipe.

— In all cases, extra care must be taken to hand compact underneath the haunches of the pipe to ensure thorough compaction. Extra care must also be taken when compacting the rest of the trench so that mechanical tampers do not damage or displace the pipe. Depending upon the physical characteristics of imported bedding, no compactive effort to a light compactive effort may be necessary.

(Code 1999, § 13.40.150; Ord. No. 226, 'G(12), 1977)

#### **13.40.160. Backfill – procedure generally.**

The remainder of the trench shall then be backfilled with unclassified backfill. The unclassified backfill shall not be placed by dozing over the edge of the trench but rather by forming a gentle slope proceeding up grade in the trench and in lifts not to exceed twelve inches. All material shall be compacted to a minimum value of ninety percent Modified Proctor Test.

(Code 1999, § 13.40.160; Ord. No. 226, 'G(13), 1977)

#### **13.40.170. Backfill – gravel roads and rights-of-way.**

— Before backfilling in any roads or rights of way, the backfill shall be approved by the public works director/Manager. This backfill shall meet the general requirements of Section 13.40.160 above and shall also be a granular material or firm, dry clays. Should the Public Works Director Manager not approve the excavated material

or proposed backfill material, it shall be disposed of by the contractor and suitable material imported. No backfill shall be placed on a soft, spongy or frozen trench material or subgrade which in the Public Works Director Manager's opinion has an unsuitable stability.

— The entire length of the pipe or service line trench shall be mechanically compacted in lifts not to exceed twelve inches of loose material. The compaction shall be by means of a whacker, vibratory roller or other means specifically approved by the town Engineer.

— The backfill shall be compacted to a minimum value of ninety three percent Modified Proctor Test. Compaction test shall be made by the Public Works Director Manager or a testing firm directly under his supervision at the contractor's expense to determine the adequacy of the compaction effort.

— The top ten inches of the trench shall meet the following minimum requirements:

— Six inches of compacted subbase material meeting the following specifications:

Standard Size of Sieve	Percent Passing Sieve by Weight
3"	100%
2 1/2"	95-100%
2"	50-75%
No. 4	30-60%
No. 40	15-30%
No. 200	5-20%
Liquid Limit	25% (maximum)
Plastic Limit	6% (maximum)

— Four inches of compacted base course material meeting the following specifications:

Standard Size of Sieve	Percent Passing Sieve by Weight
Standard Size of Sieve	Percent Passing Sieve by Weigh
3/4"	100%
No. 4	30-60%
No. 8	25-50%
No. 200	5-12%
Liquid Limit	25% (maximum)
Plastic Limit	6% (maximum)

— The Town Engineer, at his option, may require additional gravels if conditions necessitate such or if the original roadbed was constructed differently.

— The road gravels mentioned above shall be compacted to a minimum value of ninety three percent Modified Proctor Test and shall be to the same grades and lines of the existing road and rights of way.

(Code 1999, § 13.40.170; Ord. No. 226, 'G(14), 1977)

#### **13.40.180. Backfill — paved roads with graveled rights of way.**

— The same backfill and road graveling requirements shall be followed as specified under Section 13.40.170 above.

~~— Excavation in paved streets shall be kept to a minimum width. The pavement shall be cut to form a vertical face six inches beyond each trench wall. The cut shall be made with a saw or a wide chisel blade on a jackhammer and shall be made in a straight line.~~

~~— Protective measures such as mats, planks, cribbing, etc., shall be used at all times to protect the existing pavement from backhoe tracks, outriggers, and any such equipment.~~

~~— After the piping or service lines are laid and the backfill placed, the ten inch course of road gravels shall be laid and compacted to within four inches of the top of the existing road pavement or to the same thickness as the existing mat (whichever is thicker).~~

~~— Asphalt paving shall then be placed and compacted to a minimum four inch depth, or to the same thickness as the existing mat (whichever is thicker), to bring the road to final grade. The final grade and general configurations shall be subject to final inspection by the town Engineer.~~

~~— The contractor shall be responsible for repainting all road striping that was disturbed or destroyed by his construction work.~~

~~(Code 1999, § 13.40.180; Ord. No. 226, 'G(15), 1977)~~

#### **13.40.190. Handling procedure for pipes and accessories at work site — responsibility for damage.**

~~— Proper implements, tools and facilities shall be provided and used by the contractor for the safe and efficient protection of work.~~

~~— Pipe and accessories shall be loaded and unloaded by lifting with hoists or skidding so as to avoid shock or damage to them. Under no circumstances shall any material be dropped. Pipe handled on skid ways shall not be skidded or rolled against the pipe lengths already on the ground. Sliding the pipe lengths along rough and abrasive surfaces shall be avoided. Extra care in handling should be taken when the temperature approaches and drops below freezing.~~

~~— In distributing the material at the site of work, each piece shall be unloaded opposite or near the place where it is to be laid in the trench or placed in suitable stockpiles. Individual lengths of pipe shall be stockpiled no higher than five feet.~~

~~— Any defective or damaged material shall be rejected and removed from the job site.~~

~~(Code 1999, § 13.40.190; Ord. No. 226, 'G(16), 1977)~~

#### **13.40.200. Installation — sewer pipe.**

~~— Workmanship, materials and installation shall conform to the provisions of these specifications, Colorado Department of Public Health and Environment design criteria<sup>173</sup> and the individual manufacturer's recommendations. All pipe when jointed in the trench shall form a true and smooth line. Pipes shall not be trimmed except for closures, and pipes not making good a fit shall be removed from the job site.~~

~~— In general, sewer lines shall not be curved. In special cases approved by the town Engineer, the minimum radius of curvature shall be in conformance with the provisions of the individual manufacturer's recommendations.~~

~~— The grade shall be uniform between manholes. Immediate partial backfill may be required in some portions of the sewer pipe to prevent additional accidental deflection of the pipe.~~

~~— Materials shall not be dropped into the trench, but shall be lowered either by hand or by machine. The entire surface of all pipe shall be clean when laid, and interior surfaces of pipe sockets shall be clean when the pipe is laid and the joints completed.~~

~~— Pipe laying shall proceed upgrade with the spigot ends of bell and spigot pipe pointing in the direction of flow. Each pipe length shall be laid true to line and grade in such a manner as to form a close concentric joint with the adjoining pipe and to prevent sudden offsets to the flow line. All pipelines that are found to include dirt and other extraneous material shall be cleaned and flushed by the contractor prior to final inspection.~~

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<sup>173</sup> Does this design criteria currently exist?



(Code 1999, § 13.40.200; Ord. No. 226, 'G(17), 1977)

#### **13.40.210. Water and sewer line crossings—specifications.**

~~Where water and sewer lines cross and the sewer line is above or less than eighteen inches (clear distance) below the water line, the sewer shall be installed as per specifications outlined in Section 13.36.030 for each alternative type of pipe.~~

(Code 1999, § 13.40.210; Ord. No. 226, 'G(18), 1977)

#### **13.40.220. Testing—generally.**

~~The tests described in Sections 13.40.230 through 13.40.280 below will be performed on all mains and service lines after primary backfill has been completed and prior to beginning final backfill.~~

(Code 1999, § 13.40.220; Ord. No. 226, 'G(19), 1977)

#### **13.40.230. Testing—alignment—general procedure.**

~~Sewer pipelines will be checked by the Public Works Director Manager to determine whether any displacement of the pipes has occurred after primary backfill. The test will be as follows: A light will be flashed between manholes or, if the manholes have not as yet been constructed, between the locations of the manholes, by means of a flashlight or by reflecting sunlight with a mirror. Proper alignment shall consist of a minimum of a "half moon" to be clearly visible at the opposite end of the line from the observer's location. If the illuminated interior of the pipeline show poor alignment, displaced pipe, earth and other kinds of debris, the defects as determined by the Public Works Director Manager shall be remedied by the contractor at his own expense. Tests will be repeated after completion of backfilling. Poor alignment, displaced pipe or other defects determined by the town Engineer shall be corrected by the contractor at his own expense.~~

(Code 1999, § 13.40.230; Ord. No. 226, 'G(20), 1977)

#### **13.40.240. Testing—alignment—curved sewers.**

~~For curved sewers, the contractor shall arrange to perform a "baling" test on the sewer. He shall notify the town Engineer prior to such tests which shall be performed in the presence of the town Engineer.~~

(Code 1999, § 13.40.240; Ord. No. 226, 'G(21), 1977)

#### **13.40.250. Testing—leakage—general procedure.**

~~After alignment tests are completed, tests for water tightness shall be made by the contractor in the presence of the Public Works Director Manager. Either a water exfiltration, a water infiltration or an air pressure test will be required, depending on the section of sewer line to be tested. The type of test required will be determined by the town Engineer.~~

(Code 1999, § 13.40.250; Ord. No. 226, 'G(22), 1977)

#### **13.40.260. Testing—leakage—exfiltration.**

~~— Exfiltration tests shall be performed as follows: Plugs shall be put in the upstream end of both manholes at the ends of the section to be tested. The upper manhole shall have at least two feet of water above the invert at the center of the manhole. Exfiltration tests shall not be used if the vertical difference between the inverts at the center of the manholes is greater than twenty feet for PVC and Truss pipe and ten feet for VCP. The maximum allowable leakage shall not exceed one hundred gallons per day per mile per inch diameter for PVC and Arneo ABS sewer pipe (.001 gallons per hour per foot per inch diameter). This rate shall be increased proportionately up to .0027 and .0014 respectively for increases in head from eight feet to twenty feet at the lower end of the line.~~

~~— The allowable exfiltration rate for VCP shall not exceed two hundred fifty gallons per day per mile per inch diameter (.001 gallons per hour per foot per inch diameter).~~

~~— Should any section of line tested disclose an exfiltration rate greater than that permitted, the contractor shall, at his own expense, locate and repair the defective joint or pipe. The contractor shall retest the line until the exfiltration rate is within the specified allowance.~~

(Code 1999, § 13.40.260; Ord. No. 226, 'G(23), 1977)

**13.40.270. Testing—leakage—infiltration.**

— The infiltration tests will be performed with a weir supplied by the contractor. The maximum allowable infiltration rates will be the same as the allowable base exfiltration rates mentioned in Section 13.40.260 above.

— Should any section of line tested disclose an infiltration rate greater than that permitted, the contractor shall, at his own expense, locate and repair the defective joints or pipe. The contractor shall retest the line until the infiltration rate is within the specified allowance.

(Code 1999, § 13.40.270; Ord. No. 226, 'G(24), 1977)

**13.40.280. Testing—leakage—air.**

The following testing information is applicable to PVC and Armeo ABS sewer pipe only:

The minimum time requirements for air testing for a 0.5 psig pressure drop, from 3.5 psig to 3.0 psig, shall not be less than that shown on the following table:

Pipe Diameter	Time
4"	2 min. 32 sec.
6"	3 min. 50 sec.
8"	5 min. 6 sec.
10"	6 min. 22 sec.
12"	7 min. 39 sec.

(Code 1999, § 13.40.280; Ord. No. 226, 'G(25), 1977)

**13.40.290. Manholes—location and construction specifications.**

— Manhole field locations shall be subject to final approval by the Public Works Director/Manager, and shall be constructed on firm, undisturbed soil. In the event an unstable base material is encountered or unauthorized excavation below the specified structure subgrade occurs, the situation shall be remedied by filling with thoroughly compacted imported one and one half inch washed concrete aggregate of three thousand psi concrete at the expense of the contractor.

— The invert channels shall be smooth and semicircular in shape, conforming to the inside of the incoming and outgoing sewer pipelines. Changes in the direction of flow shall be made with a smooth curve of as large a radius as the size of the manhole will permit. Changes in size and elevation of the channels shall be uniform across the manhole and be formed directly in the concrete of the manholes walls and manhole bases shall be watertight.

— The remainder of the excavation shall be backfilled with unclassified backfill and mechanically compacted to a minimum value of ninety two percent Modified Proctor Test.

(Code 1999, § 13.40.290; Ord. No. 226, 'G(26), 1977)

**13.40.300. Cleanouts—location and construction.**

Cleanout structures shall be located and constructed as directed by the project engineer or Town Engineer. The pipe, after installation, shall form a true and smooth interior to allow easy access for inspection lights, plugs and cleaning equipment.

(Code 1999, § 13.40.300; Ord. No. 226, 'G(27), 1977)

**13.40.310. Service connections—testing required.**

No service connections are to be made prior to the testing of the main sewer.

(Code 1999, § 13.40.310; Ord. No. 226, 'G(28), 1977)

**13.40.320. Service connections—required construction materials.**

All sewer services shall be constructed using only the following material:

- ~~— PVC pipe meeting criteria found in Section 13.40.040;~~
- ~~— Arco ES solid wall ABS sewer pipe;~~
- ~~— VCP pipe meeting criteria found in Section 13.40.060.~~

~~(Code 1999, § 13.40.320; Ord. No. 226, 'G(29), 1977)~~

#### **13.40.330. Service connections – general construction requirements.**

~~All taps to existing mains shall be made using factory saddles or prefabricated wyes approved by the public works manager. All connections are to be made watertight, and banding, in conjunction with factory sealants, shall be used to ensure this. Concrete encasement shall not be considered a watertight joint when making a main connection. The main connections shall be made in a smooth, fabricated hole.~~

~~(Code 1999, § 13.40.330; Ord. No. 226, 'G(30), 1977)~~

#### **13.40.340. Service connections – inspection.**

~~All services are to be inspected and approved by the public works manager prior to backfilling and use. The service shall be inspected for grade, watertightness (static head test), cleanout installation (minimum one hundred foot spacing) and adequate cover.~~

~~(Code 1999, § 13.40.340; Ord. No. 226, 'G(31), 1977)~~

#### **13.40.350. Service connections – stubs.**

~~All service stubs to undeveloped property shall be watertight, have the end capped, extend a minimum of five feet into the property and shall have the end marked with a six foot metal fence post. When future taps are made, all measures shall be taken to locate and use these stubs. If the stub is not utilized, the abandoned service shall be dug up at the main and positively sealed just past the saddle.~~

~~(Code 1999, § 13.40.350; Ord. No. 226, 'G(32), 1977)~~

## **CHAPTER 22.44. SEWERS; CONNECTION, MAINTENANCE AND REPAIR<sup>174</sup>**

### **Sec. 22.44.010. Management authority designated.**

The operation and management of the sewer system shall be under the control of the public works ~~manager~~director, who shall direct the construction of additions thereto and the maintenance and operation thereof.

(Code 1999, § 13.44.010; Ord. No. 226, 'H(1), 1977)

### **Sec. 22.44.020. Public works ~~manager~~director--System maintenance and permit issuance.**

The public works ~~manager~~director shall, under the direction of the water and sewer committee, have charge of all facilities of the sewer system, and it shall be his duty to supervise the system and maintain and control the same as directed by the water and sewer committee and as provided by this chapter and chapters 22.04, 22.12, 22.36 and 22.56. In addition to his other duties, the public works ~~manager~~director shall issue permits to make connections with the sewers, and all connections shall be made under his supervision.

(Code 1999, § 13.44.020; Ord. No. 226, 'H(2), 1977)

### **Sec. 22.44.030. Public works ~~manager~~director--Connection supervision; apparatus maintenance.**

The public works ~~manager~~director shall have control of the laying of all sewer lines. The public works ~~manager~~director shall have the general supervision of the putting in of all taps and service pipes or other connections with the main sewer line. He shall also have charge of and be responsible for all tools, machinery, pipes, meters, fixtures, plumbing material and all other apparatus and appliances owned by the town or used by it in the maintenance and operation of a sewer system, and shall keep account of all such material and the manner in

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<sup>174</sup> This chapter has not been amended in a long time, so it's possible it has been superseded by the building code and/or the development code. We recommend reviewing this chapter and confirming what needs to be deleted.

which the same is used, kept or disposed of.

(Code 1999, § 13.44.030; Ord. No. 226, 'H(3), 1977)

**Sec. 22.44.040. Public works ~~manager~~director--Monthly report.**

It shall be the duty of the public works ~~manager~~ director to make a report to the town manager monthly, or more often if required, of his doings as public works ~~manager~~ director and of the condition of the sewer system and it shall also be his duty to make such suggestions concerning the same as the nature of the system may require.

(Code 1999, § 13.44.040; Ord. No. 226, 'H(4), 1977)

**Sec. 22.44.050. Cesspools, septic tanks, grease traps, privies--Connection to public sewer line required; when.**

All improvements now using privies, vaults, outside toilets, cesspools, septic tanks, grease traps, leach fields or other sewage disposal facilities in the town, or hereafter in the town, shall be connected with the public sewer lines of the town or of any sanitation district in the town; provided, such public sewer line has been located in the alley, road or street immediately adjacent to such dwelling or improvement requiring sewage disposal service; and provided, that such connection shall only be required when such privies, vaults, outside toilets, cesspools, septic tanks, grease traps, leach fields or other sewage disposal facilities fail to function properly so that they have to be repaired to make them usable.

(Code 1999, § 13.44.050; Ord. No. 226, 'H(5), 1977)

**Sec. 22.44.060. Cesspools, septic tanks, grease traps, privies--Compliance with standards.**

The connection with the public sewer shall be in compliance with the ordinances of the town and according to the rules and regulations of the state board of health regarding the supervision, regulation and inspection of plumbing and the connection of such sewage lines.

(Code 1999, § 13.44.060; Ord. No. 226, 'H(6), 1977)

**Sec. 22.44.070. Cesspools, septic tanks, grease traps, privies--Abandonment required when in disrepair.**

All outside toilets, privies, vaults, cesspools, septic tanks, grease traps and leach fields now existing in the town, where the dwelling or improvement is located immediately adjacent to a street, road or alley in which a public sewage line is installed, shall be abandoned and no longer used in the event that any one of such items shall be overflowing, full or not functioning properly so that it has to be repaired, in which event the owner of such premises shall immediately make arrangements to connect the improvements using such facilities.

(Code 1999, § 13.44.070; Ord. No. 226, 'H(7), 1977)

**Sec. 22.44.080. New construction--Connection with public sewer lines required.**

All new construction of dwellings and improvements requiring sewer disposal services in the town shall connect such dwelling or improvement with the sewer line of the town.

(Code 1999, § 13.44.080; Ord. No. 226, 'H(8), 1977)

**Sec. 22.44.090. New construction--Temporary toilets.**

During the construction of any dwellings and improvements, temporary toilet facilities may be used in accordance with the regulations of the county health department or of the state board of health, and as soon as such dwelling or improvement is connected to the public sewers, such use shall be abandoned, and all evidence of such use properly covered and disposed of.

(Code 1999, § 13.44.090; Ord. No. 226, 'H(9), 1977)

**Sec. 22.44.100. Connection to public sewer line of premises with existing sewage disposal facilities--Regulations.**

No connection of any house or improvement in which plumbing has already been installed and connected with a cesspool or septic tank or other sewage disposal facilities shall be made with the public sewers of the town or with any district of the town unless the plumbing previously installed is in reasonable compliance with the rules and regulations of the state board of health regarding the supervision, regulation and inspection of plumbing, and in

compliance with the building codes of the town.

(Code 1999, § 13.44.100; Ord. No. 226, 'H(10), 1977)

**Sec. 22.44.110. Connection; permit application; building permit required.**

Application for a sewer connection permit shall be made to the town clerk on a form that shall be provided by the town. No application for such permit for new dwellings shall be considered complete unless it is accompanied by evidence of issuance of a building permit, and in the case of property for which building permits are not issued by the building inspector, it shall also be accompanied by detailed plans showing the proposed construction.

(Code 1999, § 13.44.110; Ord. No. 226, 'H(11), 1977)

**Sec. 22.44.120. Sewer service shutoff; cause; authority.**

The public works ~~manager~~ director may cause the main sewer line to be shut off when he deems it necessary for making connections or extensions to the same or for the purpose of cleaning the same. Upon the determination by the public works ~~manager~~ director that any sewer main, any curb or any connection for the same to the property line of any owner of the premises connected to the sewer service is defective or does not comply with any law or regulation of the town or the state, the line so determined to be defective or in noncompliance shall be shut off and replaced or repaired by the town.

(Code 1999, § 13.44.120; Ord. No. 226, 'H(12), 1977)

**Sec. 22.44.130. Fixture maintenance; property owner responsibility specified.**

The owner of any premises for which a sewer connection is made shall at all times keep all pipes from the main line to and on his premises in good working order. The owner shall repair, correct or replace, at his own cost, any pipe, fixture or appliance found to allow excessive infiltration or that does not comply with any law or regulation of the town or the state.

(Code 1999, § 13.44.130; Ord. No. 226, 'H(13), 1977)

**Sec. 22.44.140. Service shutoff procedure; connection to main line; permit required.**

If at any time the public works ~~manager~~ director ascertains that the plumbing fixtures, pipes or appliances from the main line to and on any premises are so defective as to allow excessive infiltration, or do not comply with any law or regulation of the town or the state, it shall be his duty to notify immediately the owner of the premises connected to the sewer service, or his agent or the user of such service, to repair or replace the same, and if the same are not repaired or replaced within the time specified in such notice, said time being that amount reasonably calculated by the public works ~~manager~~ director to allow completion of such repair or replacement, but in any event not less than 48 hours from the time of such notice being served, mailed or otherwise delivered to the owner, agent or user, the public works ~~manager~~ director shall shut off the sewer line and immediately notify the town manager. No connection to the main line shall be made without the owner or his agent having first obtained a tap permit therefor; however, no tap fee shall be required for a tap in emergencies without prior notice to the owner of the premises, his agent or the user of the service. It is unlawful for any person to fail or refuse to comply with the order provided for in this chapter.

(Code 1999, § 13.44.140; Ord. No. 226, 'H(14), 1977)

**Sec. 22.44.150. Repair; town action; cost assessment.**

If any occupant or owner fails to make such repairs or replacement within the time specified, it shall be the duty of the public works ~~manager~~ director to proceed at once, upon the expiration of the specified time, to cause such repairs or replacement to be made and to report immediately the cost and expense thereof and the legal description and the name of the record owner of the property involved to the town clerk. The town clerk shall forthwith, in writing, notify the owner or occupant of the amount of such charges and the same shall be due and payable 30 days after the date of mailing of the notice of charges.

(Code 1999, § 13.44.150; Ord. No. 226, 'H(15), 1977)

**Sec. 22.44.160. Cost--Liability assigned; property lien.**

The owner and occupant of any property or premises thereby affected shall be held personally liable for any

and all charges imposed under the provisions of this chapter and chapters 22.12 and 22.36. These charges shall become and remain a lien upon such property or premises until paid. Such charges may be collected from either the owner or the occupant by an action in the name of the town, and said action may be for the enforcement of said lien.

(Code 1999, § 13.44.160; Ord. No. 226, 'H(16), 1977)

**Sec. 22.44.170. Cost--Failure to pay; assessment as tax.**

In addition to or alternatively to the foregoing, in the event that said charges are not paid when due, the town clerk shall certify such delinquent charges to the county ~~treasurer~~ finance manager, to be placed upon the tax rolls for the current year, to be collected in the same manner as provided by law for the collection of taxes, with ten percent of the amount of the delinquency added thereto to defray costs of collection. The laws of the state, for the assessment and collection of general taxes and the enforcement of liens therefor, including the laws for the sale of property for delinquent taxes and the redemption of the same, apply.

(Code 1999, § 13.44.170; Ord. No. 226, 'H(17), 1977)

**Sec. 22.44.180. Excavation--Safety procedure specified; liability for damage and injury assigned.**

All excavations in the street with regard to sewer service shall be made in conformity to this chapter, chapters 22.12 and 22.36, and any other ordinances of the town, and suitable barricades and guards shall be placed around such excavations as will be sufficient to protect all persons from injury and damage. Sufficient red lights shall be kept burning near such excavations from twilight until sunrise in order to protect all persons from injury and damage thereby. The person making such excavation shall be liable for all injuries or damages resulting from his failure to do so.

(Code 1999, § 13.44.180; Ord. No. 226, 'H(18), 1977)

**Sec. 22.44.190. Excavation--Permit required; exception.**

No person shall excavate or cause to be excavated any street or alley for the purpose of connection to any public or private sewer until such time as he has secured a permit from the public works ~~manager~~ director to do such excavation.

(Code 1999, § 13.44.190; Ord. No. 226, 'H(19), 1977)

**Sec. 22.44.200. Application of state regulations.**

The rules and regulations of the state board of health governing the construction, installation and inspection of plumbing and drainage and all additions or amendments to such state rules and regulations hereafter adopted are made a part of the laws and regulations of the town and of this chapter.

(Code 1999, § 13.44.200; Ord. No. 226, 'H(20), 1977)

**Sec. 22.44.210. Grease trap; requirement specified.**

Every person engaging in the installation, repairing or remodeling of motor vehicles, gasoline engines or other engines using lubricating oil and having access to any sewer in the town shall install a grease trap connected to the sewer within which to deposit any used lubricating oil or other fluid containing oily substances. It is unlawful for any persons to deposit any lubricating oil or fluid containing oily substances into any sewer in the town not equipped with a grease trap. Any such grease trap shall conform to specifications of the public works ~~manager~~ director.

(Code 1999, § 13.44.210; Ord. No. 226, 'H(21), 1977)

**Sec. 22.44.220. Depositing specified substances on property under town jurisdiction; prohibited.**

It is unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the town, or in any area under the jurisdiction of the town, any human or animal excrement, garbage or other objectionable waste.

(Code 1999, § 13.44.220; Ord. No. 226, 'H(22), 1977)

**Sec. 22.44.230. Discharge of untreated sewage or pollutant into natural outlet; prohibited.**

It is unlawful to discharge into any natural outlet within the town or in any area under the jurisdiction of the town, any sewage or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this chapter and chapters 22.12 and 22.36.

(Code 1999, § 13.44.230; Ord. No. 226, 'H(23), 1977)

**Sec. 22.44.240. Construction prohibitions for cesspools, septic tanks and privies.**

Except as provided in sections 22.44.050 through 22.44.070, it is unlawful to construct, repair or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(Code 1999, § 13.44.240; Ord. No. 226, 'H(24), 1977)

**Sec. 22.44.250. Installation of toilet facilities and connection to public sewer required.**

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the town, and abutting on any street, alley or right-of-way in which there is now located a public sanitary or combined sewer of the town, is required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter and chapters 22.12 and 22.36, no later than August 1, 1977. If a public sanitary or combined sewer is not located in the street, alley or right-of-way abutting any premises at the time of passage of the ordinance codified in this title and is later constructed in any such alley, street or right-of-way by the town, the owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes abutting any such alley, street or right-of-way shall, within 90 days after completion of construction by the town of such sewer, install at his expense suitable toilet facilities therein and connect such facilities directly to the public sewer in accordance with the provisions of this chapter, chapters 22.12 and 22.36, and any ordinances of the town.

(Code 1999, § 13.44.250; Ord. No. 226, 'H(25), 1977)

**Sec. 22.44.260. Discharge of stormwater and unpolluted drainage--Prohibited in sanitary sewer.**

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process water into any sanitary sewer.

(Code 1999, § 13.44.260; Ord. No. 226, 'H(26), 1977)

**Sec. 22.44.270. Discharge of stormwater and unpolluted drainage--Permitted in specified sewers.**

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the public works ~~manager~~director. Industrial cooling water or unpolluted process water may be discharged on approval of the public works ~~manager~~director into a storm sewer, a combined sewer or a natural outlet.

(Code 1999, § 13.44.270; Ord. No. 226, 'H(27), 1977)

**Sec. 22.44.280. Discharge of specified substances into public sewers--Prohibitions, general.**

No person shall discharge or cause to be discharged any of the following described waters or wastes into any public sewers:

- (1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;
- (2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including, but not limited to, cyanides in excess of two mg/L as CN in the wastes as discharge to the public sewer;
- (3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction of the flow of the sewer or other interference with the proper operation of the sewage works, such as, but not limited to,

ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and flesh, entrails, paper, dishes, cups, containers, etc., either whole or ground by garbage grinders.

(Code 1999, § 13.44.280; Ord. No. 226, 'H(28), 1977)

**Sec. 22.44.290. Discharge of specified substances into public sewers--Prohibitions; public works ~~manager's~~ director discretion.**

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the public works ~~manager~~ director that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the public works ~~manager~~ director will give consideration to such factors as the quantities of subject wastes in relation of flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees ~~centigrade~~Celsius);
- (2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/L or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees ~~centigrade~~Celsius);
- (3) Any garbage that has not been properly shredded; the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (9.76 hp metric) or greater shall be subject to review and approval by the public works ~~manager~~director;
- (4) Any waters or wastes containing strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not;
- (5) Any waters or wastes containing elements or compounds in excess of concentrations as listed in current federal or state drinking water standards; or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the public works ~~manager~~ director for such materials;
- (6) Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the public works ~~manager~~ director as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters;
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the public works ~~manager~~director, in compliance with applicable state or federal regulations;
- (8) Any waters or wastes having a pH in excess of 9.0;
- (9) Materials which exert or cause:
  - a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's Earth, lime slurries, lime resichloride and sodium sulfate);
  - b. Excessive discoloration (such as, but not limited to: dye wastes and vegetable tanning solutions);
  - c. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works;
  - d. Unusual volume of flow or concentration of wastes constituting slugs as defined in section 22.04.010.
- (10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over



discharge to the receiving waters.

(Code 1999, § 13.44.290; Ord. No. 226, 'H(29), 1977)

**Sec. 22.44.300. Alternative to discharging dangerous substances into public sewers.**

(a) If any waters or wastes are discharged or are proposed to be discharged into the public sewers, which waters contain the substances or possess the characteristics enumerated above in section 22.44.290, and which upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the public works ~~manager~~ director may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates for discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 22.44.360.

(b) If the public works ~~manager~~ director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the town engineer and subject to the requirements of all applicable codes, ordinances and laws.

(Code 1999, § 13.44.300; Ord. No. 226, 'H(30), 1977)

**Sec. 22.44.310. Interceptors; required when; specifications.**

Grease, oil and sand interceptors shall be provided when, in the opinion of the public works ~~manager~~ director, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the public works ~~manager~~ director and shall be located as to be readily and easily accessible for cleaning and inspection.

(Code 1999, § 13.44.310; Ord. No. 226, 'H(31), 1977)

**Sec. 22.44.320. Preliminary treatment, flow equalizing facilities; maintenance.**

Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner, at his expense.

(Code 1999, § 13.44.320; Ord. No. 226, 'H(32), 1977)

**Sec. 22.44.330. Building sewer--Manhole required when.**

When required by the public works ~~manager~~ director, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located and shall be contracted in accordance with plans approved by the town engineer. The manhole shall be installed by the owner, at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(Code 1999, § 13.44.330; Ord. No. 226, 'H(33), 1977)

**Sec. 22.44.340. Building sewer--Water samples; procedure.**

All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in this chapter and chapter 22.68 shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided by suitable samples taken from such control manhole. In the event that no special control manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken.

Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pHs are determined from periodic grab samples.

(Code 1999, § 13.44.340; Ord. No. 226, 'H(34), 1977)

**Sec. 22.44.350. Discharge into public sewers; exceptions to prohibitions.**

No statement contained in sections 22.44.260 through 22.44.340 shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town for treatment, subject to payment therefor by the industrial concern.

(Code 1999, § 13.44.350; Ord. No. 226, 'H(35), 1977)

**Sec. 22.44.360. Sewage works property; vandalism prohibited.**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works.

(Code 1999, § 13.44.360; Ord. No. 226, 'H(36), 1977)

**Sec. 22.44.370. Right of entry for inspection.**

The public works ~~manager~~ director and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all properties in accordance with the provisions of section 22.60.130, for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The public works ~~manager~~ director or his representatives shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(Code 1999, § 13.44.370; Ord. No. 226, 'H(37), 1977)

**Sec. 22.44.380. Town liable for damage or injury sustained during work on private property.**

While performing the necessary work on private properties referred to above in section 22.44.370, the town shall indemnify and hold the owner harmless for injury or death to town employees. The town shall indemnify the company against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owner to maintain safe conditions as required in sections 22.44.250 through 22.44.340.

(Code 1999, § 13.44.380; Ord. No. 226, 'H(38), 1977)

**Sec. 22.44.390. Right of entry for inspection; private property where town holds negotiated easement.**

The public works ~~manager~~ director or other duly authorized employees of the town bearing proper credentials and in accordance with the provisions of section 22.60.130 shall be permitted to enter all private properties through which the town holds a duly negotiated easement for the purpose of, but not limited to: inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works. Such inspection, observation, measurement, sampling, repair and maintenance on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Code 1999, § 13.44.390; Ord. No. 226, 'H(39), 1977)

## **CHAPTER 22.48. SEWER USE FEES**

**Sec. 22.48.010. Purpose.**

The purpose of this chapter shall be to charge sewer user fees that will generate sufficient revenue to pay all costs incurred by the town for the operation and maintenance of the wastewater system as defined herein; to distribute all costs fairly to all users of the system; to prohibit certain uses of the wastewater system; and to adopt certain administrative procedures for properly operating and maintaining the wastewater treatment system.

(Code 1999, § 13.70.010; Ord. No. 333, (part), 1985)

**Sec. 22.48.020. Definitions.**

For the purpose of this section, certain terms and words are defined and shall have the meanings ascribed to them as defined herein. Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application.

(Code 1999, § 13.70.020; Ord. No. 333, (part), 1985)

**Sec. 22.48.030. Method of determination of each user's sewer user fees.**

Each user of the wastewater treatment system shall be assessed a sewer user fee comprised of three components:

- (1) Base rate as defined in 22.72.020.
- (2) Metered rate as defined in 22.72.020.
- (3) High volume/high strength rate. The high volume/high strength rate shall be assessed to any user who exceeds 15,000 gallons of sewage discharged into the system during any 30-day period and/or exceeds the amount of 250 milligrams per liter of sewage of BOD or TSS concentrations. The amount of the high volume/high strength rate shall be determined in accordance with the schedule attached hereto as Schedule A.

(Code 1999, § 13.70.030; Ord. No. 333, (part), 1985; Ord. No. 637, § 1, 2010)

**Sec. 22.48.040. High volume/high strength user.**

If the town reasonably estimates that a user is or will discharge high volume and/or high strength sewage into the system, the town may require any or all of the following:

- (1) A written estimate from the user reflecting the estimated volume and high strength of sewage to be discharged into the system.
- (2) A sewage pretreatment facility to reduce the strength of high strength sewage at user's expense.
- (3) The installation and maintenance of a sewage discharge metering system at user's expense.
- (4) Periodic testing of all sewage discharged by user to determine volume and/or BOD and TSS concentrations at user's expense.

The town shall have access to and be furnished copies of all meters, meter readings and test results, and may, if it desires, verify all meter readings and test results.

(Code 1999, § 13.70.040; Ord. No. 333, (part), 1985)

**Sec. 22.48.050. Payment; when due.**

The user fees established shall be payable monthly, on the tenth day of each month. If the charge is not paid by the 25th day of the month after billing, the user fees shall be delinquent and shall accrue interest at the rate of 1 1/2 percent per month (18 percent per annum).

(Code 1999, § 13.70.050; Ord. No. 333, (part), 1985)

**Sec. 22.48.060. Liability for charge assigned delinquent charge becomes lien; court action.**

The owner of any property or premises served by the system shall be held personally liable for any and all fees imposed under the provisions of this chapter from the time such become due. Such fees shall become and remain a lien upon any such property or premises served thereby until such fees are paid. Such fees may be collected from any owner by an action at law or in equity, such action is to be in the name of the town and may be prosecuted in any court having jurisdiction. The action may be for the enforcement of the lien. Any such lien shall attach to any lot or lots, building or buildings comprising the property or premises served by the system and shall extend to the whole of such building or buildings, lot or lots on the premises thereby served by the town.

(Code 1999, § 13.70.060; Ord. No. 333, (part), 1985)

**Sec. 22.48.070. Delinquent fees; assessed as tax.**

In addition to or alternatively to the foregoing, in the event that the fees are not paid when due, the town clerk may certify such delinquent fees to the county treasurer to be by the latter placed upon the tax rolls for the current year, to be collected in the same manner as other taxes are collected, with ten percent of the amount of such delinquency added thereto to defray the cost of collection. All laws of the state for assessment and collection of general taxes and the enforcement of liens therefor, including the laws for the sale of property for delinquent taxes and the redemption of the same, shall apply.

(Code 1999, § 13.70.070; Ord. No. 333, (part), 1985)

**Sec. 22.48.080. Delinquency; grounds for termination of service.**

In addition to the foregoing remedies, in the event the fees provided by this section are not paid when due, the sewer services to the premises or property affected by such delinquency may be discontinued by the town by shutting off water supply thereto or therefrom or in any other manner by which disconnection or discontinuance of such service can be reasonably accomplished. Termination of service shall be preceded by a notice from the town to the user that the service will be terminated at the expiration of ten days from the notice. Notice may be mailed to any user who is, at a minimum, two months delinquent.

(Code 1999, § 13.70.080; Ord. No. 333, (part), 1985)

**Sec. 22.48.090. Deposition of funds with finance director.**

The funds received from the collection of sewer user fees authorized by this chapter shall be deposited with the town clerk and shall be deposited by him in the enterprise fund of the town.

(Code 1999, § 13.70.090; Ord. No. 333, (part), 1985)

**Sec. 22.48.100. Attorney's fees and costs.**

Any charge incurred by the town in enforcing payment of fees or any other provisions of this chapter, including court costs and reasonable attorney's fees, shall be paid by the user and may be added to the lien or tax amount.

(Code 1999, § 13.70.100; Ord. No. 333, (part), 1985)

**Sec. 22.48.110. Review of annual cost and sewer user fees.**

The town shall review the total annual cost of operation and maintenance of the wastewater system as well as sewer user fees no less often than every two years and will revise the fees at any time as necessary to ensure compliance of the user fees with this section and to ensure that sufficient funds are obtained to adequately operate and maintain the wastewater treatment system.

(Code 1999, § 13.70.110; Ord. No. 333, (part), 1985)

**Sec. 22.48.120. Notification of users.**

Each user will be notified at least annually, in conjunction with a monthly user bill, of the base rate, metered rate and high volume/high strength rate.

(Code 1999, § 13.70.120; Ord. No. 333, (part), 1985)

**Sec. 22.48.130. Wastewater facilities replacement account.**

A reserve fund called the wastewater facilities replacement account is hereby established by the town in its budget, within the enterprise fund, for the purpose of providing sufficient reserves to be expended for obtaining and installing equipment, accessories and appurtenances during the useful life, estimated to be 20 years, of the wastewater treatment facility necessary to maintain the capacity and performance for which such facilities as designed and constructed. The wastewater facilities replacement account shall be maintained by the town and is contained within the town's enterprise fund as an interest-bearing account and shall be funded by a deposit in an amount to be determined by the Town Council from time to time of four hundred and seventeen dollars (\$417) per month obtained from the enterprise fund at the end of each month until the total monies in the wastewater facilities replacement account have reached a total amount of \$5,000.00. Such deposits are required in this account until a total of \$100,000.00 is maintained within the account.

(Code 1999, § 13.70.130; Ord. No. 333, (part), 1985)

**Sec. 22.48.140. Designated floodplain.**

The wastewater system must comply with all existing local floodplain ordinances and regulations. At a minimum, the compliance shall include the following:

- (1) All new and replacement sanitary sewage systems shall be designed to eliminate infiltration of floodwaters into the wastewater system, as well as discharge from said systems into floodwaters;
- (2) Waste disposal systems located on user property shall be located so as to avoid impairment of waste disposal system operation and/or contamination of surrounding area during flooding;
- (3) Transmission and/or collection lines shall be located so as to minimize the encouragement of further development in a designated floodplain; and
- (4) New transmission and/or collection lines are prohibited in a designated floodway channel, unless flood proofed and certified such by a professional engineer licensed in the state.

(Code 1999, § 13.70.140; Ord. No. 333, (part), 1985)

**Sec. 22.48.150. Wastes prohibited from being discharged into the wastewater treatment system.**

The discharge of any waters containing toxic or poisonous solids, liquids or gases which, either singly, or by interaction with other wastes, contaminate the system or injure or interfere with any sewage treatment process or which constitute a hazard to humans and animals, or create any hazard in or have an adverse effect on the waters receiving any discharge from the sewage treatment system is hereby prohibited and such actions are declared a public nuisance. All costs incurred by the town in treating and/or removing such discharge shall be paid by the user or person or entity who discharged waste in violation of this section.

(Code 1999, § 13.70.150; Ord. No. 333, (part), 1985)

**Sec. 22.48.160. Prohibition of clear water connections.**

It shall be unlawful for any person to connect roof down spouts, exterior foundation drains, areaway drains or other sources of surface water runoff or groundwater to the sewage system.

(Code 1999, § 13.70.160; Ord. No. 333, (part), 1985)

**Sec. 22.48.170. Proper design and construction of new sewer lines and sewer connections.**

The size, slope, alignment, materials of construction of all sanitary sewers and sewer connections, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to Ordinance No. 226 (Codified as chapters 22.04 through 22.08, 22.40, 22.68, and 22.72 of this title.)

(Code 1999, § 13.70.170; Ord. No. 333, (part), 1985)

**Sec. 22.48.180. Rights of the town.**

The town shall have the right to enter all properties disposing sewage into the wastewater system for inspection, testing and measurement purposes, as well as for repair determined necessary by the town.

(Code 1999, § 13.70.180; Ord. No. 333, (part), 1985)

**Sec. 22.48.190. Rights of property owner.**

Pursuant to section 22.48.180, all property owners using the system shall have complete protection as to trade secrets and any proprietary information which the town may come into contact with during the discharge of its duties and exercise of its rights.

(Code 1999, § 13.70.190; Ord. No. 333, (part), 1985)

**Sec. 22.48.200. Accidents and reporting requirements.**

(a) Accidental spills of sewage and/or discharge into the sewage system shall be reported immediately to the town which in turn will report an accidental spill or discharge immediately to the state department of public health and environment.

(b) Failure to report an accidental spill or discharge to the town shall constitute a violation of the Municipal Code and be punishable by law.

(Code 1999, § 13.70.200; Ord. No. 333, (part), 1985)

**Sec. 22.48.210. Penalty.**

Any person convicted of violating any provision of this chapter shall, upon conviction, be punished according to section 1.12.010 ~~by a fine of not more than three hundred dollars (\$300) or be imprisoned for no more than 90 days, or by both such fine and imprisonment. Each day that such a violation continues shall constitute a separate offense.~~

(Code 1999, § 13.70.210; Ord. No. 333, (part), 1985)

## **CHAPTER 22.52. WATER METER REGULATIONS**

**Sec. 22.52.010. Meters required.**<sup>175</sup>

~~On or before January 1, 1984, the town shall install a water meter at the premises of each user of the water supply system of the town. Such Meters installed by the town shall be capable of measuring the consumption of water at such premises, which measurement shall be recorded and inspected at periodic intervals as necessary for the purpose of determining the amount of applicable user charges. One or more meters shall be installed at each of such premises for each user charge rate at which such user receives service at such premises.~~

(Code 1999, § 13.37.010; Ord. No. 306, (part), 1982)

**Sec. 22.52.020. Remote readers.**

Where a discrepancy exists between the reading on a remote reader and the reading on the meter, the reading on the inside meter shall prevail for the purpose of determining the amount of applicable user charges.

(Code 1999, § 13.37.020; Ord. No. 306, (part), 1982)

**Sec. 22.52.030. Meters; installation and maintenance.**

All water meters shall be furnished and installed by the town at the expense of the town and the town shall retain ownership of such meters. The town shall perform all necessary maintenance and/or repair of such meters, including replacement of meters; provided, however, that the property owner shall be responsible for protecting the meter against freezing and damage. The town retains the right to inspect meters at periodic intervals.

(Code 1999, § 13.37.030; Ord. No. 306, (part), 1982)

**Sec. 22.52.040. Metering facilities; installation and location.**

(a) For any new construction or remodeling, the owner or developer of each premise served by the water supply system of the town shall provide and install sufficient and proper meter loops and other necessary facilities for the installation of a water meter.

(b) The location of meter installation facilities and other metering equipment upon the premises shall be designated by the director of public works. Such location shall provide for adequate clearance to ensure that the meter and appurtenant facilities and equipment are readily accessible for the purposes of reading, testing, maintaining and repairing the meter. The location of the meter and appurtenant facilities shall be such as to prevent obstruction of or interference with traffic, streets, driveways, sidewalks, hallways or other passageways, or the opening or closing of doors or windows, and to provide for protection from hazard.

(Code 1999, § 13.37.040; Ord. No. 306, (part), 1982)

**Sec. 22.52.050. Unlawful acts.**

(a) It shall be unlawful for any person to install a bypass.

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<sup>175</sup> We recommend modifying this provision to strike obsolete language and to add clarifying language.

(b) It shall be unlawful for any customer or the user at any premises knowingly to receive water service by means of a bypass.

(c) It shall be unlawful for any person to tamper with a water meter or other water utility equipment.

(d) It shall be unlawful for any customer or the user at any premises to knowingly receive water service by means of tampering.

(Code 1999, § 13.37.050; Ord. No. 306, (part), 1982)

**Sec. 22.52.060. Interruption of service on account of tampering or bypassing.**

Tampering or bypassing of meter connections at any premises is illegal. Such tampering or bypassing shall be grounds for immediate disconnection of service without notice to the customer or user at such premises, and service shall not be recommended until any and all deficiencies in piping, connections, meters and/or water facilities of the premises have been repaired, corrected or otherwise altered, at the perpetrator's expense, to conform to the requirements of all applicable ordinances, rules and regulations.

(Code 1999, § 13.37.060; Ord. No. 306, (part), 1982)

**Sec. 22.52.070. Defective meters; estimated user charges.**

(a) If a meter is found not to register, to register intermittently or inaccurately, or to partially register for any period, the amount of water consumed at the premises of any user of the water supply system, the town may estimate charges for the water consumed by averaging the amounts registered over similar periods over corresponding periods in previous years, or on such other basis as may be reasonable. The owner or occupant of the premises in which such defective meter is found to exist shall be liable for estimated user charges also determined by the town.

(b) In the event a defective meter has resulted in the overpayment of user charges by the owner or occupant of the premises in which such defective meter is found to exist, the excess amount, as determined on the basis of estimated user charges in the manner provided in subsection (a) of this section, shall be refunded or credited to such owner or occupant.

(c) Once a defective meter is found, written notice shall be given to the owner or occupant that it is defective and that they have 60 days to schedule its repair or replacement. If the owner or occupant fails to schedule its repair and/or make access available for the repair during the 60 days, then the user rate for defective meters shall double at the next billing cycle and double again every 60 days until the meter is repaired or replaced. If a defective meter is not repaired or replaced within 120 days of the original written notice, the water shall be subject to shutoff by the town, and the water shall remain off until such time as the meter is repaired or replaced.

(Code 1999, § 13.37.070; Ord. No. 306, (part), 1982; Ord. No. 625, § 1, 2009)

**CHAPTER 22.56. WATERWORKS SYSTEM GENERAL PROVISIONS**

**Sec. 22.56.010. System named; management authority designated.**

The waterworks used to supply the town with water, whether or not such waterworks is owned and operated by the town or by the improvement districts within the town, shall be known as the town waterworks system. The operation and management of the waterworks shall be under the control of the Town Council ~~Board of Trustees~~ through the public works ~~director~~ Manager and town clerk, who shall direct the construction of additions thereto and the maintenance and operation thereof, and in all cases not particularly provided for by this chapter and chapters 22.12, 22.36, 22.44, 22.64, and 22.68 or other ordinances of the town, shall determine in what manner or upon what terms water may be taken from the waterworks by any property owner or water consumer and the character of the connections and the appliances which may be made or used therefor.

(Code 1999, § 13.16.010; Ord. No. 226, 'A(2), 1977)

**Sec. 22.56.020. Sewers and sewerage system made a part of department.**

The sewers and sewerage system are made a part of the town's waterworks system.

(Code 1999, § 13.16.020; Ord. No. 226, 'A(3), 1977)

**Sec. 22.56.030. Public works director ~~manager~~--Sewer connection permit.**<sup>176</sup>

(a) In addition to his other duties, the public works director ~~Manager~~ shall issue the permits for a current structure to make connections with the sewers. All connections shall be made under his supervision.

(b) Water and sewer connections are approved by the water department during the building permit process.

(Code 1999, § 13.16.030; Ord. No. 226, 'A(4), 1977)

**Sec. 22.56.040. Public works director ~~manager~~--Supervisory duties generally.**

The public works director ~~Manager~~ shall, under the immediate supervision of the town manager, have charge of all facilities of the waterworks, and it shall be his duty to supervise the waterworks and maintain and control the same as directed by the ~~Board of Trustees~~ Town Council and as provided in this chapter and chapters 22.12, 22.44, and 22.64 through 22.72.

(Code 1999, § 13.16.040; Ord. No. 226, 'A(5), 1977)

**Sec. 22.56.050. Public works director ~~manager~~--Management of main placement and tapping.**

The public works director ~~Manager~~ shall have control of the laying of all water mains. The public works director ~~Manager~~ shall have the general supervision of the putting in of all taps and service pipes or other connections with the water mains and the regulation of the water supply to all consumers of water. He shall also have charge of and be responsible for all the tools, machinery, pipes, meters, fixtures, plumbing material and all other apparatus and appliances owned by the town or used by it in the maintenance and operation of the waterworks. He shall keep account of all such material and the manner in which the same is used, kept or disposed of.

(Code 1999, § 13.16.050; Ord. No. 226, 'A(6), 1977)

**Sec. 22.56.060. Public works director ~~manager~~--Monthly report; contents.**

It is the duty of the public works director ~~Manager~~ to make a report to the Town Council ~~Board of Trustees~~ monthly, or more often if required, of his doings as public works director ~~Manager~~ and of the condition of the waterworks, and it shall also be his duty to make such suggestions concerning the same as the nature of the service may require.

(Code 1999, § 13.16.060; Ord. No. 226, 'A(7), 1977)

**Sec. 22.56.070. Public works director ~~manager~~--Fire hydrant maintenance and repair.**<sup>177</sup>

It shall be the duty of the water department under the public works director ~~Manager~~ to keep all fire hydrants in repair, and he shall test the same periodically to see if they are in order. He may let water from the hydrant whenever it is necessary for the testing of the condition of the waterworks, for purifying the water, for repairing of the waterworks or for watering the trees in extreme need.

(Code 1999, § 13.16.070; Ord. No. 226, 'A(8), 1977)

**Sec. 22.56.080. Street sprinkling; use of fire hydrant.**

The public works director ~~Manager~~ may grant permission to any person employed by the town to sprinkle the streets. The public works director ~~Manager~~ may grant permission to any other person at a reasonable rate.

(Code 1999, § 13.16.080; Ord. No. 226, 'A(9), 1977)

**Sec. 22.56.090. Fire hydrant--Right to use.**

The members of the fire department, under the orders of the chief of the fire department or other officer in charge, shall at all times have free access to the fire hydrants in case of fire. The use of the hydrants for any other purpose or by any other person is prohibited unless, prior to such use, consent of the public works director ~~Manager~~

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<sup>176</sup> **Town provided underlined language to describe current policy.**

<sup>177</sup> Is this still a duty of the public works manager? **Per email 11/4: it is the duty of the water department under the supervision of the public works director.**



is obtained.

(Code 1999, § 13.16.090; Ord. No. 226, 'A(10), 1977)

**Sec. 22.56.100. Fire hydrant--Unauthorized use unlawful.**

It is unlawful for any person not authorized by this chapter and chapters 22.12, 22.44, and 22.64 through 22.72 to open or operate any fire hydrant, to draw water therefrom or to obstruct the approach thereto.

(Code 1999, § 13.16.100; Ord. No. 226, 'A(11), 1977)

**Sec. 22.56.110. Fire hydrant--Wrenches.**

Wrenches for fire hydrants shall be furnished by the public works ~~director~~ Manager to the fire department for the use of its members and to such other persons as to him may seem proper. It is unlawful for any person to whom a wrench is furnished to permit the same to be taken from his control or to be used by any other person or for any other purpose than that authorized by the provisions of this chapter and chapters 22.36 through 22.44 and 22.64 through 22.72, or by the public works ~~director~~ manager in pursuance thereof.

(Code 1999, § 13.16.110; Ord. No. 226, 'A(12), 1977)

**Sec. 22.56.120. Property inspection.**

The Town Council Board of Trustees may from time to time direct that the public works ~~director~~ Manager or other official designated by him may and shall examine and inspect all premises where water from the waterworks is used in or upon such premises, in accordance with the provisions of section 22.60.130, in order to ascertain the nature, character and extent of such water use and the condition of the water pipes, fixtures, and appliances, and to determine if water is being wasted upon the premises. During the time that such inspections are being made, the public works ~~director~~ Manager or other official designated shall accurately tabulate the appliances and fixtures used for water as may be required in connection with the establishment of the rate to be charged to any such premises. The report thereof shall be submitted to the town manager.

(Code 1999, § 13.16.120; Ord. No. 226, 'A(13), 1977)

**~~13.16.130. Waterworks property -- trespass unlawful.~~<sup>178</sup>**

~~It is unlawful for any person, unless authorized by this chapter and Chapters 22.17 through 13.35 and 22.44 through 22.36 or the appropriate Town official, to trespass upon the waterworks or the ground upon which the same are constructed.~~

~~(Code 1999, § 13.16.130; Ord. No. 226, 'A(14), 1977)~~

**~~13.16.140. Waterworks property -- vandalism unlawful.~~<sup>179</sup>**

~~It is unlawful for any person to injure or in any way damage, meddle or interfere with in any way any property or appliance constituting or being a part of the waterworks, or any fence, guardrail, box cover, building, or any other structure constructed or used to protect any part of the waterworks.~~

~~(Code 1999, § 13.16.140; Ord. No. 226, 'A(15), 1977)~~

**~~13.16.150. Waterworks property -- deposit of harmful or obstructive material unlawful.~~<sup>180</sup>**

~~It is unlawful for any person to cast, place, dump or deposit in the waterworks any substance or material which will in any manner injure or obstruct the same.~~

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<sup>178</sup> We recommend striking this provision as the subject matter is sufficiently covered in C.R.S. 18-4-502. **Town accepted.**

<sup>179</sup> We recommend striking this provision as the subject matter is sufficiently covered in C.R.S. 18-4-501 through 18-4-504. **Town accepted.**

<sup>180</sup> We recommend striking this provision as the subject matter is sufficiently covered in C.R.S. 18-4-511. **Town accepted.**

(Code 1999, § 13.16.150; Ord. No. 226, 'A(16), 1977)

### **Sec. 22.56.130. Metered water service required.**

**181** ~~As of December 9, 1982,~~ All water customers of the town's waterworks system shall be required to have a water meter installed and operating per town specifications and their monthly user fee shall be based upon metered usage.

- (1) All water meters will be supplied by the town, per town specifications, and installed per town specifications. The town shall inspect and approve all meter installations.

**182** (2) ~~The Town of Hayden shall assist in as many ways as possible in the reinstallation of water meters throughout the town. The Town shall inspect and approve all installations; and, for those customers existing before the effective date of this ordinance, the town shall, if deemed necessary by the town Board of Trustees, install the meter at the town's expense. After the effective date of this ordinance, For all new customers, the town shall not assist in the installation of meters, but shall only inspect and approve the actual installation.~~

(Code 1999, § 13.16.160; Ord. No. 295 (part), 1980)

### **13.16.170. Establishment of utility/meter deposit.<sup>183</sup>**

~~A water meter deposit is hereby established and fixed at the meter purchase price. This deposit shall be refunded at the time the meter is inspected, in good condition, less reasonable depreciation, at such time as the customer permanently closes his account with the town.~~

(Code 1999, § 13.16.170; Ord. No. 295 (part), 1980)

## **CHAPTER 22.60. WATERWORKS SYSTEM, CONSTRUCTION**

### **Sec. 22.60.010. 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:

*Contractor* means any qualified person, persons or company duly authorized to do work within the limits of the town.

*Project engineer* means an individual or firm authorized by the town to design, inspect and act for it in matters pertaining to the construction of sewage and water lines.

*Town engineer* means the town engineer, the public works ~~director~~ Manager, or their authorized agents.

(Code 1999, § 13.20.010; Ord. No. 226, 'B(1), 1977)

### **Sec. 22.60.020. When road cut permit required.<sup>184</sup>**

Prior to any excavation or trenching in dedicated town streets or rights-of-way, a road cut permit shall be obtained from the public works ~~director~~ Manager in compliance with chapter 22.72.

(Code 1999, § 13.20.020; Ord. No. 226, 'B(2), 1977)

### **Sec. 22.60.030. Safety and traffic regulations.**

It shall be the contractor's responsibility to provide safety lights, barricades, etc., to ensure the public's safety in compliance with chapter 22.68. There shall be flagmen provided by the contractor whenever traffic control is

**181** We recommend striking this language as the date has now passed and the language is now obsolete. **Town accepted.**

**182** **Town elected to strike.**

**183** **Town elected to strike.**

**184** Are "road cut permits" still required? **Town confirmed via email sent on 10/28.**

necessary. When a street is to be blocked for any period of time or on a periodic basis, the contractor shall contact the public works ~~director~~ Manager. When closure details have been worked to the public works ~~director~~ Manager's satisfaction, he shall notify the town police department so all emergency vehicles can be rerouted. The contractor shall attempt to keep at least one lane of traffic open at all times.

(Code 1999, § 13.20.030; Ord. No. 226, 'B(3), 1977)

**Sec. 22.60.040. Contractor responsible for damage to utilities during construction.**

The contractor shall be responsible for the coordination with, and notification of, the public works ~~director~~ Manager, all utility companies, and water and sanitation districts, necessary for location of any utility lines, structures or equipment that may be damaged by his construction work. The contractor shall be responsible for the protection of these utilities and any damage done by the contractor shall be immediately repaired at the contractor's expense.

(Code 1999, § 13.20.040; Ord. No. 226, 'B(4), 1977)

**Sec. 22.60.050. Removal of waste material required.**

It shall be the contractor's responsibility to remove all excess or unsuitable material remaining from excavation or trenching work.

(Code 1999, § 13.20.050; Ord. No. 226, 'B(5), 1977)

**Sec. 22.60.060. Driveways; blockage and damage.**

The contractor shall not block individual driveway access for unreasonable periods of time and shall be responsible for the complete and timely restoration of the driveways during the course of construction.

(Code 1999, § 13.20.060; Ord. No. 226, 'B(6), 1977)

**Sec. 22.60.070. Drainage requirements.**

During the course of construction, all drainage ditches, culverts and appurtenant facilities shall be preserved and kept free of debris. Any new culvert installation or culvert replacement shall be a minimum 18-inch diameter culvert section.

(Code 1999, § 13.20.070; Ord. No. 226, 'B(7), 1977)

**Sec. 22.60.080. Protection of rivers and streams.**

Any river, stream or irrigation ditch crossing by a sewage or waterline shall be fully encased with concrete and reinforced unless otherwise specified by the public works ~~director~~ Manager. The minimum dimension between the low point of the channel and the top of the concrete shall be one foot. Each crossing will be considered on an individual basis and all design work shall be done by a competent, registered engineer, and approved by the town engineer.

(Code 1999, § 13.20.080; Ord. No. 226, 'B(8), 1977)

**Sec. 22.60.090. Plans; information required.**

As a condition to final approval and acceptance for maintenance of facilities by the town, the owner shall have two complete and accurate sets of as-built drawings prepared by a competent registered engineer or such other person as the public works ~~director~~ Manager approves. These as-builts shall contain at least the following information:

- (1) Line locations (plan view) to scale showing true horizontal dimensions and deflection angles;
- (2) Line profile with actual length, size of pipe, percent gradient and accurate ground or road profile;
- (3) Inverts "in" and "out" for all newly constructed manholes and cleanouts;
- (4) Accurate three-point ties and locations for all hydrants, valves, curb stops, air-vac valves, PRVs, manholes, cleanouts and underground lift stations;
- (5) Accurate description of all materials and appurtenances used for construction of facilities;

- (6) Locations of all other utilities and services encountered during construction;
- (7) Any additional data deemed necessary for the town engineer or adjudged pertinent by the project engineer;
- (8) Three complete sets of operation and maintenance manuals, electrical diagrams, mechanical drawings, structural drawings and architectural drawings of any facility such as a pumping station, lift station, PRV, chlorinator or related facility to be maintained by town personnel upon final acceptance of said facility.

(Code 1999, § 13.20.090; Ord. No. 226, 'B(9), 1977)

#### **Sec. 22.60.100. Acceptance of facilities for maintenance; standards and procedure.**

There are several steps leading to the final approval and acceptance for maintenance of any sewage or water facility:

- (1) Periodic construction inspection by the town engineer or his staff;
- (2) Testing and approval of lines according to chapter 22.64;
- (3) Formal request for preliminary acceptance from owner to the Town Council ~~Board of Trustees~~;
- (4) Inspection and approval by the public works director ~~Manager~~ or his representative including:
  - a. Manholes, grouting of rings and covers, water tightness, smoothness of invert, fit between lid and ring and final manhole grade in relation to surrounding manholes;
  - b. Valves, operation and straightness;
  - c. Hydrants, operation of hydrant and drain back valve;
  - d. All other equipment, inspection for suitability and operation on an individual basis and as a functioning part of the system;
- (5) Inspection and approval of roads, shoulders, ditches, driveways and general cleanup by the public works director ~~Manager~~;
- (6) Formal preliminary acceptance and partial release of bonding moneys by the Town Council ~~Board of Trustees~~;
- (7) Mandatory one-year guarantee period during which the owner assumes the responsibility and costs of all maintenance and repair;
- (8) Formal final acceptance and full release of bonding moneys by the Town Council ~~Board of Trustees~~, contingent upon any and all repairs deemed necessary by the town engineer to facilities or roads being completed in a satisfactory manner;
- (9) At this point the town assumes full responsibility for maintenance and repair except materials and equipment under any express guarantee by the manufacturer.

(Code 1999, § 13.20.100; Ord. No. 226, 'B(10), 1977)

#### **Sec. 22.60.110. Suspension of work.**

The town engineer may at any time suspend the contractor's operations when the conditions of the specifications set forth in this chapter are not met or when an unsafe working condition prevails.

(Code 1999, § 13.20.110; Ord. No. 226, 'B(11), 1977)

#### **Sec. 22.60.120. Revegetation.**

Any work in rights-of-way or green areas owned or authorized for use by the public that disturbs or destroys the natural or existing environment shall include revegetation to be done to the satisfaction of the town engineer unless the public works director ~~Manager~~ otherwise specifies.

(Code 1999, § 13.20.120; Ord. No. 226, 'B(12), 1977)

**Sec. 22.60.130. Town engineer and public works ~~director~~ ~~manager~~ access to work.**

The town engineer and public works ~~director~~ ~~Manager~~ shall have access to all work being performed within the town limits.

(Code 1999, § 13.20.130; Ord. No. 226, 'B(13), 1977)

**CHAPTER 22.64. WATER SERVICE, MAINTENANCE AND REPAIR<sup>185</sup>****Sec. 22.64.010. Public works ~~director~~ ~~manager~~, authority to shut off water.**

The public works ~~director~~ ~~Manager~~ may cause the water to be shut off from the street mains when he deems it necessary for making connections or extensions to the same or for the purpose of cleaning the same. If at any time the public works ~~director~~ ~~Manager~~ ascertains that the main water line, any part thereof or any connection, from the same to the property line of any owner of the premises on which water is used, is defective so as to wastewater or does not comply with any law or regulation of the town or the state, water service to such line shall be shut off and the line so determined to be defective or in noncompliance shall be replaced or repaired by the town.

(Code 1999, § 13.28.010; Ord. No. 226, 'D(1), 1977)

**Sec. 22.64.020. Property owner responsibility.**

The owners of any premises for which a water connection is made shall at all times keep all pipes, fixtures and appliances, with the exception of town meters, from the curb stop to and on his premises tight and in good working order so as to prevent any waste of water. In the event any such pipes, fixtures or appliances are so defective as to wastewater or do not comply with any law or regulation of the town or the state, the owner shall forthwith repair, correct or replace the same at his own cost.

(Code 1999, § 13.28.020; Ord. No. 226, 'D(2), 1977; Ord. No. 229 § 1(b), 1978)

**Sec. 22.64.030. Water shut off for failure to comply; tap permit required for connection.**

If at any time the public works ~~director~~ ~~Manager~~ ascertains that the plumbing fixtures, pipes or appliances from the main line to and on any premises are so defective as to wastewater, or do not comply with any law or regulation of the town or the state, it shall be his duty to immediately notify the owner of the premises on which the water is used, his agent or the consumer of such water to repair or replace the same. If the same are not repaired or replaced within the time specified in such notice, said time being that amount reasonably calculated by the public works ~~director~~ ~~Manager~~ to allow the completion of such repair or replacement, but in any event not less than 48 hours from the time such notice is served, mailed or otherwise delivered to the owner, agent or consumer, the public works ~~director~~ ~~Manager~~ shall shut off the water from the premises and immediately notify the Town Council ~~Board of Trustees~~. No connection to the main line shall be made without the owner or his agent having first obtained a tap permit therefor, however, no tap fee shall be required for any tap made pursuant to this chapter. No main shall be shut off, except in emergencies, without prior notice to the owner of the premises, his agent or the consumer of water. It is unlawful for any person to fail or refuse to comply with the order provided for in this section.

(Code 1999, § 13.28.030; Ord. No. 226, 'D(3), 1977)

**Sec. 22.64.040. Town action--Assessment of cost.**

If any occupant or owner fails to make such repairs or replacement within the time specified, it shall be the duty of the public works ~~director~~ ~~Manager~~ to proceed at once upon the expiration of the specified time to cause such repair or replacement to be made and to report immediately the cost and expense thereof, the legal description and the name of the record owner of the property involved to the town clerk. The town clerk shall forthwith, in writing, by certified mail, return receipt requested, notify the owner or occupant of the amount of such charges, and the same shall be due and payable 30 days after the date of the notice of charges.

(Code 1999, § 13.28.040; Ord. No. 226, 'D(4), 1977)

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<sup>185</sup> This chapter has not been amended in a long time. We recommend reviewing this chapter and confirming what (if anything) needs to be amended/deleted.

**Sec. 22.64.050. Town action--Property owner liability.**

The owner and occupant of any property or premises thereby affected shall be held personally liable for any and all charges imposed under the provisions of this chapter and chapters 22.04, 22.12, 22.44, 22.56, 22.68, and 22.72 of this title, and such charges shall become and remain a lien upon such property of the premises until paid. Such charges may be collected from either the owner or the occupant by an action in the name of the town. Said action may be for the enforcement of the lien.

(Code 1999, § 13.28.050; Ord. No. 226, 'D(5), 1977)

**Sec. 22.64.060. Town action--Cost assessed as tax.**

In addition to the foregoing, in the event that said charges are not paid when due, the town clerk shall certify such delinquent charges to the county treasurer of ~~Routt County~~ to be placed upon the tax rolls for the current year and to be collected in the same manner as provided by law for the collection of taxes, with ten percent of the amount of the delinquency added thereto to defray the costs of collection. The laws of the state for the assessment and collection of general taxes and the enforcement of liens therefore, including the laws for the sale of property for delinquent taxes and the redemption of the same, apply.

(Code 1999, § 13.28.060; Ord. No. 226, 'D(6), 1977)

**Sec. 22.64.070. Service pipes; forfeiture to town; cause.**

Whenever any owner of the premises on which water is used abandons its use or disconnects or takes up his pipes connecting with the service pipes, the service pipes, complete from the main to the curb stop, shall be forfeited to the town.

(Code 1999, § 13.28.070; Ord. No. 226, 'D(7), 1977)

**Sec. 22.64.080. Water main turn-off for repairs and maintenance.**

(a) From time to time, in those instances when a water main must be turned off in order to make necessary repairs or undertake new construction/connections, the public works department shall make every effort to renew water service to the affected customers at the earliest possible moment.

(b) When water service discontinuance is anticipated due to new construction connections or periodic maintenance, the party requesting the discontinuance shall be responsible for notifying all those customers affected by said discontinuance. This notification shall be through the delivery of written notices to each and every place of residence and/or business affected, at least 24 hours prior to the discontinuance. Until such notice is effectively completed, the public works department shall not discontinue water service to that area.

(c) In the case of an emergency shutdown of a water main, the town shall make every effort deemed appropriate to notify potentially affected customers that service is being temporarily and unavoidably discontinued. The public works department shall keep on hand, at all times, sufficient inventory items and material necessary to complete any anticipated repairs to the water distribution and storage and treatment systems. Said repair shall be made at the earliest possible time and completed in the most effective and efficient manner possible.

(Code 1999, § 13.28.080; Ord. No. 295, 1980)

**CHAPTER 22.68. WATER SERVICE, TAP PERMITS AND CONNECTIONS<sup>186</sup>****Sec. 22.68.010. Compliance with chapter.**

It is unlawful for any person not authorized by this chapter to make any connection with any water pipe or main of the waterworks or for any authorized person to put in any tap or connection contrary to the provisions of this chapter.

(Code 1999, § 13.32.010; Ord. No. 226, 'E(1), 1977)

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<sup>186</sup> This chapter has not been amended in a long time. We recommend reviewing this chapter and confirming what (if anything) needs to be amended/deleted.

**Sec. 22.68.020. Permit--Required.**

It is unlawful for any person to tap or make any connection with the pipeline or water main forming a part of the waterworks without having first obtained a permit therefor.

(Code 1999, § 13.32.020; Ord. No. 226, 'E(2), 1977)

**Sec. 22.68.030. Permit--Application.**

The public works director ~~Manager~~ shall supervise and administer the issuance of all applications for permits to tap the pipes or mains of the waterworks in accordance with the provisions of this chapter. All applications for permits to tap shall be in writing to the town clerk and shall state the name of the owner of the property, the owner's mailing address, the date thereof, the size of the tap desired, the proposed use of the tap, the number of the dwelling units to be served by the tap, the number and kind of appliances and fixtures to be used and the legal description and street address of the property for which the tap is desired. If such application to tap does not include provisions specified or provided for in this chapter, no permit shall be issued except with the approval of the Town ~~Council~~ Board.

(Code 1999, § 13.32.030; Ord. No. 226, 'E(3), 1977)

**Sec. 22.68.040. Permit--Building permit required prior to issuance.**

No applicant for a water tap for a new structure shall receive a tap permit prior to the issuance of a valid building permit for such structure.

(Code 1999, § 13.32.040; Ord. No. 226, 'E(4), 1977)

**Sec. 22.68.050. Permit--Town clerk responsibility.**

All permits to tap as required by this chapter shall be issued and signed by the town clerk and shall set forth all those requirements specified in section 22.68.030. The town clerk shall keep a duplicate record of all permits to tap issued by him in a book or books kept for such purpose.

(Code 1999, § 13.32.050; Ord. 227 'E(5), 1977)

**Sec. 22.68.060. Fees due before tap or connection permitted.**

No water tap or other connection with the water mains of the works shall be made by the public works director ~~Manager~~ until all applicable permits and tap fees have been paid and the permit has been issued.

(Code 1999, § 13.32.060; Ord. No. 226, 'E(6), 1977)

**Sec. 22.68.070. Property owner responsible for connection expenses.**

On all connections with the main, the owner of the premises on which water is used shall furnish and pay for all materials, labor and all expenses in and about the making of such connections and laying the line from the main to the premises, except the cost and labor for the actual tapping of the main. However, the town shall furnish the corporation stop, the curb stop and the curb box to the owner, and charge to the owner the cost of the same.

(Code 1999, § 13.32.070; Ord. No. 226, 'E(7), 1977)

**Sec. 22.68.080. Single tap for multiple dwellings; regulations.**

(a) In all cases where service pipes have been constructed from a single tap to different houses, buildings or premises, and a separate curb stop accessible to the public works ~~director~~ Manager has been placed on the pipe leading to each house, building or premises, so that water can be easily turned on and shut off from the premises or any of them, the continued use of such extensions will be permitted.

(b) Owners of adjoining premises may obtain a permit to make one tap for all such premises if it appears to the satisfaction of the public works ~~director~~ Manager that a single tap would adequately serve such premises; however, each and every premise must be provided with separate and distinct curb stops.

(c) No connection with the waterworks or use of water therefrom shall be made through any extension of the service pipe of any other premises unless waived by the Town ~~Board~~ Council or except as provided in this chapter or chapter 22.72.

(Code 1999, § 13.32.080; Ord. No. 226, 'E(8), 1977)

**Sec. 22.68.090. Water shutoff; vacation of premises.**

Whenever any building or premises is vacated, it shall be the duty of the owner, agent or agents thereof to notify, in writing, the town clerk of such fact so that the water may be shut off. All such buildings and premises are deemed occupied and water rents collected thereon unless such notice has been given.

(Code 1999, § 13.32.090; Ord. No. 226, 'E(9), 1977)

**Sec. 22.68.100. Fee for turning water on and off; exemption.**

Every owner shall pay to the town the sum of ~~\$25.00~~ in an amount as determined by the Town Council from time to time every time the water is turned off or on, except initial turn on for new construction and/or service; and when requested by a customer to turn water on or off to make repairs, and then customer shall be billed at the hourly rate of the town employee performing such service.

(Code 1999, § 13.32.091; Ord. No. 318, 1983)

**Sec. 22.68.110. Excavation--Safety precaution; liability for damage and injury assigned.**

All excavations in the street with regard to the water service shall be made in conformity to this title and other ordinances of the town, as well as in conformance with federal and state regulations. Suitable barricades and guards shall be placed around such excavations as will be sufficient to protect all persons from injury and damage, and sufficient red lights shall be kept burning near such excavations from twilight until sunrise in order to protect all persons from injury or damage thereby. The person making such excavations shall be liable for all injuries or damages resulting from his failure to do so.

(Code 1999, § 13.32.100; Ord. No. 226, 'E(10), 1977)

**Sec. 22.68.120. Excavation--Permit required; exception.**

No person shall excavate or cause to be excavated in any public street or alley for the purpose of connecting to any public water line or private line until such time as he has secured a permit from the town clerk to do such excavation.

(Code 1999, § 13.32.110; Ord. No. 226, 'E(11), 1977)

**Sec. 22.68.130. Testing.**

When any tap or connection for water service has been completed and the service is found to comply with the provisions of this chapter ~~and chapter 13.35~~, the public works ~~director~~ Manager shall test the connection to determine that the connection and service are in proper operating condition.

(Code 1999, § 13.32.120; Ord. No. 226, 'E(12), 1977)

**Sec. 22.68.140. Turning on of water; service pipe inspection.**

No water shall be turned on by anyone except the public works ~~director~~ Manager or someone acting under his order. No service pipe shall be covered prior to inspection and approval by the public works ~~director~~ Manager.

(Code 1999, § 13.32.130; Ord. No. 226, 'E(13), 1977)

**Sec. 22.68.150. Disconnection of water service--Removal of town property prohibited.**

In case any owner of premises on which water is used ceases to use water and desires to disconnect his premises, he shall not be permitted to remove the corporation stop, curb stop, curb box or meter and appurtenances. Such devices are the property of the town and shall be removed only by the order of the public works ~~director~~ Manager.

(Code 1999, § 13.32.140; Ord. No. 226, 'E(14), 1977)

**Sec. 22.68.160. Disconnection of water service--Reconnection.**

In any case where the water has been shut off from any premises for any cause stated in this chapter or in chapters 22.64 and 22.72, or at the request of the owner of the premises, the public works ~~director~~ Manager shall not turn it back on again or order it to be turned on again until all back water rents and charges have been paid and



the owner requests the service by making application and receives a use permit therefor.

(Code 1999, § 13.32.150; Ord. No. 226, 'E(15), 1977)

**Sec. 22.68.170. Connection through service lines of another premises; permitted when.**

The public works ~~director~~ Manager, with the approval of the Town ~~Board~~ Council, may authorize and permit any proposed consumer not connected with the water mains of the town and not situated within a reasonable distance of such a main to connect through service lines used and owned by others; provided, however, all such consumers shall first secure and present to the public works ~~director~~ Manager the written consent of the owner of the premises to be connected through, and such connecting consumer pays the appropriate tap charges and agrees to disconnect when or if a water main is installed nearer to the premises than such permitted connection. Connection thereafter to the water main shall be subject to and in accordance with all the terms and conditions of this chapter and chapters 22.12, 22.36, 22.64, and 22.72.

(Code 1999, § 13.32.160; Ord. No. 226, 'E(16), 1977)

**Sec. 22.68.180. System construction; standards cited.**

Specifications for all labor, materials, equipment, manner of construction and services required for the installation of all water distribution systems shall be as provided by chapter 22.24, 22.40 and 22.60 as now enacted or hereafter amended.

(Code 1999, § 13.32.170; Ord. No. 226, 'E(17), 1977)

**CHAPTER 22.72. WATER SERVICE, USE PERMIT AND REGULATIONS<sup>187</sup>**

**Sec. 22.72.010. Change or extension of water use; additional permit.**

If at any time any person proposes to extend his water service pipes for the supply of any other rooms or tenants or for the use of water for any purpose other than those for which he or others have a permit, he shall, before doing so, obtain a permit from the town clerk for such extension. The fee for such use shall be adjusted accordingly with approval of the Town ~~Board~~ Council.

(Code 1999, § 13.36.020; Ord. No. 226, 'F(2), 1977)

**Sec. 22.72.020. More than one business in one location; service charge determination.**

Whenever more than one business is carried on in any one store, room or other building, it shall be the duty of the Town ~~Board~~ Council to decide whether or not more than one charge for water service shall be made for such use.

(Code 1999, § 13.36.030; Ord. No. 226, 'F(3), 1977)

**Sec. 22.72.030. Water shutoff--Noncompliance with permit or failure to pay water charges--Single property owner.**

If, after a permit for the use of water has been issued, it is ascertained that water is being used on any premises not authorized by the permit or by any permit, or in a greater amount or for a different purpose than that provided for in the permit, or if any consumer fails or refuses to pay the water charges for the use of water, as the same becomes due, it shall be the duty of the public works ~~director~~ Manager to shut off the water, provided the public works ~~director~~ Manager gives such consumer 48 hours' notice prior to the date the water is to be shut off.

(Code 1999, § 13.36.040; Ord. No. 226, 'F(4), 1977)

**Sec. 22.72.040. Water shutoff--Noncompliance with permit or failure to pay water charges--Multiple dwelling units on one curb stop.**

In cases where more than one premises, lot, house, building, or dwelling unit is served from one curb stop, if any consumer connected to such curb stop fails or refuses to pay the water charges for the use of water as the same

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<sup>187</sup> Is this permit still required?

becomes due, or if any consumer or owner of the premises on which the water is used has failed to comply with this chapter or chapters 22.04, 22.12, 22.36, 22.44, 22.56, 22.64, 22.68, and 22.72, or any ordinances of the town, the public works ~~director~~ **Manager** may shut off the water; provided, however, the public works director ~~Manager~~ gives such owner or consumer 48 hours' notice prior to the date the water is to be shut off. No claim for damages because of such turn-off or discontinuance of water service may be made against the town by anyone receiving water through a common curb stop who has complied with the ordinances of the town or who has paid all amounts charged to him. As a condition precedent to the furnishing of water through a common curb stop, any act or omission requiring the town to discontinue water service through said common curb stop and to the premises receiving water thereby is deemed a joint act of all persons who are served through such a curb stop.

(Code 1999, § 13.36.050; Ord. No. 226, 'F(5), 1977)

**Sec. 22.72.050. Taking water from premises without securing permit; unlawful.**<sup>188</sup>

It is unlawful for any person having a permit to use water on his premises, or any occupant of such premises, to allow any person to take water from the premises unless that person or the owner of the premises on which he intends to use such water has a permit to do so, as provided for in this chapter or chapter 22.68.

(Code 1999, § 13.36.060; Ord. No. 227 'F(6), 1977)

**Sec. 22.72.060. Lawn sprinkling and irrigation--Regulation.**<sup>189</sup>

It is unlawful for any person at any time to use excessive water for sprinkling or irrigation through a hydrant or hose no larger than three-fourths inch in diameter without a nozzle or lawn sprinkler, and no sprinkler opening used shall be more than three-eighths inch in diameter. The Town ~~Board~~ **Council** shall have the authority to establish, by resolution, motion or otherwise, any and all other restrictions as to the use of water for sprinkling or irrigation, and a violation of any such orders or regulations as imposed by the Town ~~Board~~ **Council** is considered a violation of this chapter.

(Code 1999, § 13.36.070; Ord. No. 226, 'F(7), 1977)

**Sec. 22.72.070. Lawn sprinkling and irrigation--Prohibited during fire.**<sup>190</sup>

It is unlawful to use water for sprinkling or irrigation purposes during any fire or while the fire department is using water for fire purposes after the fire alarm has been sounded.

(Code 1999, § 13.36.080; Ord. No. 226, 'F(8), 1977)

**Sec. 22.72.080. Negligent waste of water; unlawful.**

It is unlawful for any person having a permit to use water from the waterworks to permit, suffer or allow water to run to waste from his premises, buildings, houses or lots in, through or out of any water closet, lavatory, urinal, bathtub, hose, hydrant, faucet or other fixture, appliance or apparatus whatsoever, or in any manner through neglect, or by reason of faulty or imperfect plumbing or fixtures.

(Code 1999, § 13.36.090; Ord. No. 226, 'F(9), 1977)

## **CHAPTER 22.76 WATER AND SEWER RATES**

**Sec. 22.76.010. Water user fee computation and schedule.**

The water user fee, to be charged to all water users, shall be comprised of a base rate fee and a metered rate fee, as calculated below and shall be subject to the definitions as reflected below.

- (1) *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:

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<sup>188</sup> Is this provision enforced?

<sup>189</sup> Is this provision enforced?

<sup>190</sup> Is this provision enforced?

*Base rate* means the rate used as a multiplier to compute the base rate fee and is computed in a manner sufficient to generate those revenues necessary to cover all annual capital costs. The capital costs are set by the Town Council ~~Town Board of Trustees~~ in the adopted annual operating budget. The base rate is applied equally to every tap, whether in active use or not.

*Base rate fee* means a portion of the water user fee established in accordance with subsection (2) below multiplied times the applicable SFE in accordance with subsection (2), (3), (4), and (5) of this section for each water user.

*Billing period* means the period between water meter readings, which is approximately monthly.

*Disabled user* means a person that is disabled and head of the household, as demonstrated by application to the town and presentation of sufficient documentation verifying head of household status, as defined by Internal Revenue Service regulations and or a person living with head of household who is disabled as defined by social security service regulations.

*Metered rate* means the rate used as a multiplier to compute the metered rate fee and is computed in a manner sufficient to cover all annual operation and maintenance costs as reflected in the water fund, less any other revenues such as sales tax revenues, interest income, special assessments, etc.

*Metered rate fee* means a portion of the water user fee computed in accordance with subsection (3) of this section.

*Monthly user fee* means the base rate plus the metered rate for a month.

*Out of town* means outside of the corporate limits of the town.

*Senior citizen* means a person who is a head-of-household 65 years of age or older, as demonstrated by application to the town and presentation of sufficient documentation verifying head of household status, as defined by Internal Revenue Service regulations.

*Senior citizen or disabled user base rate fee* means 60 percent of the base rate fee.

*SFE* means the single-family equivalent unit and is equal to a normal water tap of three-quarter inch or less.

~~Town is defined as the town of Hayden.~~

~~Town Board or Board is defined as the Town Council for the town of Hayden.~~

*Water user* means a person or organization who has executed an agreement with the town to receive water and/or sewer services or is connected to the water system.

*Water user classification* means meter size and, senior citizen, or out of town.

- (2) *Base rate*. The base rate for water usage is determined by the Town Council from time to time, ~~defined below for the specific applications:~~

~~— The water base rate equals forty five dollars and eighty five cents (\$45.85) for a five eighths inch ( $\frac{5}{8}$ ) meter and three quarter inch ( $\frac{3}{4}$ ) meter which is equal to one SFE;~~

~~— The water base rate equals sixty nine dollars and twenty five cents (\$69.25) for a one inch (1") meter, which is equal to two SFE's;~~

~~— The water base rate equals one hundred thirty seven dollars and fifty cents (\$137.50) for a one and half inch (1.5") meter, which is equal to four SFE's;~~

~~— The water base rate equals two hundred seventy five dollars and ten cents (\$275.10) for a two inch (2") meter, which is equal to eight (8) SFE's; and~~

~~— The water base rate equals five hundred and two dollars (\$502.00) for a three inch (3") meter, which is equal to 16 SFE's.~~

~~— The metered rate for water usage is defined below for the specific applications. The metered rate which shall be equal to the following stated amounts for the listed user:~~

- ~~— \$4.00 per thousand gallons of metered usage up to a total of five thousand (5,000) gallons of metered usage per billing period;~~
- ~~— \$4.50 per thousand gallons of metered usage more than five thousand and one (5,001) gallons up to twelve thousand (12,000) of metered usage per billing period;~~
- ~~— \$5.00 per thousand gallons of metered usage more than twelve thousand and one (12,001) gallons up to twenty thousand (20,000) of metered usage per billing period;~~
- ~~— \$5.50 per thousand gallons of metered usage more than twenty thousand and one (20,001) gallons up to one hundred thousand (100,000) of metered usage per billing period;~~
- ~~— \$6.00 per thousand gallons of metered usage more than one hundred thousand and one (100,001) gallons up to one hundred and fifty thousand (150,000) of metered usage per billing period;~~
- ~~— \$6.25 per thousand gallons of metered usage more than one hundred and fifty thousand and one (150,001) gallons up to two hundred thousand (200,000) of metered usage per billing period; and~~
- ~~— \$6.50 per thousand gallons of metered usage more than two hundred thousand and one (200,001) gallons and beyond for all usage above two hundred thousand and one (200,001) of metered usage per billing period.~~

- (3) *Senior citizen and disabled user.* The metered rate for senior citizens and disabled users is equal to 60 percent of the water base rate and metered rates reflected above.
- (4) *Out-of-town users.* The water base rate and metered rate for all out-of-town users is equal to 20 percent of the water base rate and metered rates reflected above.
- (5) *Non-metered/broken meter rate.* Non-metered/broken meter rate equals the average monthly usage amount for an equivalent classification, i.e., total gallons metered divided by number of metered water users for an equivalent classification, for the billing period times the metered rate for such billing period.

(Code 1999, § 13.60.010; Ord. No. 615, § 1, 2008; Ord. No. 625, § 1, 2009; Ord. No. 637, § 1, 2010; Ord. No. 647, § 1, 2011; Ord. No. 662, § 1, 1-21-2016; Ord. No. 670, § 1, 1-21-2016; Ord. No. 671, § 1, 2-18-2016; Ord. No. 680, § 1, 12-7-2017; Ord. No. 683, §§ 1—3, 2-15-2018; Ord. No. 684, § 1, 4-5-2018)

### **~~13.60.020. Senior citizen reduced rate.~~**

~~Intentionally deleted.~~

~~(Code 1999, § 13.60.020; Ord. 526 § 2, 2003; Ord. No. 370(part), 1989)~~

### **Sec. 22.76.020. Sewer rate.**

The sewer user fee shall be comprised of a base fee and a metered usage fee, and the following definitions and formulas:

- (1) *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:

*Base rate* means a rate sufficient to generate those revenues necessary to cover all annual capital costs and operating contingency costs. The capital costs and operating contingency costs are set by the Town Council ~~Town Board of Trustees~~ in the adopted annual operating budget. The base rate is applied equally to every sewer tap whether in active use or not.

*Base rate formula* means the monthly base rate formula as determined by subsection (3) of this section.

*Capital costs* means the annual budgeted debt service and equipment replacement expenditures in the sewer fund.

*Metered rate* means a rate sufficient to generate those revenues necessary to cover all annual O&M costs in the sewer fund, less any incidental revenues such as interest income. The metered rate amount for 1,000 gallons of water consumed shall be equal to the result of the division of the revenues necessary to pay all O&M costs for the sewer system on a monthly basis by 1,000 and the result divided by the

number of sewer taps in the town. The amount of water consumed on which the metered rate amount is charged shall be estimated prospectively each January through December period based on the average monthly amount of water consumed during the following seven months of the prior year: January through April and October through December of the prior year.

*Metered rate formula* means the metered rate as determined by the multiplying the average water usage by meter size times the established water rate by type.

*Monthly rate* means the base rate plus the metered rate.

*Operation and maintenance costs (O&M)* means the annual expenditures required to operate and maintain the wastewater system, such as salaries, routine maintenance, utilities, chemicals, etc.

*SFE* means single-family equivalent unit, and equal to a normal residential sewer tap of four inches.

- (2) The monthly base rate for sewage usage is determined by the Town Council from time to time. ~~defined below for the specific application:~~

~~— The sewer base rate equals twenty one dollars and thirty five cents (\$21.35) for a five eighths inch (5/8) meter and three quarter inch (3/4) meter which is equal to one SFE;~~

~~— The sewer base rate equals thirty two dollars and two cents (\$32.02) for a one inch (1") meter, which is equal to two SFE's;~~

~~— The sewer base rate equals sixty four dollars and five cents (\$64.05) for a one and one half inch (1.5") meter, which is equal to four SFE's;~~

~~— The sewer base rate equals one hundred twenty eight dollars and ten cents (\$128.10) for a two inch (2") meter, which is equal to eight (8) SFE's; and~~

~~— The sewer base rate equals two hundred thirty four dollars and eighty five cents (\$234.85) for a three inch (3") meter, which is equal to 16 SFE's.~~

- (3) The metered rate for sewage usage is defined below for the specific application:

- a. The metered sewer rate, which shall be equal to an average number of water gallons metered to a user during the seven months defined in the metered rate formula (January through April and October through December), times a multiplier equal to the water metered rate schedule.
- b. If no average has been established for a user during the months defined in the metered rate formula, the user shall pay a fee equal to the average as established for all same meter size users until an average for the user can be established.

(Code 1999, § 13.60.030; Ord. No. 370(part), 1989; Ord. No. 421, 1994; Ord. No. 450, § 1 (part), 1996; Ord. No. 637, § 1, 2010; Ord. No. 647, § 1, 2011; Ord. No. 670, § 1, 1-21-2016; Ord. No. 671, § 1, 2-18-2016; Ord. No. 680, § 1, 12-7-2017; Ord. No. 683, §§ 4—6, 2-15-2018; Ord. No. 684, § 2, 4-5-2018)

#### **Sec. 22.76.030. User fees for larger than one EQR users.**

Users with a water tap or sewer tap in excess of one EQR shall pay an increased base water and base sewer fee in an amount to be determined by the Town Council from time to time ~~accordance with Appendix A attached hereto and made a part hereof by reference.~~

(Code 1999, § 13.60.040; Ord. No. 370(part), 1989)

#### **Sec. 22.76.040. Multiple users on one water or sewer tap.**

In those cases where more than one user is using the same water and/or sewer tap, an additional user base fee shall be assessed to the principal service tap in proportion to the increased EQRs as determined by the Town Council from time to time ~~by Appendix A.~~

(Code 1999, § 13.60.050; Ord. No. 370(part), 1989)

#### **Sec. 22.76.050. Rate adjustment power.**

The Town ~~Board~~ Council shall review water rates annually during budget time and may change the water user

fees by changing the base rate and/or the metered rate established hereunder or the classifications in ~~Appendix A~~ at any time. The Town ~~Council-Board~~ may change a user classification in any case where the ~~Council-Board~~ determines that the water user fees are unfair, inequitable or improper.

(Code 1999, § 13.60.060; Ord. No. 370(part), 1989; Ord. No. 526 § 3, 2003)

**~~13.60.070. Water user fees for property outside the corporate limits of the town.~~**

~~Intentionally deleted.~~

~~(Code 1999, § 13.60.070; Ord. 526 § 4, 2003; Ord. 370, 1989)~~

**Sec. 22.76.060. Adoption.**

Pursuant to authority conferred by ~~Colorado Revised Statutes C.R.S. § 31-16-202, 1998~~, there is adopted by the town, for the purpose of assisting in determining sewer use fees to be levied on all users who discharge wastewater into the wastewater system operated by the town, a technical reference handbook known as the Standard Methods for the Examination of Water and Wastewater, 20th edition, 1998 ~~of which two copies are on file in the office of the town clerk and may be inspected during regular business hours.~~

(Code 1999, § 13.60.080; Ord. No. 393, 1992; Ord. No. 477, § 1, 1999)

**Sec. 22.76.070. When due.**

The water user fees established herein shall be payable monthly, on the tenth day of each month. If the charge is not paid by the 25th day of the month after billing, the water user fees shall be delinquent and shall accrue interest at the rate of 1 1/2 percent per month (18 percent per annum).

(Code 1999, § 13.60.090; Ord. No. 526, § 5 (part), 2003)

**Sec. 22.76.080. Liability for charge assigned; delinquent charge becomes lien; court action.**

The owner of any property or premises served by the water system and the water user shall be held personally liable for any and all fees imposed under the provisions of this ordinance from the time such become due. Such fees shall become and remain a lien upon any such property or premises served thereby until such fees are paid. Such fees may be collected from the owner or water users by an action at law or in equity. Such action is to be in the name of the town and may be prosecuted in any court having jurisdiction. The action may be for the enforcement of the lien. Any such lien shall attach to any lot or lots, building or buildings comprising the property or premises served by the water system and shall extend to the whole of such building or buildings, lot or lots on the premises thereby served by the town.

(Code 1999, § 13.60.100; Ord. No. 526, § 5 (part), 2003)

**Sec. 22.76.090. Delinquency as grounds for termination of service.**

In addition to the foregoing remedies, in the event the water use fees are not paid when due, the water services to the premises or property affected by such delinquency may be discontinued by the town by shutting off the water supply to such premises or property or in any other manner by which disconnection or discontinuance of such service can be reasonably accomplished. Termination of service shall be preceded by a notice from the town to the water user that the service will be terminated at the expiration of ten days from the notice. Notice may be mailed to any user who is, at a minimum, two months delinquent. Reconnection costs and conditions shall be subject to such policies as may be adopted by the ~~Board~~ Town Council.

(Code 1999, § 13.60.110; Ord. No. 526, § 5 (part), 2003)

**Sec. 22.76.100. Deposition of funds with finance director.**

The funds received from the collection of water user fees authorized by this chapter shall be deposited with the town clerk and shall be deposited by her in the enterprise fund of the town.

(Code 1999, § 13.60.120; Ord. No. 526, § 5 (part), 2003)

**Sec. 22.76.110. Attorney's fees and costs.**

Any charge incurred by the town in enforcing payment of fees or any other provisions of this section, including

court costs and reasonable attorney's fees, shall be paid by the owner of the property and the water user and may be added to the lien or tax amount.

(Code 1999, § 13.60.130; Ord. No. 526, § 5 (part), 2003)

## SCHEDULE A

### HIGH VOLUME/HIGH STRENGTH RATE

The High Volume/High Strength Rate ("HV/HS") is the charge to the user above the Base Rate and the Metered Rate for the discharge of HV/HS sewage. The HV/HS Rate becomes effective January 1, 1986.

The HV/HS Rate is assessed to any user who exceeds fifteen thousand (15,000) gallons of sewage discharged into the system during any 30 day period and/or exceeds the amount of 250 milligrams per liter of sewage of BOD or TSS concentrations. The HV/HS rate shall be determined in accordance with the following formulas:

Formula to Determine Lbs. of BOD and TSS:

(Concentration in mg/l) times (flow in MG) times 8.34 equals lbs.

Formula for Allocation of HV/HS:

1. Wastewater Treatment Plant ("WWTP") design capacity:

Hydraulic Loading:  $(.75) (10,000,000) (365) / 1,000 = 273,750 (1,000) \text{ gal/yr}$

BOD Loading:  $1188 \text{ lbs/day} (365) = 433,620 \text{ lbs/yr}$

TSS Loading:  $1188 \text{ lbs/day} (365) = 433,620 \text{ lbs/yr}$

2. Allocation of Annual Costs per Adopted Fiscal year Budget:

Hydraulic Loading: 30% times (Sewer Fund Budget)

BOD Loading: 55% times (Sewer Fund Budget)

TSS Loading: 15% times (Sewer Fund Budget)

3. HV/HS Charge per FY1985 Sewer Fund Budget:

HV:  $\$/\text{gal} = \$39,000 / \$273,750 (10,000) = \$0.14 \text{ per } 1,000 \text{ gallons } 15,000 \text{ gal}$

HS BOD:  $\$/\text{lbs} = \$71,500 / 433,620 = \$0.16 \text{ per lb of BOD } 250 \text{ mg/l}$

HS TSS:  $\$/\text{lbs} = \$19,500 / 433,620 = \$0.04 \text{ per lb of TSS } 250 \text{ mg/l}$

An example of the HV/HS Rate: for 10,000 gallons of discharge and concentrations of BOD and TSS of 300 mg/l using the 1985 HV/HS Rate is as follows:

HV Charge =  $10,000 / 1,000 \times \$0.14 = \$1.40$

HS BOD Charge =  $50 \text{ mg/l} (10,000 / 1,000,000) (8.34) (\$0.16) = \$0.67$

HS TSS Charge =  $50 \text{ mg/l} (10,000 / 1,000,000) (8.34) (\$0.04) = \$0.17$

Total HV/HS Charge = \$2.24

(Ord. 333, 1985)

~~Title 16~~

**SUBDIVISIONS**

**Editor's note** ~~Ord. No. 679, § 4, adopted Nov. 16, 2017, repealed Title 16 in its entirety. Section 2 (Exh. A) of Ord. 679 adopted a new Development Code, set out in this Code as Title 7.~~

PROOFS





## Town of Hayden

### Town Council Agenda Item

**MEETING DATE:** May 19, 2022

**AGENDA ITEM TITLE:** Review and consideration for approval and authorization to sign Resolution 2022-06, A Resolution Finding that a Petition for Annexation is in Substantial Compliance with CRS §31-12-107(1) and Setting a Hearing Date for the Annexation Petition for the Northwest Colorado Business Park Annexation to the Town of Hayden

**AGENDA SECTION:** New Business

**PRESENTED BY:** Tegan Ebbert on behalf of Mary Alice Page-Allen

**CAN THIS ITEM BE RESCHEDULED:** Not preferred.

**BACKGROUND REVIEW:** As the initial step in moving forward with the annexation and subdivision of the property slated for the purchase and development of the Northwest Colorado Business Park (NWCBP) property located at approximately 10790 County Road 51A across from the Yampa Valley Regional Airport (YVRA), Town Council needs to consider the petition for annexation, determine if such is in compliance with the applicable state statutes, and memorialize the findings in this regard through the adoption of a Resolution. The Resolution will also set a public hearing date on the petition for annexation. Staff has worked closely with the applicant and believes the annexation petition is in compliance with the statutes, and is recommending July 7<sup>th</sup> as the public hearing date to accommodate next steps.

Next steps include processing the annexation, subdivision and rezone applications under the provisions of the Development Code with the Planning Commission and Town Council. The annexation petition and the land use application public hearings are anticipated to move through these processes concurrently.

**RECOMMENDATION:** Move to approve and authorize the signing of Resolution 2022-06, A Resolution Finding that a Petition for Annexation is in Substantial Compliance with CRS §31-12-107(1) and Setting a Hearing Date for the Annexation Petition for the Northwest Colorado Business Park Annexation to the Town of Hayden.

**MANAGER RECOMMENDATION/COMMENTS:** *I concur with the recommendation.*

## PETITION FOR ANNEXATION

Frank J. Sinton, Member, Sandhill Investments LLC, whose address is P.O. Box 2705, Durango, CO 81302 ("Petitioner") hereby petitions the Board of Trustees of the Town of Hayden, Colorado, for annexation to the Town of Hayden of the unincorporated area more particularly described in Exhibit A hereto, which area is located entirely in Routt County, Colorado. In support of this Petition, Petitioner states and represents as follows:

1. It is desirable and necessary that the area described in Exhibit A be annexed to the Town of Hayden.
2. Not less than one-sixth (1/6) of the perimeter of the area proposed to be annexed is contiguous with the Town of Hayden.
3. A community of interest exists between the area proposed to be annexed and the Town of Hayden.
4. The area proposed to be annexed is urban or will be urbanized in the near future.
5. The area proposed to be annexed is integrated or is capable of being integrated with the Town of Hayden.
6. Petitioner is the only landowner in the area proposed to be annexed and Petitioner owns a one hundred percent (100%) interest in the area proposed for annexation. An annexation election is not required.
7. The mailing address of each signer and the date each signer signed this Petition are set forth below. The signers individually represent and warrant that the statements and representations contained in this Petition are true and correct.
8. Accompanying this Petition are four (4) copies of an annexation map containing the following information:
  - a. A written legal description of the boundaries of the area proposed to be annexed.
  - b. A map showing the boundary of the area proposed to be annexed.
  - c. Within the annexation boundary map, a showing of the location of each ownership tract in the unplatted area; and
  - d. Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the Town of Hayden.
9. The area proposed to be annexed is not presently a part of any incorporated city, city and county, or town.
10. The requirements of C.R.S. 31-12-104 and 31-12-105 exist and have been met.

Petitioner requests that the Town of Hayden approve the annexation of the area proposed to be annexed described in Exhibit A, incorporating the provisions of the Pre-Annexation Agreement.

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Page 2 of 3

Petition for Annexation

Sandhill Investments LLC

**Sandhill Investments LLC,  
a Colorado limited liability company**



Frank J. Sinton, Member

PO Box 2705

Durango, CO 81302

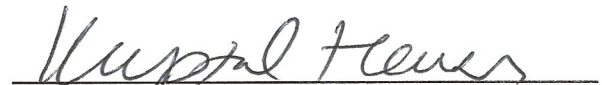
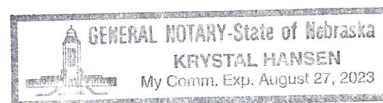
STATE OF ~~COLORADO~~ <sup>Nebraska (KH)</sup> )

COUNTY OF Douglas ) ss.

This Petition for Annexation was acknowledged and sworn and subscribed to before me on the 29<sup>th</sup> day of April, 2022, by Frank J. Sinton, Member, Sandhill Investments LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 08-27-23

  
Notary Public

**EXHIBIT A**

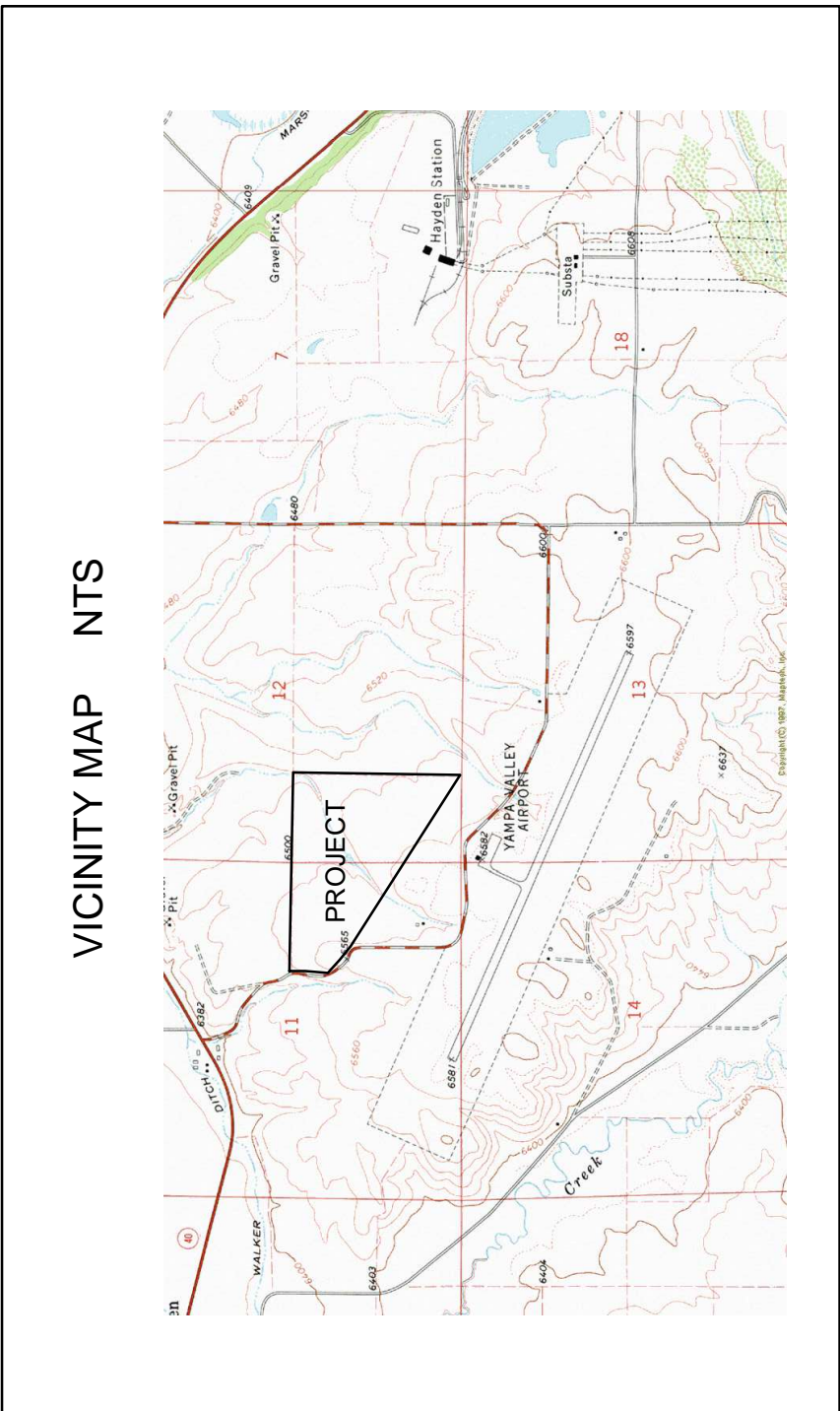
Legal description:

A tract of land located in the SE1/4 of Section 11 and in the W1/2 SW1/4 of Section 12, all T6N R88W, 6<sup>th</sup> P.M., Routt County, Colorado, being more particularly described as follows:

BEGINNING at the Northeast Corner of the SE1/4 (East ¼ Corner) of Section 11; thence S 88°27'57" E along the North line of said W1/2 SW1/4 of Section 12 a distance of 1335.92 feet, to the Northeast Corner thereof; thence S 1°39'07" W along the East line of said W1/2 SW1/4 a distance of 2646.40 feet, to the Southeast Corner thereof, further being the Northeast Corner of that parcel of land as described in Book 664 at Page 1460, records of Routt County; thence N 55°55'18" W along the Northerly line of said parcel a distance of 1581.43 feet, to a point on the West line of said W1/2 SW1/4 from which the Southwest Corner of said Section 12 bears S 1°37'05" W a distance of 848.07 feet; thence continuing along said Northerly line N 55°55'18" W a distance of 1576.52 feet, to the Northwest Corner of said parcel, being on the Northerly Right-of-Way line of Routt County Road No. 51A; thence Northerly along said Right-of-Way 127.36 feet along the arc of a curve to the left of Central Angle 35°55'19" and of Radius 203.14 feet, the Chord of which bears N 51°46'46" W for 125.28 feet; thence continuing along said Right-of-Way 389.86 feet along the arc of a curve to the right of Central Angle 51°41'30" and of Radius 432.13 feet, the Chord of which bears N 43°53'41" W for 376.78 feet; thence continuing along said Right-of-Way N 18°02'56" W a distance of 121.09 feet; thence along said Right-of-Way 232.14 feet along the arc of a curve to the right of Central Angle 32°03'50" and of Radius 414.81 feet, the Chord of which bears N 2°00'59" W for 229.12 feet; thence along said Right-of-Way N 14°00'57" E a distance of 170.64 feet; thence along said Right-of-Way 83.94 feet along the arc of a curve to the left of Central Angle 15°42'41" and of Radius 306.12 feet, the Chord of which bears N 5°46'33" E for 83.68 feet, to a point on the North line of said SE1/4 of Section 11; thence departing said Right-of-Way S 88°59'03" E along said North line a distance of 1712.25 feet, to the POINT OF BEGINNING, containing 117.10 acres, more or less.



PORTIONS OF THE SE1/4 SECTION 11 AND OF THE W1/2 SW1/4 SECTION 12  
T6N R88W, 6th P.M., ROUTT COUNTY, COLORADO



Gordon R. Dowling  
PLS #30090

GRD	5/3/22	SNDHI228
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RESOLUTION NO. 2022-06

A RESOLUTION OF THE TOWN OF HAYDEN, COLORADO FINDING THAT A PETITION FOR ANNEXATION IS IN SUBSTANTIAL COMPLIANCE WITH CRS §31-12-107(1) AND SETTING A HEARING DATE FOR THE ANNEXATION PETITION FOR THE NORTHWEST COLORADO BUSINESS PARK ANNEXATION TO THE TOWN OF HAYDEN

RECITALS

**WHEREAS**, Sandhill Investments LLC, a Colorado limited liability company, (Petitioner) filed with the Hayden Town Clerk a Petition for Annexation (Petition) on April 29, 2022 for annexation to the Town of Hayden of the unincorporated area located in Section 11, T6N, R88W, 6<sup>th</sup> PM more particularly described in Exhibit A attached hereto and referred to as the Northwest Colorado Business Park Annexation; and

**WHEREAS**, the Hayden Town Council must review the Petition to determine whether the Petition is in substantial compliance with CRS §31-12-107(1) and, in the event that a finding of substantial compliance is so made, schedule a public hearing to determine whether the proposed annexation complies with Section 30 of Article II of the State Constitution and CRS §31-12-104 and §31-12-105 or such parts thereof as may be required to establish eligibility under the terms of CRS §31-12-101, et seq.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO:**

1. The Town Council of the Town of Hayden finds that the Petition for Annexation of that area more particularly described in Exhibit A attached hereto known as the Northwest Colorado Business Park Annexation, and filed with the Town Clerk on April 29, 2022, is in substantial compliance with CRS §31-12-107(1).
2. A public hearing to determine whether the proposed annexation complies with Section 30 of Article II of the State Constitution and CRS §31-12-104 and §31-12-105 or such parts thereof as may be required to establish eligibility under the terms of CRS §31-12-101, et seq, is hereby set for July 7, 2022 at the Town Council meeting beginning at 7:30 p.m. held at Town Hall, 178 Jefferson Avenue, Hayden.
3. The Town Clerk shall publish and give notice of said hearing as required by state law.

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INTRODUCED, READ, AND ADOPTED THIS 19<sup>th</sup> DAY OF MAY, 2022.

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Zachary Wuestewald, Mayor

Attest:

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Sharon Johnson  
Town Clerk

## EXHIBIT A

### Legal description:

A tract of land located in the SE1/4 of Section 11 and in the W1/2 SW1/4 of Section 12, all T6N R88W, 6<sup>th</sup> P.M., Routt County, Colorado, being more particularly described as follows:

BEGINNING at the Northeast Corner of the SE1/4 (East ¼ Corner) of Section 11; thence S 88°27'57" E along the North line of said W1/2 SW1/4 of Section 12 a distance of 1335.92 feet, to the Northeast Corner thereof; thence S 1°39'07" W along the East line of said W1/2 SW1/4 a distance of 2646.40 feet, to the Southeast Corner thereof, further being the Northeast Corner of that parcel of land as described in Book 664 at Page 1460, records of Routt County; thence N 55°55'18" W along the Northerly line of said parcel a distance of 1581.43 feet, to a point on the West line of said W1/2 SW1/4 from which the Southwest Corner of said Section 12 bears S 1°37'05" W a distance of 848.07 feet; thence continuing along said Northerly line N 55°55'18" W a distance of 1576.52 feet, to the Northwest Corner of said parcel, being on the Northerly Right-of-Way line of Routt County Road No. 51A; thence Northerly along said Right-of-Way 127.36 feet along the arc of a curve to the left of Central Angle 35°55'19" and of Radius 203.14 feet, the Chord of which bears N 51°46'46" W for 125.28 feet; thence continuing along said Right-of-Way 389.86 feet along the arc of a curve to the right of Central Angle 51°41'30" and of Radius 432.13 feet, the Chord of which bears N 43°53'41" W for 376.78 feet; thence continuing along said Right-of-Way N 18°02'56" W a distance of 121.09 feet; thence along said Right-of-Way 232.14 feet along the arc of a curve to the right of Central Angle 32°03'50" and of Radius 414.81 feet, the Chord of which bears N 2°00'59" W for 229.12 feet; thence along said Right-of-Way N 14°00'57" E a distance of 170.64 feet; thence along said Right-of-Way 83.94 feet along the arc of a curve to the left of Central Angle 15°42'41" and of Radius 306.12 feet, the Chord of which bears N 5°46'33" E for 83.68 feet, to a point on the North line of said SE1/4 of Section 11; thence departing said Right-of-Way S 88°59'03" E along said North line a distance of 1712.25 feet, to the POINT OF BEGINNING, containing 117.10 acres, more or less.





Town of Hayden

Town Council Agenda Item

**MEETING DATE:** May 19th, 2022

**AGENDA ITEM TITLE:** REVIEW AND CONSIDER RESOLUTION NO. 2022-07 A RESOLUTION OF THE TOWN OF HAYDEN, COLORADO ADOPTING A FINANCIAL COMMITMENT TO THE HWY 40 MULTI-MODEL IMPROVEMENT PROJECT.

**AGENDA SECTION:** New Business

**PRESENTED BY:** Bryan Richards

**CAN THIS ITEM BE RESCHEDULED:** Not recommended

**BACKGROUND REVIEW:** The Multimodal Transportation & Mitigation Options Fund (MMOF), created within the State Treasury under Colorado Senate Bill 2018-001, was amended under Colorado Senate Bill 2021-260 which also provided the program with steady, annual funding for multimodal transportation projects.

Our current project: Hayden US Hwy 40 Pedestrian/Multi-Modal Safety Project constructs a 6-foot-wide attached concrete sidewalk along the northern and southern flanks of US Hwy 40 through the Hayden's Downtown corridor from 8th Street to Shelton Lane is a great candidate for this grant.

The Town has previously created a diverse funding portfolio for this project, totaling \$1,133,153. With this MMOF grant application we are applying for \$250,000.

**RECOMMENDATION:** Move to approve Resolution 2022-07 A Resolution of the Town of Hayden, Colorado Adopting a Financial Commitment to the Hwy 40 Multi-Model Improvement Project.

**MANAGER'S RECOMMENDATION/COMMENTS:** *I concur with this recommendation*

RESOLUTION NO. 2022-07

A RESOLUTION OF THE TOWN OF HAYDEN, COLORADO ADOPTING A FINANCIAL  
COMMITMENT TO THE HWY 40 MULTI-MODEL IMPROVEMENT PROJECT

RECITALS

Whereas: On December 2nd, 2021, the Town Council passed its 2022 – 2024 budget that included monies to fund a Hwy 40 Multi-Model Improvement Project via the Multi-Modal Options Fund (MMOF) grant; and

Whereas: The MMOF application requires that the Town pass a resolution committing to funding the maintenance of the sidewalks once built; and,

Whereas: The Town has budgeted the funds necessary to maintain the new sidewalks in perpetuity and commits to maintaining them in a best practice workmanship manner.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO THAT:

Section 1. This Resolution shall be in full force and effect upon its adoption.

PASSED, APPROVED AND RESOLVED THIS 19th DAY OF MAY 2022.

\_\_\_\_\_  
Zach Wuestewald, Mayor

ATTEST:

\_\_\_\_\_  
Sharon Johnson, Town Clerk



## Town of Hayden

### Town Council Agenda Item

**MEETING DATE:** May 19, 2022

**AGENDA ITEM TITLE:** REVIEW AND CONSIDER SUBMISSION OF A LETTER OF SUPPORT FOR THE CDOT FY2022 MPDG RURAL SURFACE TRANSPORTATION GRANT PROPOSAL FOR US 40 SAFETY AND MOBILITY IMPROVEMENTS

**AGENDA SECTION:** New Business

**PRESENTED BY:** Bryan Richards

**CAN THIS ITEM BE RESCHEDULED:** Not recommended

**BACKGROUND REVIEW:** The project is to design and construct critical passing lanes, improve the safety of a dangerous mountain pass, and improve flag stops for the State's Bustang transit service that provides an essential alternative mode of travel for our residents and visitors. The project meets the goals of the Rural Surface Transportation grant program to increase connectivity, improve safety and reliability of the movement of people and freight, generate regional economic growth and improve quality of life.

Currently CDOT is working on a feasibility study for adding passing lanes surrounding Hayden. This grant would further fund the design of passing lanes from Craig to Hayden, then again from Hayden to Steamboat Springs. Additionally, it constructs passing lanes from Steamboat Springs to Kremmling, address major safety needs on Red Dirt Hill; and upgrades several park and ride stops for the Bustang transit system.

As the population in rural Northwest Colorado grows, traffic volumes will continue to increase and impact US 40. This project will address many issues on this road which will improve both safety and connectivity throughout Northwestern Colorado. It is also important to point out that Highway 40 is the preferred detour route for I-70, which is experiencing numerous landslides annually at Glenwood Canyon. When traffic is diverted from I-70 to Highway 40, immense strain is placed on the transportation network in Northwest Colorado reducing safety.

**RECOMMENDATION:** Move to approve submission of a letter of support for the CDOT FY2022 MPDG rural surface transportation grant proposal for US 40 Safety and Mobility Improvements.

**MANAGER'S RECOMMENDATION/COMMENTS:** *I concur with this recommendation*



May 19, 2022

The Honorable Pete Buttigieg  
US Department of Transportation  
1200 New Jersey Ave, SE  
Washington, DC 20590

RE: FY2022 MPDG Rural Surface Transportation grant proposal for US 40 safety and mobility improvements

Dear Secretary Buttigieg:

On behalf of the Hayden Town Council, I am writing to express our strong support for the “US 40: A Safe and Connected Corridor” FY2022 MPDG Rural Surface Transportation grant proposal submitted by the Colorado Department of Transportation. This project will design passing lanes from Craig to Hayden, then again from Hayden to Steamboat Springs; constructs passing lanes from Steamboat Springs to Kremmling, address major safety needs on Red Dirt Hill; and upgrades several park and ride stops for the Bustang transit system.

The Town of Hayden is located in Northwest Colorado. The Town Council embraces five core values in carrying out the business of the Town. Those values include, trust, integrity, transparency, efficiency, and fiscal responsibility. Our mission is to empower each neighbor with sustainable investments, sufficient outdoor recreational resources, an inclusive and welcoming culture, and diverse means and opportunities to prosper. This project meets the mission and values set forth by the Hayden Town Council, as well as, other surrounding communities, which are also rural. Within our region there are municipalities that are popular tourist destinations year-round and provide vast employment opportunities to neighboring communities. Population increases and high commuter traffic volumes result in negative safety effects on our highways. This grant will provide needed improvements to provide safer transportation for the residents of Hayden along with all of our partnering municipalities on the Highway 40 corridor.

As the population in rural Northwest Colorado grows, traffic volumes will continue to increase and impact US 40. This project will address many issues on this road which will improve both safety and connectivity throughout Northwestern Colorado. It is also important to point out that Highway 40 is the preferred detour route for I-70, which is experiencing numerous landslides annually at Glenwood Canyon. When traffic is diverted from I-70 to Highway 40, immense strain is placed on the transportation network in Northwest Colorado reducing safety, logistics, and transit equity in all counties and along US Highway 40, the transportation lifeline of Northwest Colorado.

The project is to design and construct critical passing lanes, improve the safety of a dangerous pass, and improve flag stops for the State’s Bustang transit service that provides an essential alternative mode of travel for our residents and visitors. It meets the goals of the Rural Surface Transportation grant program to increase connectivity, improve safety and reliability of the movement of people and freight, and generate regional economic growth and improve quality of life. We whole-heartedly support this project and request USDOT to prioritize MPDG grant funding for this worthy proposal.

Sincerely,

Zach Wuestewald, Mayor  
Town of Hayden, Colorado



Town of Hayden

Town Council Agenda Item

**MEETING DATE:** May 19th, 2022

**AGENDA ITEM TITLE:** REVIEW AND CONSIDER FOR APPROVAL THE POPLAR STREET BRIDGE RENOVATION AND PEDESTRIAN IMPROVEMENT PROJECT DESIGN CONTRACT WITH SUNRISE ENGINEERING INCORPORATED.

**AGENDA SECTION:** New Business

**PRESENTED BY:** Bryan Richards

**CAN THIS ITEM BE RESCHEDULED:** Not recommended

**BACKGROUND REVIEW:** The Poplar Street bridge is a piece of local and regional critical infrastructure that is in dire need of repair. In 2020, major corrosion in the bridge decking led to structural failure, allowing potholes to develop as asphalt fell through the bridge into Dry Creek. Subsequently, the town was able to perform an interim emergency repair of the decking, which has allowed the bridge to regain its stability for the short term. This “band-aid” is hardly a permanent solution, not addressing the widespread corrosion which exists throughout the bridge. Moreover, besides the marked structural deficiencies, the bridge also contains an inherently dangerous sidewalk which is directly adjacent to the flow of traffic. A brief inspection of the guard rails, reveals the damage left behind by countless accidents which have occurred over the 46 years since the bridge’s commission in 1975.

In the fall of 2021 staff applied for and was successfully awarded \$376,683 by the CDOT Special Highway Committee to renovate the bridge and improve pedestrian access across the bridge. As such staff issued an RFQ in the spring of 2022 and received two responses. While both engineering firms were submitted competitive proposals, Sunrise Engineering Incorporated finished the review process in first place. Sunrise has proposed \$93,000 to perform design engineering and assist with the bidding process.

**RECOMMENDATION:** MOVE TO APPROVE APPROVAL THE POPLAR STREET BRIDGE RENOVATION AND PEDESTRIAN IMPROVEMENT PROJECT DESIGN CONTRACT WITH SUNRISE ENGINEERING INCORPORATED.

**MANAGER’S RECOMMENDATION/COMMENTS:** *I concur with this recommendation*



### **AGREEMENT FOR PROFESSIONAL SERVICES**

This **AGREEMENT FOR PROFESSIONAL SERVICES** is made effective the 23rd day of May, 2022 between the TOWN OF HAYDEN, a Colorado home rule municipal corporation ("Town"), and Sunrise Engineering ("Consultant").

#### **WITNESSETH:**

In consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. **Scope of Agreement.** Consultant agrees to provide consulting services, as more fully identified in the attached exhibits, and any work orders subsequently authorized by, and for the Town of Hayden, Colorado.
2. **Consideration.** The Town agrees to compensate Consultant for its fees and services in an amount as established within the Professional's submittal for the scope of work attached, and work orders subsequently authorized (the "Work"). Work shall be performed based on the scope identified in Exhibit A, and compensated on the basis of time and expenses with reference to Exhibit B (Rate Schedule) unless otherwise authorized. Consultant may adjust its rates annually, consistent with its standard rates charged to other clients for similar work with a cap of 3% increase per year unless negotiated in advance with the Town. All work shall be approved by the Town prior to incurring costs on a project. The Town shall pay amounts due pursuant to the scope of work, or any work orders subsequently authorized, within 30 days of the Town's receipt of an invoice delivered by Consultant. In the event the Town fails to pay amounts owed within 30 days of its receipt of an invoice, the outstanding amounts owed pursuant to such invoice will accrue interest at a rate of the lesser of 18% per annum and the greatest amount allowable under applicable local, state and federal law.
3. **Term and Renewal.** This Agreement shall be effective as of the date of its execution by both parties and shall extend for a one-year period, with the option to renew in additional one-year periods, unless earlier terminated pursuant to paragraph 12, subject to and conditioned upon annual budgeting by the Town for Consultant's services pursuant to Section 9, below. Should the Town fail to budget for Consultant's services in any budget year, then this Agreement shall not renew and shall automatically terminate. This Agreement may also be terminated at any time pursuant to Section 12, below.

**178 West Jefferson Avenue • P.O. Box 190 • Hayden, CO 81639-0190  
(970) 276-3741 • Fax (970) 276-3644  
[www.haydencolorado.com](http://www.haydencolorado.com)**



4. Non-Exclusive. This Agreement shall not be deemed to be an exclusive agreement. From time to time, the Town, at its sole discretion, may contract with firms other than the Consultant to provide services similar to or related to those offered by the Consultant.
5. Data and Final Product. All data that is produced and finalized by consultant firm for this project will be transferred to Town at the end of the contract including all renderings, AutoCAD files, images, or any data that is finalized by consultant for the Town.
6. Status. Consultant is an independent consultant and shall not be considered an employee of the Town for any purpose.
7. Standard of Care. The standard of care applicable to Consultant's services will be in accord with a manner that is consistent with the level of care and skill exercised by professionals in the same discipline practicing in Colorado. Consultant will re-perform any services not meeting this standard without additional compensation.
8. Indemnity. Consultant shall hold harmless and indemnify the Town from and against any damages awarded against the Town, or incurred by the Town in defense of any claim (including reasonable attorneys' fees, costs or expert witness fees), Consultant's or its sub-consultants, and their respective officers, employees and agents performance of its obligations under this Contract.
9. Insurance. Consultant and any sub-consultants shall maintain workers' compensation, automotive liability, and general liability insurance coverage with at least the following minimum limits: General Liability - \$1,000,000 per occurrence/\$2,000,000 Aggregate; Automobile - \$1,000,000 combined single limit, with a Hired & Non-owned Auto clause; Workers Compensation — Colorado State Statutory Limits. Consultant shall also maintain professional liability insurance with coverage limits of \*\*\$1,000,000 per occurrence/\$1,000,000 Aggregate\*\*. The Town and its employees shall be named as an additional insured under the general liability policy, which shall specifically insure Consultant's indemnity obligations pursuant to the preceding Section 7, above. Every policy required above shall be primary insurance, shall contain a waiver of subrogation provision against the Town and its, officers, employees and agents, and any insurance carried by the Town, its officers, or employees, or agents shall be excess and not contributory insurance to that provided by the Consultant. The additional insured endorsement shall not contain exclusion for bodily injury or property damage arising from completed operations. The Consultant shall be solely responsible for any deductible losses under each of the policies required above. Certificates of insurance shall be completed by the Consultant's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and

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effect, and shall be subject to review and approval by the Town. Each certificate shall provide that the coverages afforded under the policies shall not be canceled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the Town. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto. Failure on the part of the Consultant to procure or maintain policies providing the required coverages, conditions and minimum limits shall constitute a material breach of this Agreement upon which the Town may immediately terminate the Agreement, or at its discretion may procure or renew any such policy or an extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the Town shall be repaid by Consultant upon demand, or the Town may offset the cost of the premiums against any monies due to Consultant from the Town. The parties hereto understand and agree that the Town is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently \$150,000 per person and \$600,000 per occurrence) or any other rights immunities and protections provided by the Colorado Governmental Immunity Act, Sections 24-10-101 et seq., C.R.S., as from time to time amended, or otherwise available to the Town, its officers or employees.

10. Governmental Immunity/TABOR. Nothing herein shall be interpreted as a waiver of governmental immunity, to which the Town would otherwise be entitled under § 24-10-101, et seq., C.R.S., as amended. This contract is also contingent upon annual budgeting by the Town of Hayden and nothing in this contract shall be construed as a multi-year financial obligation of the Town.
11. Immigration Compliance. The Consultant shall not knowingly employ or contract with an illegal alien to perform work under this contract nor contract with any subconsultant that fails to certify to the consultant that the subconsultant shall not knowingly employ or contract with an illegal alien to perform work under this contract.

The Consultant has verified or attempted to verify through participation in the E-Verify Program that the Consultant does not employ any illegal aliens. (For the purpose of this paragraph, "E-Verify Program" is defined to mean the employment verification program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, that is administered by the United States Department of Homeland Security). If the Consultant is not accepted into the E-Verify Program prior to executing this contract, the Consultant shall apply to participate in the E-Verify Program every three months until the consultant is accepted or this contract has been completed, whichever is earlier. The Consultant shall not use the E-Verify Program procedures to

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undertake pre-employment screening of job applicants while this contract is being performed. This paragraph shall not be effective if the E-Verify Program is discontinued.

If the Consultant obtains actual knowledge that a subconsultant performing work under this contract knowingly employs or contracts with an illegal alien, the consultant shall notify the subconsultant and the Town within three days that the Consultant has actual knowledge that the subconsultant is employing or contracting with an illegal alien; and terminate the subcontract with the subconsultant if within three days of receiving the notice required pursuant to this paragraph, the subconsultant does not stop employing or contracting with the illegal alien. The Consultant shall not terminate the contract with the subconsultant if during such three days the subconsultant provides information to establish that the subconsultant has not knowingly employed or contracted with an illegal alien.

The Consultant shall also comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the department is undertaking pursuant to C.R.S. 8-17.5-102(2).

12. Employees, Subcontractors and Assignees. The providing of professional services required under paragraph 1 of this Agreement shall be the responsibility of Consultant. Consultant may employ or subcontract with additional persons to assist in the performance of this Agreement. Supervision and payment of any such persons shall be the sole and exclusive responsibility of Consultant. Notwithstanding the foregoing, however, this Agreement shall not be assigned by Consultant to a third party without the prior express written consent of the Town.
13. Termination At any time the Town may terminate this Agreement effective immediately upon the delivery of written notice to Consultant. In the event of any such termination, the Town shall pay Consultant for monies owing through the date of termination, Consultant may terminate this Agreement if the Town fails to make any payments when due or otherwise fails to perform or fulfill any obligation under this Agreement. In the event of any such termination, the Town shall pay Consultant for monies owing through the date of termination.
14. Agreement Administration and Notice. For purposes of administering this Agreement, the Town Council hereby appoints the Town Manager to represent the Town in carrying out the purposes and intent of this Agreement. Any notices required to be given pursuant to this Agreement shall be delivered as follows:

**178 West Jefferson Avenue • P.O. Box 190 • Hayden, CO 81639-0190  
(970) 276-3741 • Fax (970) 276-3644  
[www.haydencolorado.com](http://www.haydencolorado.com)**



To the Town: Mathew Mendisco, Town Manager  
Town of Hayden  
P.O Box 190  
178 West Jefferson  
Hayden, CO 81639

Copy to: Michael J. Holloran, Town of Hayden Attorney  
Michael J. Holloran LLC  
141 9<sup>th</sup> St.  
Steamboat Springs, CO 81639

To the Consultant:

15. Responsibilities. Consultant shall be responsible for all damages to persons or property caused by the Consultant, its agents, employees or sub consultants, to the extent caused by its negligent acts, errors and omissions hereunder.
16. Entire Agreement. This Agreement constitutes the entire agreement between the parties. The provisions of this Agreement may be amended at any time by the written mutual consent of both parties. The parties shall not be bound by any other agreements, either written or oral, except as set forth in this Agreement.
17. Governing Law. The laws of the State of Colorado shall govern the validity, performance and enforcement of this Agreement. Exclusive venue for any action instituted pursuant to this agreement shall lie in Routt County, Colorado.
18. Force Majeure. Consultant shall not be responsible for any time delays caused by by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Consultant's control.
19. Authority. Each person signing this Agreement represents and warrants that said person is fully authorized to enter into and execute this Agreement and to bind the party it represents to the terms and conditions hereof.
20. Attorneys' Fees. Should this Agreement become the subject of litigation between the Town and Consultant, the substantially prevailing party shall be entitled to recovery of reasonable costs, expert witness fees and attorney fees incurred in connection with such

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litigation. All rights concerning remedies and/or attorneys' fees shall survive any termination of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands this 23<sup>rd</sup> day of May, 2022.

**TOWN OF HAYDEN**

a Colorado home rule municipal corporation

By: \_\_\_\_\_

Zach Wuestewald, Mayor

**ATTEST:**

\_\_\_\_\_  
Sharon Johnson, Town Clerk

**CONSULTANT**

By: \_\_\_\_\_

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**Exhibit A**  
**SCOPE OF WORK**

The Scope of this Agreement for Professional Services is planned to consist of the types of tasks listed in the attached RFP and RFP Response from the Consultant as well as the attached scope of services. Specific direction will be provided by the Town as needed within the attached scope. Miscellaneous tasks directed by the Town will be performed under this Agreement on the basis of time and expenses not to exceed a cumulative total pre-authorized by the Town Manager.

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# Poplar Street Bridge Design Scope of Work

Date: March 2022

**Project Location:** Poplar Street, Hayden, Colorado

**Contract Type:** Project Specific, Cost Plus Fixed Fee

**Contract Subject:** Bridge Engineering Design

Active Day-to-Day administration and monitoring of this contract will be delegated to the assigned Project Manager as follows:

Bryan Richards  
Town of Hayden  
Public Works Director  
970-757-6002  
[bryan.richards@haydencolorado.org](mailto:bryan.richards@haydencolorado.org)

## 1.0 General Scope of Work

This scope of work is for providing construction administration support services for the referenced project. The scope of work will be for:

- (1) Consulting Engineer Firm

## 1.1 Project Description and Location

Public Works Department for the Town is requesting proposals for design engineering services on the rehabilitation of Poplar Street Bridge within the Town of Hayden. The project aims to repair the bridge decking, guard rails and paint on the super structure. Additionally, make improvements to create a buffer between traffic and pedestrians.

## 1.2 Project Goals

The following Town of Hayden Project Goals reflect the values that this Project holds and expects. An exceptional proposal will demonstrate how the Proposer will pursue each of the Project Goal

- A. Meet Federal, State and Local design standards.
- B. Improve Safety, Mobility, and Operations
- C. Environmental Stewardship - Minimize impacts to environmental resources identified in the NEPA process.
- D. Minimize Construction Impacts
  - Minimize impacts to the traveling public, residents, and business owners during construction.
- E. Optimize Scope, Schedule, and Budget
  - Balance schedule and budget to maximize the scope and potential benefits of the project.
  - Utilize innovation and manage risk to recover budget to reinvest in the project.
- F. Stakeholder Involvement and Decision Making
  - Foster collaboration with partners, stakeholders, and all members of the project team throughout the design process.

### **1.3 Work Duration**

The time period for the work described in this scope of work is approximately one to two years.

### **1.4 Consultant Responsibility and Duties**

All work shall be in accordance with CDOT's latest manuals, directives, and generally accepted practices. The Consultant shall supply Engineer signed and sealed electronic plans and reports.

The Consultant will develop an all-encompassing scope of the Project and prepare a written recommendation of activities that coincide with the Project costs, goals, and planned improvements.

The Consultant is responsible for developing complete Plans, Specifications, and Cost Estimate (PS&E) packages of the planned improvements. Additionally, the Consultant is required to develop concepts and associated quantities to create cost estimates to assist with CDOT decision making. The work will include but is not limited to, the design of the roadway improvements, structural design, environmental, traffic, hydraulics, geohazards/geotechnical, rock cut, survey, utility, ITS, and water quality design. The Consultant shall work closely with the Town of Hayden Project Manager, and will be required to collaborate with stakeholders.

The Consultant shall be prepared for the following duties:

- Provide a full time Project Manager and Project Team capable of providing project deliverables on time
- Program Management
- Project Coordination
- Meet all project milestones
- Participate in public outreach meetings
- Create and maintain CPM schedules
- Develop concepts, quantities, and cost estimates
- Attend site meetings and site visits
- Environmental NEPA Process and Documentation
- Provide FIR, FOR, and final project design, specifications, and quantities
- Provide phasing and detour concepts that will meet project goals
- Track project action items and deliverables
- Create and maintain a project communication log
- Perform and document quality management activities
- Develop and maintain a project change log
- Develop and maintain a project decision log
- All other efforts and deliverables as indicated in this contract

### **1.5 Personal Qualifications**

Certain tasks must be done by Licensed Professional Engineers (PE) who are registered with the Colorado State Board of Registration for Professional Engineers. All tasks assigned to the Consultant must be conducted by a qualified person on the Consultant team. The qualified person is a professional with the necessary education, certifications (including registrations and licenses), skills, experience, qualities, or attributes to complete a particular task

## 1.6 Work Product

The following work products include reports, studies, field investigations, and professionally engineered design of the following. The Town of Hayden shall retain all work products and backup materials, both in progress or completed.

The Consultant work products may include:

- Project Management, and Coordination
- Preliminary Engineering Effort
- FHWA Value Engineering Requirements
- Utility Coordination
- Schedules
- Meeting Minutes
- Stakeholder Coordination and Public Outreach efforts
- Documentation and Lessons Learned
- NEPA Documentation and Decision Document
- Coordination with the Town surveyor.
- Wetlands / 404
- Geotechnical Investigation
- Pavement Investigation and Design
- Structural Engineering
- Highway Design and Traffic/Safety Engineering
- Hydraulics and Hydrology
- FHWA Controlling Criteria Variances
- Field Inspection Review (FIR) 30% Plans and Estimates
- Design Office Review (DOR) 60% Plans and Estimates
- Final Office Review (FOR) 90% Plans, Specifications, and Quantities for estimates
- AD Plans, Specifications, Cost Estimate
- Construction Plan Package(s)
- Professional Engineer Stamped Record Sets
- Design Support During Construction
- Right-of-way acquisition
- Submittals
- Invoice Formatting and Information

## **2.0 Project Management and Coordination**

### **2.1 Town of Hayden Contact**

Bryan Richards  
Public Works Director  
178 West Jefferson Ave.  
Hayden, CO 81639  
(970)757-6002

### **2.2 Project Management**

The consultant shall supply Project Management services that meet the following requirements:

- 2.2.1. The Consultant shall provide the following for the overall interdisciplinary needs of the Project:
  - A. Project Manager
  - B. Engineering Task Leader
- 2.2.2. Attend CDOT/PM check-in meetings with all Consultant PM and Task Leads present as needed.
- 2.2.3. Provide monthly progress reports and invoicing, track progress of deliverables against the developed schedule, and ensure internal project controls are being followed. If the project falls behind schedule, provide a plan to get back on track.
- 2.2.4. Provide Project Management efforts in following areas at a minimum:
  - 2.2.4.1. Risk Management – develop and execute a plan for risk management which will include the following:
    - A. The plan for how to identify, track, analyze and respond to project risks.
    - B. Track risks and provide recommendations to either avoid, transfer, mitigate or accept individual risks to the project scope, schedule, and budget.
  - 2.2.4.2. Scope Management – develop and execute a plan for scope management including collecting requirements, defining, and validating project scope, and a plan for assessing scope changes.
  - 2.2.4.3. Cost Management – develop the quantities required for the construction cost estimate at major project milestones.
  - 2.2.4.4. Schedule Management – develop and execute a schedule management plan including:
    - A. The plan to develop, maintain and communicate the project schedule for the time and resources on the project.
    - B. If the schedule is at risk of slipping, notify the Town of Hayden and recommend options for schedule recovery.
  - 2.2.4.5. The schedule shall be updated on a monthly basis.
    - A. The processes that are required to ensure timely and appropriate planning, collection, creation, distribution, management, control and monitoring of project information.
    - B. Ensure that project information is consistently distributed in a timely manner to the team members that need it in the appropriate format.
    - C. Meeting planning - Establish the frequency of meetings and the most effective team members to invite and attend
  - 2.2.4.6. Quality Management – Develop and execute a quality management plan for all project deliverables. The plan shall include quality assurance and quality control:
    - A. Ensure accuracy and elimination of errors reducing the need for rework.
    - B. Provide interdisciplinary oversight ensuring that the documents capture not only the correct detail but are tied to the larger overall picture/concept of the project.
    - C. Provide contract documents that take into consideration constructability and maintainability.

### **2.3 Preliminary Engineering and Construction Plans & Specifications**

The Consultant shall follow the latest version of the CDOT Project Development Manual for project delivery procedures and requirements and follow all CDOT and FHWA required design guidelines and Procedural Directives. Coordinate fieldwork with Town of Hayden Maintenance and any active construction projects to avoid conflicts.



The Consultant shall host the following meetings as part of the plan development process:

- 2.3.1. Project Scoping: Host a formal project scoping meeting to address the following items:
  - 2.3.1.1. This Project requires the early identification of all required variables at the initial scoping meeting.
  - 2.3.1.2. Establish and lay out the plan to deliver the project to construction.
  - 2.3.1.3. Prepare a plan for preliminary quantities.
  - 2.3.1.4. Applicable traffic data and traffic review of scope items.
  - 2.3.1.5. Environmental considerations.
  - 2.3.1.6. Establish and confirm the design requirements for the following items:
    - A. Typical sections
    - B. Horizontal and vertical alignment
    - C. Detour alignment
    - D. Drainage and hydraulics
    - E. Approach of project
    - F. Aesthetic features
    - G. Pedestrian and bicycle facilities
    - H. Landscaping
    - I. Lighting
    - J. Major structures
    - K. Minor structures
    - L. Walls
    - M. Pedestrians/recreation
    - N. Signs/miscellaneous
    - O. Safety
    - P. Traffic control
    - Q. Access control
    - R. Source of materials
    - S. Roadway and roadside clearances
    - T. Erosion control
    - U. Pavement options
    - V. Wetland / 404 Permit
- 2.3.2. Host a formal Field Inspection Review (FIR) Meeting:
  - 2.3.2.1. The purpose of the meeting will be to ensure the project is on track. Plan level shall be at least 30% complete showing integration of all identified improvements
  - 2.3.2.2. Provide a detailed preliminary cost estimate.
- 2.3.3. Host a formal Final Office Review (FOR) Meeting:
  - 2.3.3.1. Address all comments from the FIR plan set.
  - 2.3.3.2. Update all plans and specifications to a 90% design development level.
  - 2.3.3.3. Provide a 90% design development cost estimate with summary of approximate quantities.
  - 2.3.3.4. Submit all required reports

In addition to the deliverables described above, the following are also required:

- 2.3.4. Final PSE: Provide final Plans and Specifications for clearance and estimate prior to final AD set (99% Design Development Plans).
- 2.3.5. Final AD set of plans. Provide 100% Construction Documents.
- 2.3.6. Revision under Advertisement Plans and Specifications: Provide any revised Plans and/or Specifications under Advertisement as needed.
- 2.3.7. Final Signed and Sealed Plans and Specifications: Provide final Engineer signed and sealed Plans and Specifications.

## **2.4 Survey and Right-of-Way Coordination**

- 2.4.1. Complete the project Control with sufficient detail around structures and other improvement locations.

- 2.4.2. The surveyor shall coordinate and provide all other needs, such as surveying wetland flags, geotechnical borings or other field delineated areas by others to complete this SOW.
- 2.4.3. Obtain utility locates and field survey markings. Field survey the top of utilities at locations that are potholed. Coordinate with a pothole company for timing of survey.
- 2.4.4. The Consultant shall complete CDOT/PM Form 1217 to determine the precise survey limits.
- 2.4.5. Prepare and obtain "Permission to Enter Property" forms for the purpose of surveying within private ownership parcels.
  - 2.4.5.1. Prepare Topographic survey of designated areas
  - 2.4.5.2. Flagged wetlands shall be surveyed.
  - 2.4.5.3. Designate and locate the Ordinary (visible) High Water Mark of Dry Creek.
  - 2.4.5.4. Provide utility locates for design purposes and above ground utilities. Provide inverts of manholes as is best reasonably possible.
  - 2.4.5.5. Survey all inverts of the storm sewer system and measure culvert size. Survey inverts/rims of all storm sewer inlets and manholes. Make note of pipe direction and sizes as they enter and exit the storm sewer system.
  - 2.4.5.6. Determine Existing Right of Way
- 2.4.6. Obtain Title Commitments for any private properties from which ROW or easements may be required.
- 2.4.7. Provide Survey Report.
- 2.4.8. Prepare right-of-way plans in CDOT format for impacted private properties
- 2.4.9. Attend a right-of-way plan review meeting (ROWPR) with the appropriate staff personnel from CDOT and finalize the right-of-way plans and legal descriptions for CDOT authorization.

## **2.5 Pavement Investigation and Design**

- 2.5.1. Perform a preliminary soil investigation at locations as needed.

## **2.6 Geotechnical Investigation**

- 2.6.1. The goal of the Geotechnical investigation is to provide geotechnical recommendations for the structural design of bridges and other proposed structures, and for embankments.

## **2.7 Structural Engineering**

- 2.7.1. The Consultant shall provide Structural Engineering services for the design and construction of Poplar Street Bridge, and other pedestrian bridge structural items.
- 2.7.2. The Consultant shall follow the latest CDOT Bridge Design Manual Policies and Procedures.
- 2.7.3. The general scope of work includes, but is not limited to:
  - A. Bridge Widening
  - B. Bridge Rehabilitation
  - C. All other Major/Minor structures, such as concrete box culverts
  - D. All other items typically attached that are placed on the above structures or used in conjunction with structures i.e. barriers (Bridge rail), Fencing, Special supports, etc.

## **2.8 Utility Engineering**

- 2.8.1. Evaluate and determine whether SUE investigation is needed. If SUE investigation is needed, the Consultant shall follow CDOT SUE guidelines and provide SUE compliant plans following Senate Bill 18-167. If SUE investigation is not needed, the Consultant shall provide a SUE justification letter detailing this rationale.
- 2.8.2. Provide potholing for establishment of utility profiles and survey locations and depths where needed.
- 2.8.3. Design all relocations, and engage utility companies for the design of their facilities.

2.8.4. Coordinate scoping meetings with all utility providers and document meeting minutes.

2.8.5. Utility work should be completed prior to FIR (30% Design).

## **2.9 Environmental**

2.9.1. Environmental Scoping. The Consultant shall coordinate and hold an early environmental scoping meeting as directed by the CDOT/PM. Attendees will include the Regional Environmental Project Manager, the Regional Project Manager, appropriate members of the Environmental Programs Branch (EPB), CDOT/PM, and staff from Right-of-Way, Maintenance, Hydraulics, Traffic, and Utilities, as appropriate.

## **2.10 Public Engagement**

2.10.1. Identify methods for public notification and dissemination of information, such as newsletters, flyers, postcards, web site, press releases, miscellaneous informational materials, etc.

## **3.0 General Information**

### **3.1 Notice to Proceed**

Work shall not commence until the Town of Hayden issues the written Notice-to-Proceed. Work may be required, night or day, and/or weekends, and/or holidays, and/or split shifts.

### **3.2 Routine Reporting and Billing**

#### **3.2.1. Monthly Billing**

3.2.1.1. Note each employee, time worked, multiplier, and fee

3.2.1.2. Sum total hours worked and labor, subtotal fixed fees, subtotal sub- consultants, subtotal vendor under prime (sub consultants should note their own vendors on their invoices), provide invoice total, total billed to date and total amount left on contract.



**Exhibit B**  
**FEE SCHEDULE**



May 12, 2022

Town of Hayden  
Bryan Richards, Public Works Director  
PO Box 190  
Hayden, CO 81639

Subject: Hayden Poplar Street Bridge

Dear Bryan,

Sunrise Engineering, Inc. (SEI) is pleased to provide the following fee schedule to provide professional services for the Town of Hayden (hereinafter referred to as "CLIENT").

### **COMPENSATION**

Task 1 – Design Project Management – \$10,000 Cost Plus

- Scope Item 2.2

Task 2 – Engineering design, plans, and specifications – \$32,000 Fixed Fee

- Scope Items 2.3, 2.5, 2.7, and 2.8

Task 3 – Survey/ ROW Coordination – \$20,000 Cost Plus

- Scope Item 2.4

Task 4 – Geotechnical Investigation - \$11,000 Cost Plus

- Scope Item 2.6

Task 4 – Additional Engineering Services – \$10,000 Cost Plus

- Scope Items 2.9 and 2.10

Task 5 – Bidding Administration – \$10,000 Cost Plus

After authorization to proceed with the Bidding or Negotiating Phase, the ENGINEER shall:

- Assist the CLIENT in obtaining bids or negotiating proposals for each separate prime contract for construction or equipment. One bidding package will be prepared by Engineer as outlined previously.
- Prior to bidding, the ENGINEER will furnish copies of the final drawings, specifications and Contract Documents as required by prospective bidders, material suppliers, and other interested parties, but may charge for the actual cost of such copies.
- Attend the bid opening, tabulate the bids, make an analysis of the bids, assist the CLIENT in evaluating bids or proposals, recommend award of contract, and assemble four sets of contract documents for execution and approval by the CLIENT and the successful bidder, hereinafter referred to as "Contractor".
- Consult with the CLIENT and advise the Contractor as to the acceptability of substitute materials and equipment proposed by Contractor when substitution is permitted by the Contract Documents.
- Assist the CLIENT in obtaining rebids (including scaling down the project) if no original bids are acceptable.

**Total Fee: \$93,000**

Any additional services requested by CLIENT and agreed to by SEI will be performed at the rates and fees shown in Exhibit A.

If you are interested in having SEI complete the services, please execute the agreement below, make a copy for your files and return the original to our office. We look forward to providing this and other services. If you have any questions regarding this agreement, please contact me at (435) 789-7364.

Sincerely,

Sunrise Engineering, Inc.

Robert Worley, P.E.  
Vice President

**SUNRISE ENGINEERING  
FEE SCHEDULE - EXHIBIT A**

<b>Work Code</b>	<b>Work Classification</b>	<b>Hourly Rate</b>	<b>Work Code</b>	<b>Work Classification</b>	<b>Hourly Rate</b>
101	Engineer Intern (E.I.T.) I	\$105	500	Funding Specialist	\$145
102	Engineer Intern (E.I.T.) II	\$109	510	Plan Reviewer	\$129
103	Engineer Intern (E.I.T.) III	\$124	511	Building Inspector I	\$75
104	Engineer III	\$139	512	Building Inspector II	\$100
105	Engineer IV	\$159	513	Building Inspector III	\$125
106	Engineer V	\$185	525	Building Official	\$145
107	Senior Engineer	\$205	601	GIS Tech	\$79
110	Principal Engineer	\$225	602	GIS Tech II	\$90
121	Electrical Engineer Intern (E.I.T.) I	\$129	611	GIS Specialist I	\$115
122	Electrical Engineer Intern (E.I.T.) II	\$145	613	GIS Analyst	\$135
123	Electrical Engineer III	\$165	614	GIS Programmer	\$129
124	Electrical Engineer IV	\$189	615	GIS Team Leader	\$149
125	Electrical Engineer V	\$215	624	GIS Mapping Technician	\$59
126	Principal Electrical Engineer	\$230	625	GIS Mapping Supervisor	\$99
301	Engineering Tech I	\$89	51	Administrative I	\$50
302	Engineering Tech II	\$105	52	Administrative II	\$65
303	Engineering Tech III	\$119	53	Administrative III	\$80
304	Engineering Tech IV	\$149	96	Public Information Manager	\$130
311	Electrical Tech I	\$100	701	Planner I	\$95
312	Electrical Tech II	\$115	702	Planner II	\$110
313	Electrical Tech III	\$135	703	Planner III	\$125
314	Electrical Tech IV	\$149	703	Planner IV	\$140
315	Electrical Tech V	\$165	705	Planner V	\$155
351	Construction Observer I	\$79	712	Project Manager II	\$195
352	Construction Observer II	\$95	723	Water Rights Specialist III	\$145
353	Construction Observer III	\$109	921	Survey Tech	\$89
354	Construction Observer IV	\$119	930	Survey CAD Tech	\$139
401	CAD Drafter I	\$79	935	One Man Survey Crew	\$165
402	CAD Drafter II	\$89	940	Survey Manager	\$175
403	CAD Drafter/Designer III	\$109	945	Registered Surveyor	\$189
404	CAD Drafter/Designer IV	\$120	950	Principal Surveyor	\$209
451	Training Specialist I	\$145			
456	Training Manager	\$175			
460	Training Director	\$199			

**REIMBURSABLE EXPENSE SCHEDULE**

<b>Expense</b>	<b>Rate</b>	<b>Mark-Up</b>
Mileage	\$0.59 per mile	N/A
Field Vehicle (on site)	\$60 per day	N/A
Per Diem Meals	\$57 per day	N/A
Troxler Nuclear Density Gauge	\$50 per day	N/A
High Density Scanner	\$175 per hour	N/A
Material Testing Lab Work	Actual Cost	15%
Outside Consultants, Aerial Photography, etc.	Actual Cost	15%
Lodging	Actual Cost	10%
Other Expenses incurred	Actual Cost	10%

Fees automatically change after the beginning of the year and are subject to change on other occasions.

Base 01-2022



Town of Hayden  
Town Council Agenda Item

**MEETING DATE:** May 19, 2022

**AGENDA ITEM TITLE:** Employee Compensation

**AGENDA SECTION:** New Business

**PRESENTED BY:** Andrea Salazar

**CAN THIS ITEM BE RESCHEDULED:** Yes, but not recommended

**BACKGROUND REVIEW:** At the May 5<sup>th</sup>, 2022 Council work session the Council discussed options for Cost-of-Living Adjustments (COLA) or employee compensation incentives. Staff has not completed its analysis yet on the budget impacts as we still need to wrap up a few entries on the 2021 audit which will be completed by Tuesday May 17<sup>th</sup>, 2022. Staff is also meeting with all employees to listen to their voices both positive and negative.

1. We have brought forward wage comparison based off of 4%, 6% and 8% increase and comparison of a one-time bonus.
2. We have brought forward a comparison of currently provided employee benefits and how they compare to local governments located in Routt County.

At this time staff is not making a recommendation, but we should have a better picture of everything by Wed and we will revise this staff report. Mathew will also be attending a joint meeting with Routt County and the City of Steamboat Springs on Monday the 16<sup>th</sup>, 2022 where all entities are going to discuss employee retention and what they may be doing.

Staff does request that Council review the breakdown provided and begin to think about if an increase is feasible at this time as discussed at the May 5<sup>th</sup>, 2022 meeting or if another incentive could be offered till November. We have also presented a one-time bonus option as well. We should have a better understanding of the budget impacts at the May 19, 2022 meeting.

**RECOMMENDATION:** Council review of staff report. Staff report will be revised Wed May 18, 2022.

**MANAGER'S RECOMMENDATION/COMMENTS:**



### One Time Bonus

This factors in scheduled work hours for the year. There is a multiplier of \$.50, \$.75 and \$1.00 per scheduled work hour. One-time costs include Employer paid payroll taxes.

Multiplier	Bonus	Multiplier	Bonus	Multiplier	Bonus
\$0.50	33,123.91	\$0.75	49,685.86	\$1.00	66,247.81

### Cost of Living Adjustment

This factors in a 4% increase, 6% increase and 8% increase with an effective date for pay period beginning June 5<sup>th</sup>.

	Current Forecasted Payroll Costs with FICA, Medicare and 7% retirement match.	4% Increase	6% Increase	8% increase
Forecasted Additional expenses with FICA, Medicare and 7% retirement match.		48,837.60	73,256.40	97,675.20
Total	2,116,295.92	2,165,133.51	2,189,552.31	2,213,971.11

### Cost of Living Adjustment with and additional adjustment in

This factors in a 4% increase with an effective date for pay period beginning June 5<sup>th</sup> and an additional 4% increase, 6% increase and 8% increase with an effective date for pay period beginning October 23<sup>rd</sup>.

	Current Forecasted Payroll Costs with FICA, Medicare and 7% retirement match.	4% Increase	6% Increase	8% increase
Forecasted Additional expenses with FICA, Medicare, and 7% retirement match		65,492.47	73,819.91	82,147.34
Total	2,165,133.51	2,181,788.39	2,190,115.82	2,198,443.26

## Town of Hayden

Employer Paid Health Expense	Medical	Dental	Vision	Monthly Total	Annual Cost to Employee	Cost Based per Hour
Employee Only	798.00	42.00	13.00	853.00	-	
Employee + 1	1,625.00	87.00	18.00	1,730.00	-	
Family	1,951.00	147.00	31.00	2,129.00	-	-

### Benefit Summary

Up to 7 % Retirement Match, vested on 1st Day of Employment, not required to participate  
 Paid Maternity/Paternity Leave  
 (10 weeks)  
 11 Paid Holidays  
 Hayden Center Gym  
 Membership  
 Vacation, Sick Time and Personal Days rather than PTO  
 Long Term Disability

## Routt County

Employer Paid Health Expense	Medical	Dental	Vision	Monthly Total	Annual Cost to Employee	Cost Based per Hour
Employee Only	29.43	5.65	6.48	41.56	997.44	<b>0.48</b>
Family	147.04	12.16	19.18	178.38	4,281.12	<b>2.06</b>

### Benefit Summary

6 % 401 Retirement Match, Fully Vested After 5 Years  
 10 Paid Holidays  
 Vacation/Sick Leave  
 Old Town Hot Springs reduced price membership  
 Routt Federal Credit Union  
 Merchant Ski Pass Program

## City of Steamboat Springs

Employer Paid Health Expense	Medical	Dental	Vision	Monthly Total	Annual Cost to Employee	Cost Based per Hour
Employee Only	61.00	6.00	-	67.00	804.00	<b>0.39</b>
Employee + 1	255.00	11.00	-	266.00	3,192.00	<b>1.53</b>
Family	316.00	17.00	-	333.00	3,996.00	<b>1.92</b>

### Benefit Summary

Up to 6% Retirement Match, vested on 1st day of Employment, 3% Required to participate  
Paid Maternity/Paternity Leave  
9 Paid Holidays  
Howelsen Hill and Ice Arena Pass  
PTO plan  
20% Youth Program Discount  
Long- and Short-Term Disability  
Tuition Reimbursement  
Second Language Bonus  
Routt Federal Credit Union



Town of Hayden

Town Council Agenda Item

MEETING DATE: May 19, 2022

AGENDA ITEM TITLE: Review and Consider Approval of Resolution 2022-08 Re-Authorizing the Town of Hayden Water Conservation Program

AGENDA SECTION: New Business

PRESENTED BY: Mathew Mendisco

CAN THIS ITEM BE RESCHEDULED: Yes, but not recommended

BACKGROUND REVIEW: Water systems across Colorado and the western US have started implementing water conservation programs to encourage their customers to be responsible about their water usage. The benefits conservation brings to management of the water system range from less strain on the system to financial gains for both the entity and the user. The Colorado Department of Public Health and Environment highly encourages water providers to have a conservation program in place and uses this as a standard on their evaluations of water systems throughout the state. The Town of Hayden created a water conservation program by the Resolution 2017-20 and Town Council authorized the staff to process the necessary ordinance to create and implement the water conservation program on a permanent basis.

In the past we have implemented water conservation measures in some years and not in others, but, due to climate change conditions and less water availability staff is recommending we move forward and have our water conservation program become permanent for each summer irrigation season.

The program that we are proposing below is used by City of Aurora and City and County of Denver:

- The water conservation program will go into effect June 1<sup>st</sup> and will be in effect until October 1<sup>st</sup> of each calendar year (this year it will start July 1<sup>st</sup>).
- The conservation program covers all irrigation water customers outside of governmental entities such as Routt County but it highly encourages even the County to put these types of programs in place.
- The first proposed conservation program is asking people to only irrigate between the hours of 5pm and 8am. It has been proven that the evaporation rate that happens

during the day only provides a small portion of the total water put down for the purposes of plant health and absorption. Irrigating during the heat of the day can also potentially harm plant life from burning. Making this change is a logical step that not only allows the people doing the irrigation to get the most efficient use of their water it also helps them conserve more water which ultimately helps them on their billings from a usage standpoint.

- The second proposal is to put residential users on a daily schedule. Specifically, all residential users will be asked to only water on certain days as laid out below:
  - Even numbered address homes will be asked to only water on Monday, Thursday, and Saturday;
  - Odd numbered address homes will be asked to water on Tuesday, Friday, and Sunday.
- All irrigation users will be asked not to irrigate on Wednesdays.
- Drip irrigation systems are asked to adhere to the same time periods for irrigation but can water on any day outside of Wednesday.

Our goal with implementation is to explain why we are asking the people to do this and explain that ultimately this can not only help them become better at turf/landscape management it will also help them save money. As I mentioned earlier in this report it has been proven that water conservation programs can help save money for the water provider in the long run through increased efficiency in operations and management of the system.

RECOMMENDATION: Council Approve Resolution 2022-08 as written.

MANAGER'S RECOMMENDATION/COMMENTS: Staff concurs with the recommendation above.

**RESOLUTION NO. 2022-08**  
**A RESOLUTION AUTHORIZING THE REINSTATEMENT OF THE**  
**TOWN OF HAYDEN WATER CONSERVATION PROGRAM**

**WHEREAS**, Hayden Town Code, Chapter 13.36.070 Lawn Sprinkling and Irrigation, authorized Town Council to establish, by resolution, motion or otherwise, any and all other restrictions as to the use of water for sprinkling or irrigation, and a violation of any such orders or regulations as imposed by the Town Council is considered a violation; and

**WHEREAS**, the Town Council of the Town of Hayden recognizes the importance of water conservation not only for the long-term maintenance of the water system but also the benefits it creates for the environment and financial benefit it creates for the customer; and

**WHEREAS**, the Town Council of the Town of Hayden acknowledges that a water conservation program is highly encouraged by the Colorado Department of Public Health and Environment as a best management practice that all water providers in the State of Colorado should adopt; and

**WHEREAS**, the Town Council of the Town of Hayden established and adopted a water conservation program by Resolution 2017-20 Creation of Water Conservation Program and desires to implement water irrigation restrictions for the 2022 irrigation season due to low snow levels, the Hospital Hill Water Tank Rehabilitation Project, minimal precipitation, climate change impacts, and warm temperatures; and

**WHEREAS**, the Town Council of the Town of Hayden ultimately has the responsibility to provide the most efficient and effective water management of the water system to its citizens/customers and believes that the water conservation program will help Town staff better manage the water delivery and water treatment system.

**NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO THAT:**

**Section 1.** The Town Council of the Town of Hayden hereby authorizes effective June 1<sup>st</sup> 2022 ending October 31<sup>st</sup>, 2022, and for the proceeding years during the summer irrigation season during the same time period, the water conservation program as set forth in Section 3 of this resolution with the ability for adjustment to the program as may be necessary.

**Section 2.** This resolution is to be in full force and effect during the period stated above.

**Section 3** Pursuant to Hayden Municipal Code 13.36.070, the Hayden Town Council hereby imposes the following water conservation program, which shall apply to all persons receiving water service from the Town of Hayden water system.

1. For the purposes of this resolution the conservation program includes water use delivered by the Town of Hayden water system, includes, without limitation, watering or irrigation or sprinkling; and
2. Effective and in full force at stated above; watering, irrigation or sprinkling is restricted in accordance with the following schedule:
  - a. Irrigation shall only be permitted between the hours of 5pm – 8am.
  - b. Even number addresses are permitted to irrigate on Monday, Thursday, and Saturday.
  - c. Odd number addresses are permitted to irrigate on Tuesday, Friday, and Sunday.
  - d. No irrigation is permitted on Wednesday.
3. The water conservation program measures set forth in this resolution shall not apply to duly licensed person or company engaged in the business of growing or selling plants, trees or other live landscaping stock or vegetation.
4. Persons or businesses found to be violating the conservation program measures set forth in this resolution shall initially be issued a written warning notice and asked to suspend or correct their water use practices. A failure to timely comply with a warning notice or a second violation of the conservation measures shall result in the issuance of a citation per the schedule below:
  - Second Violation: \$50.00 fine.
  - Third Violation: \$150.00 fine.
  - Violations exceeding third violation: Summons to Municipal Court.
5. Any modifications or if rescinded, prompt posting at official designated posting locations by the Town; Town Hall, Hayden Post Office and Town of Hayden website.
6. Notification of water conservation program in accordance with this resolution shall be posted by the Town Clerk at all officially designated posting locations within the Town and published on the Town's website, [www.haydencolorado.com](http://www.haydencolorado.com)

PASSED, APPROVED, AND RESOLVED THIS 19<sup>TH</sup> DAY OF MAY, 2022.

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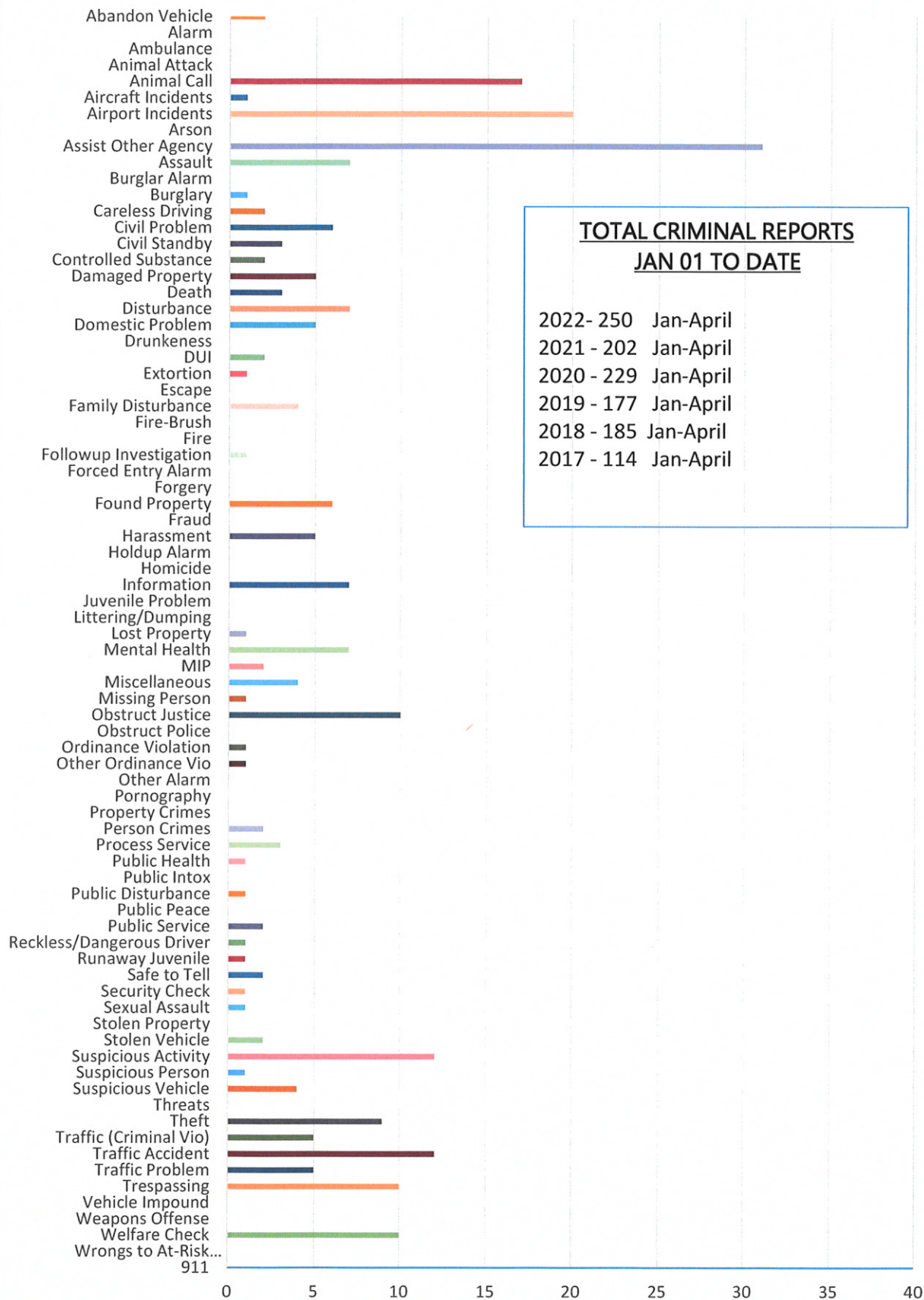
Zachary Wuestewald, Mayor

ATTEST:

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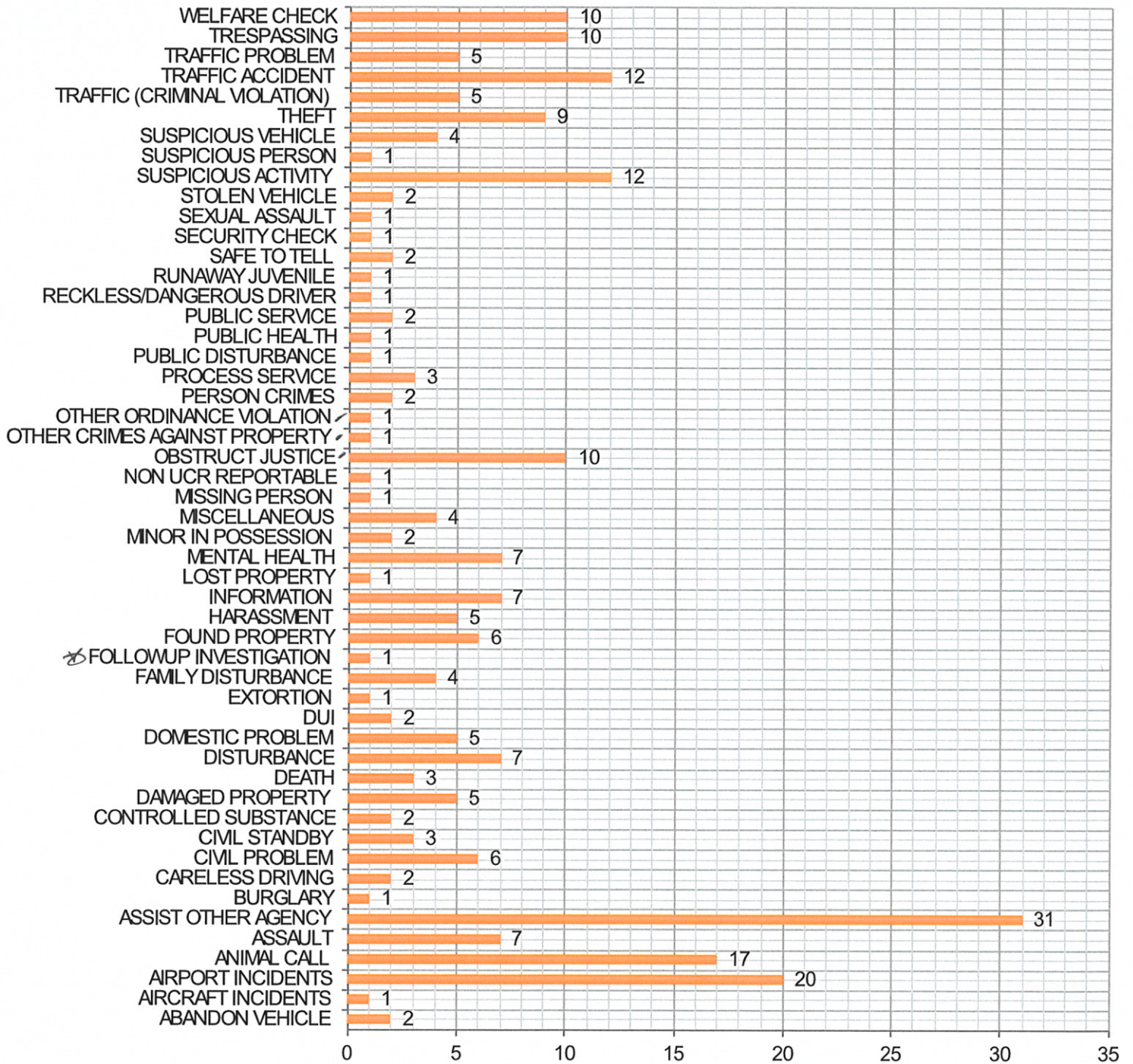
Sharon Johnson, Town Clerk

## 2022 INCIDENTS YEAR TO DATE





## 2022 INCIDENTS YEAR TO DATE





# Event Activity Analysis by Day

Date Reported: 01/01/2022 - 04/30/2022



**Hayden Police Department**

249 Hawthorne Street

P.O. Box 190

Hayden, CO. 81639

Phone: 970-276-2535

Fax: 970-276-9175

Classification	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Totals
<b>ABANDON VEHICLE</b>	0	0	0	1	1	0	0	2
Abandon Vehicle	0	0	0	1	1	0	0	2
<b>Aircraft Incidents</b>	0	0	1	0	0	0	0	1
AIRCRAFT - OTHER	0	0	1	0	0	0	0	1
<b>AIRPORT INCIDENTS</b>	2	1	3	6	3	2	3	20
AIRPORT INCIDENTS-OTHER	2	1	3	6	3	2	3	20
<b>ANIMAL CALL</b>	0	5	2	4	2	2	2	17
Animal Call, Other	0	0	0	1	1	0	1	3
Barking Dog	0	1	1	2	0	1	0	5
Dog At Large	0	4	1	1	1	1	1	9
<b>ASSAULT</b>	2	0	0	2	0	1	1	6
Aggravated Assault, Family, Strongarm	1	0	0	0	0	0	0	1
Intimidation (Includes Stalking)	0	0	0	0	0	1	0	1
Simple Assault	1	0	0	2	0	0	1	4
<b>ASSIST OTHER AGENCY</b>	3	2	3	4	7	7	5	31
Assist Other Agency	3	2	3	4	7	7	5	31
<b>BURGLARY</b>	0	0	0	1	0	0	0	1
Burlary, Other	0	0	0	1	0	0	0	1
<b>CARELESS DRIVING</b>	0	1	0	1	0	0	0	2
CARELESS DRIVING	0	1	0	1	0	0	0	2
<b>CIVIL PROBLEM</b>	0	2	0	2	0	2	0	6
Civil Problem	0	2	0	2	0	2	0	6
<b>CIVIL STANDBY</b>	1	2	0	0	0	0	0	3
Civil Standby	1	2	0	0	0	0	0	3
<b>CONTROLLED SUBSTANCE</b>	0	0	0	1	0	0	1	2
Marijuana, Possession	0	0	0	1	0	0	0	1
Synthetic Narcotic, Possession	0	0	0	0	0	0	1	1
<b>DAMAGED PROPERTY</b>	1	0	0	3	1	0	0	5
Damaged Property, Business	1	0	0	0	0	0	0	1
Damaged Property, Other	0	0	0	1	0	0	0	1
Damaged Property, Private	0	0	0	0	1	0	0	1
Damaged Property, Vehicle	0	0	0	1	0	0	0	1
Damaged Property, Public	0	0	0	1	0	0	0	1
<b>DEATH</b>	1	1	0	0	0	1	0	3
Death Notification	1	0	0	0	0	0	0	1
Suicide	0	1	0	0	0	0	0	1
Unattended Death	0	0	0	0	0	1	0	1
<b>DISTURBANCE</b>	1	0	1	3	0	2	0	7
DISTURBANCE, OTHER	0	0	1	1	0	0	0	2
VERBAL DISTURBANCE	1	0	0	2	0	2	0	5
<b>DOMESTIC PROBLEM</b>	0	0	1	2	0	1	1	5
Cruelty Toward Child	0	0	1	1	0	1	0	3

Family Offense, Other	0	0	0	1	0	0	1	2
<b>DUI</b>	1	0	1	0	0	0	0	2
Alcohol	1	0	1	0	0	0	0	2
<b>EXTORTION</b>	0	0	0	0	0	1	0	1
Extortion, Threat Injure Reputation	0	0	0	0	0	1	0	1
<b>FAMILY DISTURBANCE</b>	0	1	1	0	0	2	0	4
Family Disturbance	0	1	1	0	0	2	0	4
<b>FOLLOWUP INVESTIGATION</b>	0	0	0	0	0	1	0	1
Followup Investigation, Local Event	0	0	0	0	0	1	0	1
<b>FOUND PROPERTY</b>	1	1	0	0	2	1	1	6
Found Property	1	1	0	0	2	1	1	6
<b>HARASSMENT</b>	1	0	0	0	1	1	2	5
Harassment, Other	1	0	0	0	1	1	2	5
<b>INFORMATION</b>	0	1	0	3	0	3	0	7
INFORMATION	0	1	0	3	0	3	0	7
<b>LOST PROPERTY</b>	0	1	0	0	0	0	0	1
Lost Property	0	1	0	0	0	0	0	1
<b>MENTAL HEALTH</b>	0	4	2	0	0	0	1	7
AMBULANCE TRANSPORT	0	0	1	0	0	0	0	1
M1 HOLD	0	1	0	0	0	0	0	1
MENTAL HEALTH TRANSPORT	0	2	0	0	0	0	0	2
SUICIDAL PARTY	0	1	1	0	0	0	1	3
<b>MINOR IN POSSESSION</b>	0	0	2	0	0	0	0	2
Illegal Drugs/Paraphernalia	0	0	1	0	0	0	0	1
Tobacco	0	0	1	0	0	0	0	1
<b>Miscellaneous</b>	1	0	0	1	1	1	0	4
Ordinance Violation	0	0	0	1	0	1	0	2
Phone Message	1	0	0	0	1	0	0	2
<b>MISSING PERSON</b>	1	0	0	0	0	0	0	1
Missing Person	1	0	0	0	0	0	0	1
<b>NON UCR REPORTABLE</b>	0	0	0	1	0	0	0	1
Non UCR Reportable	0	0	0	1	0	0	0	1
<b>OBSTRUCT JUSTICE</b>	1	2	0	2	1	1	3	10
Failure To Appear	0	1	0	1	0	1	0	3
Obstructing Justice	0	0	0	0	0	0	2	2
Violation Of A Court Order	1	1	0	1	1	0	1	5
<b>Other Crimes Against Property</b>	0	0	0	1	0	0	0	1
Vandalism	0	0	0	1	0	0	0	1
<b>OTHER ORDINANCE VIOLATION</b>	0	0	0	1	0	0	0	1
Ordinance Violation, Other	0	0	0	1	0	0	0	1
<b>PERSON CRIMES</b>	0	0	1	1	0	0	0	2
Crimes Against Persons	0	0	1	1	0	0	0	2
<b>PROCESS SERVICE</b>	0	1	0	1	0	0	1	3
WARRANT ARREST	0	1	0	1	0	0	1	3
<b>PUBLIC DISTURBANCE</b>	1	0	0	0	0	0	0	1
Public Disturbance	1	0	0	0	0	0	0	1
<b>PUBLIC HEALTH</b>	0	0	0	1	0	0	0	1
UNLAWFUL ACTS	0	0	0	1	0	0	0	1
<b>PUBLIC SERVICE</b>	0	1	0	0	0	0	1	2
Assist Public	0	1	0	0	0	0	1	2
<b>RECKLESS/DANGEROUS DRIVER</b>	1	0	0	0	0	0	0	1
Reckless Driver	1	0	0	0	0	0	0	1



RUNAWAY JUVENILE	0	0	0	0	1	0	0	1
RUNAWAY JUVENILE	0	0	0	0	1	0	0	1
SAFE TO TELL	0	0	0	1	0	0	1	2
REFERRED TO OTHER AGENCY	0	0	0	0	0	0	1	1
WELFARE CHECK	0	0	0	1	0	0	0	1
SECURITY CHECK	0	0	0	0	0	1	0	1
Other Security Check	0	0	0	0	0	1	0	1
SEXUAL ASSAULT	0	0	0	1	0	0	0	1
ASSAULT ON CHILD	0	0	0	1	0	0	0	1
STOLEN VEHICLE	0	2	0	0	0	0	0	2
Vehicle Theft, Auto	0	2	0	0	0	0	0	2
SUSPICIOUS ACTIVITY	2	2	2	3	1	1	1	12
Suspicious Activity	2	2	2	3	1	1	1	12
SUSPICIOUS PERSON	0	0	0	0	0	0	1	1
Suspicious Person	0	0	0	0	0	0	1	1
SUSPICIOUS VEHICLE	2	0	1	0	1	0	0	4
Suspicious Vehicle	2	0	1	0	1	0	0	4
THEFT	0	0	0	5	0	3	1	9
Larceny, From Building	0	0	0	2	0	0	0	2
Larceny, From Vehicle	0	0	0	0	0	1	0	1
Shoplifting	0	0	0	1	0	1	0	2
Theft Other	0	0	0	2	0	1	1	4
TRAFFIC (CRIMINAL VIOLATION)	2	0	1	1	1	0	0	5
Criminal Traffic Violation	2	0	1	1	1	0	0	5
TRAFFIC ACCIDENT	0	2	0	3	2	4	1	12
Hit/Run, Private Prop Damg	0	0	0	1	0	0	0	1
Traffic Accident, Private Prop Damg	0	0	0	1	0	1	1	3
Traffic Accident, Vehicle Damage	0	2	0	1	2	3	0	8
TRAFFIC PROBLEM	0	0	0	1	0	0	1	2
REDDI REPORT	0	0	0	0	0	0	1	1
Traffic, Other	0	0	1	1	0	0	0	2
Traffic Problem	0	1	1	0	0	0	0	2
VEHICLE COMPLAINT	0	1	0	0	0	0	0	1
TRAFFIC PROBLEM	0	1	0	0	0	0	0	1
Verbal Warning	0	1	0	0	0	0	0	1
TRESPASSING	0	1	0	5	1	1	2	10
TRESPASS NOTICE	0	1	0	1	0	0	0	2
Trespassing, Private Property	0	0	0	4	1	1	2	8
WELFARE CHECK	0	2	2	1	3	1	1	10
ALCOHOL OR SUBSTANCE ABUSE	0	0	0	0	1	0	0	1
MEDICAL	0	0	1	0	0	0	0	1
WELFARE CHECK - MISC	0	1	1	1	2	1	1	7
WORK ATTENDANCE	0	1	0	0	0	0	0	1
Total Events	25	37	25	63	29	40	31	250
Total Citation Violations:	7	7	13	13	17	8	14	79
Total Citations:	7	7	13	13	17	8	14	79

# Event Activity Analysis by Time

Date Reported: 01/01/2022 - 04/30/2022



**Hayden Police Department**

249 Hawthorne Street

P.O. Box 190

Hayden, CO. 81639

Phone: 970-276-2535

Fax: 970-276-9175

Classification	HOUR																								Total
	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
<b>ABANDON VEHICLE</b>	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	2
Abandon Vehicle	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	2
<b>Aircraft Incidents</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
AIRCRAFT - OTHER	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
<b>AIRPORT INCIDENTS</b>	1	0	0	0	0	0	0	0	0	1	1	1	2	2	4	3	4	0	0	1	0	0	0	0	20
AIRPORT INCIDENTS-OTHER	1	0	0	0	0	0	0	0	0	1	1	1	2	2	4	3	4	0	0	1	0	0	0	0	20
<b>ANIMAL CALL</b>	0	0	0	0	1	0	0	1	1	2	0	2	1	1	2	1	1	3	1	0	0	0	0	0	17
Animal Call, Other	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	1	0	0	0	0	0	0	0	0	3
Barking Dog	0	0	0	0	1	0	0	0	0	0	0	1	0	1	1	0	0	1	0	0	0	0	0	0	5
Dog At Large	0	0	0	0	0	0	0	1	1	1	0	1	1	0	0	0	1	2	1	0	0	0	0	0	9
<b>ASSAULT</b>	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	1	0	0	1	1	0	6
Aggravated Assault, Family, Strongarm	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1
Intimidation (Includes Stalking)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Simple Assault	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	0	0	1	0	0	4
<b>ASSIST OTHER AGENCY</b>	0	0	1	0	0	0	0	0	1	2	4	2	2	4	1	3	1	3	2	0	1	3	0	1	31
Assist Other Agency	0	0	1	0	0	0	0	0	1	2	4	2	2	4	1	3	1	3	2	0	1	3	0	1	31
<b>BURGLARY</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Burglary, Other	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1
<b>CARELESS DRIVING</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	2
CARELESS DRIVING	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	2
<b>CIVIL PROBLEM</b>	0	0	0	0	0	0	0	0	0	1	1	1	0	1	0	1	0	0	0	0	0	0	1	0	6
Civil Problem	0	0	0	0	0	0	0	0	0	1	1	1	0	1	0	1	0	0	0	0	0	0	1	0	6
<b>CIVIL STANDBY</b>	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	3
Civil Standby	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	3
<b>CONTROLLED SUBSTANCE</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0	0	2
Marijuana, Possession	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1
Synthetic Narcotic, Possession	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
<b>DAMAGED PROPERTY</b>	0	0	0	0	0	0	0	0	1	0	0	0	0	1	0	0	0	0	2	0	1	0	0	0	5
Damaged Property, Business	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1
Damaged Property, Other	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Damaged Property, Private	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
Damaged Property, Vehicle	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1
Damaged Property, Public	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
<b>DEATH</b>	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	3
Death Notification	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Suicide	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1
Unattended Death	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
<b>DISTURBANCE</b>	2	0	0	0	0	0	0	0	0	1	1	1	0	0	1	0	0	0	0	1	0	0	0	0	7
DISTURBANCE, OTHER	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	2
VERBAL DISTURBANCE	1	0	0	0	0	0	0	0	0	1	1	1	0	0	0	0	0	0	0	1	0	0	0	0	5



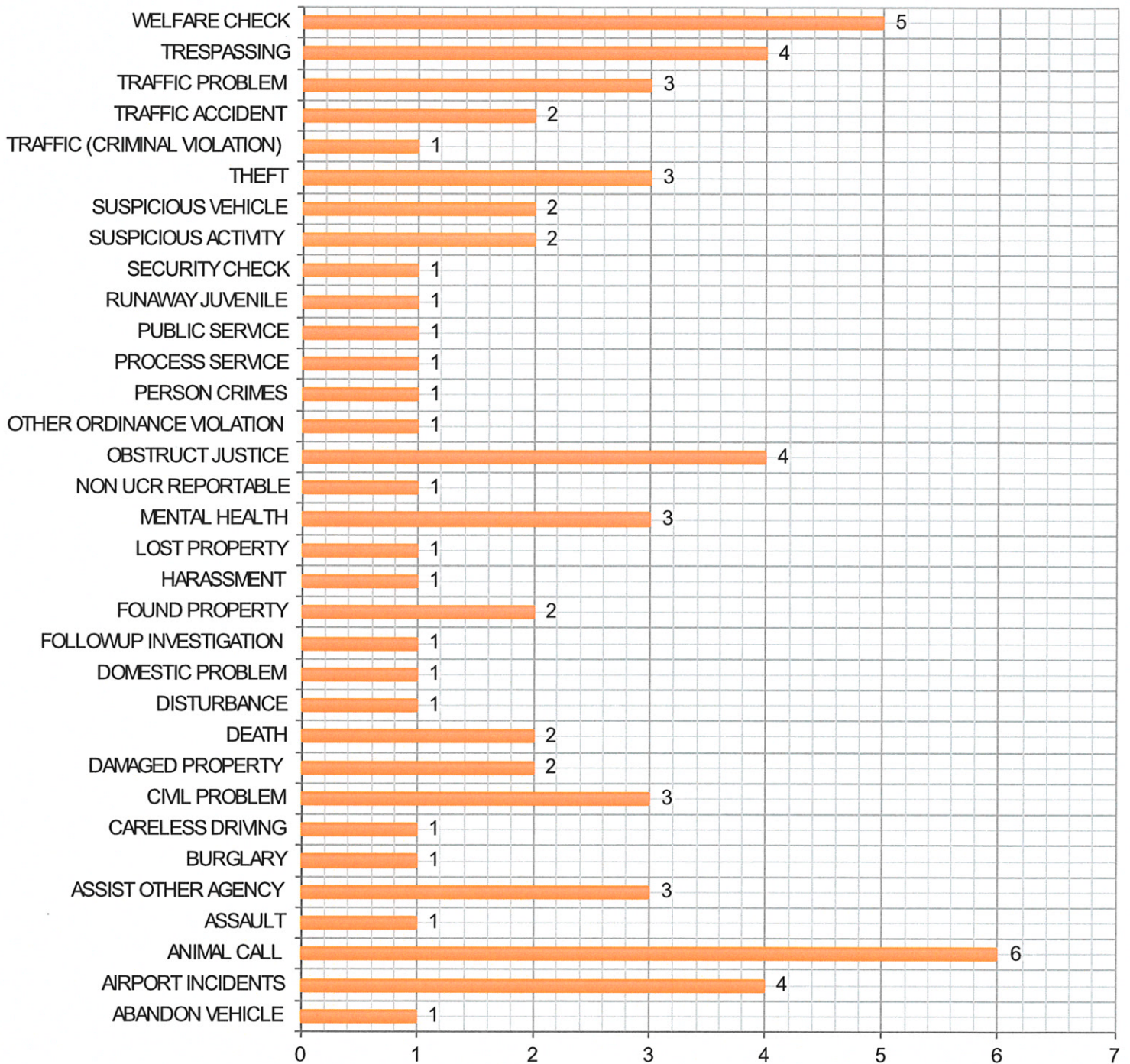
<b>DOMESTIC PROBLEM</b>	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	2	0	0	1	0	0	5
Cruelty Toward Child	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	1	0	0	0	0	0	3
Family Offense, Other	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	0	0	2
<b>DUI</b>	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	2
Alcohol	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	2
<b>EXTORTION</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Extortion, Threat Injure Reputation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
<b>FAMILY DISTURBANCE</b>	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	1	0	1	0	0	0	4
Family Disturbance	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	1	0	1	0	0	0	4
<b>FOLLOWUP INVESTIGATION</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1
Followup Investigation, Local Event	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1
<b>FOUND PROPERTY</b>	0	0	0	0	0	0	0	0	0	1	0	0	1	0	1	1	0	1	0	1	0	0	0	0	0	6
Found Property	0	0	0	0	0	0	0	0	0	1	0	0	1	0	1	1	0	1	0	1	0	0	0	0	0	6
<b>HARASSMENT</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	2	1	0	0	0	1	0	0	5
Harassment, Other	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	2	1	0	0	0	1	0	0	5
<b>INFORMATION</b>	1	0	0	0	0	0	0	0	0	1	0	1	0	1	0	2	0	1	0	0	0	0	0	0	0	7
INFORMATION	1	0	0	0	0	0	0	0	0	1	0	1	0	1	0	2	0	1	0	0	0	0	0	0	0	7
<b>LOST PROPERTY</b>	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Lost Property	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
<b>MENTAL HEALTH</b>	0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	3	2	0	0	0	0	0	0	7
AMBULANCE TRANSPORT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1
M1 HOLD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
MENTAL HEALTH TRANSPORT	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	2
SUICIDAL PARTY	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1	1	0	0	0	0	0	0	3
<b>MINOR IN POSSESSION</b>	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Illegal Drugs/Paraphernalia	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Tobacco	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
<b>Miscellaneous</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	0	0	0	0	4
Ordinance Violation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	2
Phone Message	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	2
<b>MISSING PERSON</b>	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Missing Person	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
<b>NON UCR REPORTABLE</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Non UCR Reportable	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
<b>OBSTRUCT JUSTICE</b>	2	0	0	0	0	0	0	0	0	1	1	0	0	0	1	0	1	1	0	2	1	0	0	0	0	10
Failure To Appear	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	0	0	0	0	0	1	0	0	0	0	3
Obstructing Justice	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0	2
Violation Of A Court Order	2	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	5
<b>Other Crimes Against Property</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1
Vandalism	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1
<b>OTHER ORDINANCE VIOLATION</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Ordinance Violation, Other	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
<b>PERSON CRIMES</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	0	0	0	0	0	2
Crimes Against Persons	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	0	0	0	0	0	2
<b>PROCESS SERVICE</b>	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	3
WARRANT ARREST	0	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	3
<b>PUBLIC DISTURBANCE</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Public Disturbance	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
<b>PUBLIC HEALTH</b>	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
UNLAWFUL ACTS	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
<b>PUBLIC SERVICE</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	2
Assist Public	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	2







## INCIDENTS 2022 APRIL





# Event Activity Analysis by Day

Date Reported: 04/01/2022 - 04/30/2022



**Hayden Police Department**

249 Hawthorne Street

P.O. Box 190

Hayden, CO. 81639

Phone: 970-276-2535

Fax: 970-276-9175

Classification	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Totals
<b>ABANDON VEHICLE</b>	0	0	0	1	0	0	0	1
Abandon Vehicle	0	0	0	1	0	0	0	1
<b>AIRPORT INCIDENTS</b>	0	0	0	3	1	0	0	4
AIRPORT INCIDENTS-OTHER	0	0	0	3	1	0	0	4
<b>ANIMAL CALL</b>	0	1	0	2	1	1	1	6
Animal Call, Other	0	0	0	0	1	0	1	2
Barking Dog	0	0	0	1	0	0	0	1
Dog At Large	0	1	0	1	0	1	0	3
<b>ASSAULT</b>	0	0	0	1	0	0	0	1
Simple Assault	0	0	0	1	0	0	0	1
<b>ASSIST OTHER AGENCY</b>	0	1	1	1	0	0	0	3
Assist Other Agency	0	1	1	1	0	0	0	3
<b>BURGLARY</b>	0	0	0	1	0	0	0	1
Burlary, Other	0	0	0	1	0	0	0	1
<b>CARELESS DRIVING</b>	0	0	0	1	0	0	0	1
CARELESS DRIVING	0	0	0	1	0	0	0	1
<b>CIVIL PROBLEM</b>	0	2	0	0	0	1	0	3
Civil Problem	0	2	0	0	0	1	0	3
<b>DAMAGED PROPERTY</b>	0	0	0	1	1	0	0	2
Damaged Property, Other	0	0	0	1	0	0	0	1
Damaged Property, Private	0	0	0	0	1	0	0	1
<b>DEATH</b>	1	1	0	0	0	0	0	2
Death Notification	1	0	0	0	0	0	0	1
Suicide	0	1	0	0	0	0	0	1
<b>DISTURBANCE</b>	0	0	0	1	0	0	0	1
DISTURBANCE, OTHER	0	0	0	1	0	0	0	1
<b>DOMESTIC PROBLEM</b>	0	0	0	0	0	1	0	1
Cruelty Toward Child	0	0	0	0	0	1	0	1
<b>FOLLOWUP INVESTIGATION</b>	0	0	0	0	0	1	0	1
Followup Investigation, Local Event	0	0	0	0	0	1	0	1
<b>FOUND PROPERTY</b>	0	0	0	0	2	0	0	2
Found Property	0	0	0	0	2	0	0	2
<b>HARASSMENT</b>	0	0	0	0	1	0	0	1
Harassment, Other	0	0	0	0	1	0	0	1
<b>LOST PROPERTY</b>	0	1	0	0	0	0	0	1
Lost Property	0	1	0	0	0	0	0	1
<b>MENTAL HEALTH</b>	0	3	0	0	0	0	0	3
M1 HOLD	0	1	0	0	0	0	0	1
MENTAL HEALTH TRANSPORT	0	1	0	0	0	0	0	1
SUICIDAL PARTY	0	1	0	0	0	0	0	1
<b>NON UCR REPORTABLE</b>	0	0	0	1	0	0	0	1
Non UCR Reportable	0	0	0	1	0	0	0	1

<b>OBSTRUCT JUSTICE</b>	0	1	0	0	1	0	2	4
Obstructing Justice	0	0	0	0	0	0	1	1
Violation Of A Court Order	0	1	0	0	1	0	1	3
<b>OTHER ORDINANCE VIOLATION</b>	0	0	0	1	0	0	0	1
Ordinance Violation, Other	0	0	0	1	0	0	0	1
<b>PERSON CRIMES</b>	0	0	0	1	0	0	0	1
Crimes Against Persons	0	0	0	1	0	0	0	1
<b>PROCESS SERVICE</b>	0	0	0	0	0	0	1	1
WARRANT ARREST	0	0	0	0	0	0	1	1
<b>PUBLIC SERVICE</b>	0	0	0	0	0	0	1	1
Assist Public	0	0	0	0	0	0	1	1
<b>RUNAWAY JUVENILE</b>	0	0	0	0	1	0	0	1
RUNAWAY JUVENILE	0	0	0	0	1	0	0	1
<b>SECURITY CHECK</b>	0	0	0	0	0	1	0	1
Other Security Check	0	0	0	0	0	1	0	1
<b>SUSPICIOUS ACTIVITY</b>	1	1	0	0	0	0	0	2
Suspicious Activity	1	1	0	0	0	0	0	2
<b>SUSPICIOUS VEHICLE</b>	1	0	1	0	0	0	0	2
Suspicious Vehicle	1	0	1	0	0	0	0	2
<b>THEFT</b>	0	0	0	2	0	0	1	3
Larceny, From Building	0	0	0	1	0	0	0	1
Theft Other	0	0	0	1	0	0	1	2
<b>TRAFFIC (CRIMINAL VIOLATION)</b>	0	0	0	1	0	0	0	1
Criminal Traffic Violation	0	0	0	1	0	0	0	1
<b>TRAFFIC ACCIDENT</b>	0	0	0	1	1	0	0	2
Hit/Run, Private Prop Damg	0	0	0	1	0	0	0	1
Traffic Accident, Vehicle Damage	0	0	0	0	1	0	0	1
<b>Traffic Problem</b>	0	1	1	0	0	0	0	2
Traffic, Other	0	0	1	0	0	0	0	1
<b>VEHICLE COMPLAINT</b>	0	1	0	0	0	0	0	1
<b>TRAFFIC PROBLEM</b>	0	1	0	0	0	0	0	1
Verbal Warning	0	1	0	0	0	0	0	1
<b>TRESPASSING</b>	0	0	0	1	1	1	1	4
Trespassing, Private Property	0	0	0	1	1	1	1	4
<b>WELFARE CHECK</b>	0	1	2	0	0	1	1	5
MEDICAL	0	0	1	0	0	0	0	1
WELFARE CHECK - MISC	0	1	1	0	0	1	1	4
<b>Total Events</b>	<b>3</b>	<b>14</b>	<b>5</b>	<b>20</b>	<b>10</b>	<b>7</b>	<b>8</b>	<b>67</b>
<b>Total Citation Violations:</b>	<b>1</b>	0	0	<b>1</b>	<b>1</b>	0	<b>1</b>	<b>4</b>
<b>Total Citations:</b>	<b>1</b>	0	0	<b>1</b>	<b>1</b>	0	<b>1</b>	<b>4</b>



# Event Activity Analysis by Time

Date Reported: 04/01/2022 - 04/30/2022



**Hayden Police Department**

249 Hawthorne Street

P.O. Box 190

Hayden, CO. 81639

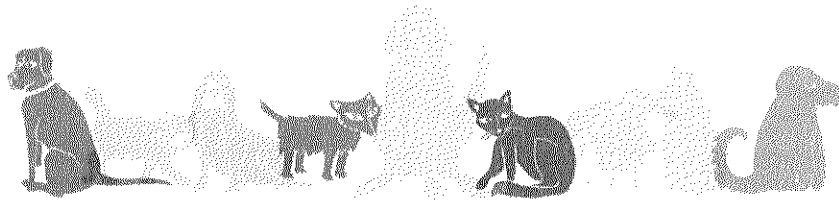
Phone: 970-276-2535

Fax: 970-276-9175

Classification	HOUR																								Total
	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
<b>ABANDON VEHICLE</b>	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Abandon Vehicle	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
<b>AIRPORT INCIDENTS</b>	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	1	0	0	0	0	4
AIRPORT INCIDENTS-OTHER	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	1	0	0	0	0	4
<b>ANIMAL CALL</b>	0	0	0	0	1	0	0	1	0	1	0	0	0	0	0	1	0	1	1	0	0	0	0	0	6
Animal Call, Other	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	2
Barking Dog	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Dog At Large	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	3
<b>ASSAULT</b>	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Simple Assault	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
<b>ASSIST OTHER AGENCY</b>	0	0	0	0	0	0	0	0	0	0	1	0	1	0	0	1	0	0	0	0	0	0	0	0	3
Assist Other Agency	0	0	0	0	0	0	0	0	0	0	1	0	1	0	0	1	0	0	0	0	0	0	0	0	3
<b>BURGLARY</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Burlary, Other	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1
<b>CARELESS DRIVING</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
CARELESS DRIVING	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
<b>CIVIL PROBLEM</b>	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1	0	0	0	0	0	0	1	0	3
Civil Problem	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1	0	0	0	0	0	0	1	0	3
<b>DAMAGED PROPERTY</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1	0	0	0	0	2
Damaged Property, Other	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1
Damaged Property, Private	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1
<b>DEATH</b>	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	2
Death Notification	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Suicide	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1
<b>DISTURBANCE</b>	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
DISTURBANCE, OTHER	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
<b>DOMESTIC PROBLEM</b>	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Cruelty Toward Child	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
<b>FOLLOWUP INVESTIGATION</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1
Followup Investigation, Local Event	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1
<b>FOUND PROPERTY</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	2
Found Property	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	2
<b>HARASSMENT</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
Harassment, Other	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
<b>LOST PROPERTY</b>	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Lost Property	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
<b>MENTAL HEALTH</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0	0	0	0	0	0	0	3
M1 HOLD	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
MENTAL HEALTH TRANSPORT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
SUICIDAL PARTY	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
<b>NON UCR REPORTABLE</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	511	0	1







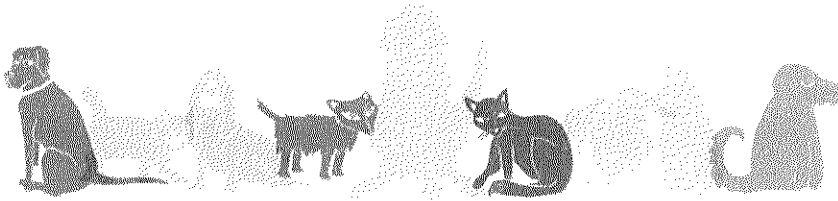
MEMO TO: Hayden Town Council  
FROM: Elaine Hicks – Executive Director  
RE: Animal Care and Control  
DATE: May 11, 2022

A handwritten signature in black ink, appearing to be "EH", located to the right of the "FROM:" line.

Please find attached to this memo correspondence to Town Manager Mathew Mendisco and Police Chief Greg Tuliszewski dated back to April 29, 2021, requesting a meeting to discuss animal care and control for the citizens of Hayden. Except for a reply from Chief Tuliszewski on April 29, 2021, Routt County Humane Society (RCHS) has not received any further communication from town officials to talk about animal related programs or issues despite many attempts at outreach. This lack of cooperation to partner with a local organization willing to provide resources is a bit disconcerting and seems to contradict the messaging contained in Town communications and on the Town's website. With kitten season already here and Hayden citizens contacting RCHS for animal-related issues, RCHS is again reaching out in hopes of collaborating with the town to brainstorm potential solutions.

I will be attending the Town Council meeting on May 19<sup>th</sup> and look forward to meeting you.

Thank you for your attention in this matter.



February 16, 2022

Mr. Mathew Mendisco  
Town Manager  
178 W. Jefferson Ave  
Hayden, CO 81639

Dear Mr. Mendisco,

Please find attached email correspondence to you dated September 14 and October 18, 2021, concerning animal care and control for the citizens of Hayden. Since April 29, 2021, I have corresponded with both you and Chief Tuliszewski to discuss a potential partnership for animal-related services and to get direction on what citizens experiencing animal issues within the town limits of Hayden should do. My requests for either a meeting or to obtain guidance on resources available to Hayden citizens have seemingly been ignored.

In the past two weeks, Routt County Humane Society (RCHS) has been contacted by Hayden residents concerning injured and/or ill cats in their neighborhoods. When referred to the Hayden Police Department for help, the residents expressed frustration and anger at RCHS staff for the lack of available resources for these animals. The town should be responsible for providing the core services of animal care and control to ensure the health and safety of both residents and community pets. While these incidents occurred during the past two weeks, RCHS receives several calls a month while also having Hayden citizens try to drop animals off at the shelter. Interactions of this type will only increase with the upcoming kitten season and contributes to the workload and accompanying stress of RCHS staff.

As further evidence of the lack of animal care and control, a Hayden resident who lives in one of the trailer parks has personally paid for the care and treatment of at least nine cats within the past several months, and this does not include all the other stray kittens she has personally tried to save. This resident also reported that 6-7 months ago, an individual went through the trailer park trapping cats, one of which was her neighbors that never returned. The resident and her neighbor checked with RCHS and the Craig shelter who had no record of these cats being turned in. Did the town hire someone to trap these cats and subsequently kill them or did another resident do this on their own with the cats meeting the same demise? There are

effective and humane ways to control and reduce the stray cat population without resorting to barbaric methods.

Like the town's goal of providing an excellent level of service to its citizens, the mission of RCHS is to be a community resource that helps animals in need through sheltering, adoption, education, veterinary services, and community outreach. However, this does not include subsidizing a municipal responsibility but instead, is reliant on building positive relationships with both the public and private sectors. I hope that we can schedule a time to meet within the next couple of weeks to discuss our mutually held goals. If this is not feasible, I will schedule a time to make a presentation to the Town Council so that citizens are aware of the need for these core services.

Thank you for your attention in this matter and I look forward to meeting with you.

Sincerely,

A handwritten signature in black ink that reads "Elaine Hicks". The signature is written in a cursive, flowing style.

Elaine Hicks, MA, CAWA  
Executive Director

P.S. The Hayden resident mentioned earlier brought in two stray cats yesterday that she had been caring for as they were very ill. As it turned out, they were diagnosed with Panleukopenia which is a highly contagious and potentially deadly disease. Strains of the virus can infect not only domestic cats but also all other members of the feline family as well as raccoons and minks. It is highly probable that citizens will be seeing dead cats in their neighborhoods.



Elaine Hicks &lt;ehicks@routthumane.org&gt;

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**Animal Care Services**

10 messages

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**Elaine Hicks** <ehicks@routthumane.org>  
To: mathew.mendisco@haydencolorado.org

Thu, Apr 29, 2021 at 2:50 PM

Good afternoon Mr. Mendisco,

Hope you are doing well as we hopefully return to some semblance of normalcy in the very near future! I am the Executive Director for Routt County Humane Society (RCHS) and am reaching out to see who the contact person would be to talk about animal care services for the Town of Hayden.

Since 2015, RCHS has served approximately 44 animals per year from citizens residing in Hayden. As our donor dollars have subsidized the care for animals coming from the Town, we would like to talk about the municipal responsibility for the care and control of the animals and how RCHS can provide these services to the community. We would also be interested in doing a mobile low cost vaccination clinic this summer to promote responsible pet ownership and to give the Police Department the opportunity to license community pets. By working together, the Town and RCHS can provide education to the citizens regarding responsible pet ownership and keeping both our pets and humans safe. With summer right around the corner, this would be a great time to engage in this conversation.

Thank you for your attention in this matter and I look forward to hearing from you.

Have a great rest of the week!

Elaine Hicks



Elaine Hicks  
Executive Director

o 970.879.7247  
D 970.233.8740

ROUTTHUMANE.ORG



o 760 Critter Court  
Steamboat Springs

M PO Box 772080  
Steamboat Springs,  
CO 80477



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**Greg Tuliszewski** <greg.tuliszewski@haydencolorado.org>  
To: "ehicks@routthumane.org" <ehicks@routthumane.org>

Thu, Apr 29, 2021 at 5:27 PM

Good Afternoon Ms.Hicks,

Hope your day is going good! A beautiful weekend is just around the corner and it is indeed good that some of the past year's challenges are settling down a bit. Town Manager Mendisco forwarded your email to me as animal control and such services for the Town of Hayden fall under my department.

I would be happy to discuss your email and visit with you about the Town of Hayden's on-going community education in regards to animals and responsible pet ownership. We currently hold an annual pet vaccination/licensing clinic and education booth. We have been doing this since 2013 (except for last year of course due to COVID – but we're on track for this upcoming year.) I would be happy to hear how Routt County Humane Society might be able to supplement our community animal education program and to see if anything has changes since the last time I met with your organization.

I also read in your email that RCHS has served approximately 44 animals per year from citizens in and around the Hayden area. I applaud and appreciate the Humane Society's on-going efforts in animal care. However, I am not sure how this would become a municipal responsibility for the care and control of the animals as they are not a result of Town action i.e. animal impounds, quarantine's, after hours emergency animal care, etc. As you mentioned donor dollars subsidizing your agencies efforts, I am making the assumption you are referencing financial assistance. The Town of Hayden does take municipal responsibility for pets and animals seriously as we provide Animal Control services (at a hefty cost in both personnel costs and time) and enforces both the State Statutes as well as the Town of Hayden animal ordinances. As a policy the Hayden Police Department does not direct citizens to Routt County Humane Society for services nor have we impounded or placed any animals with your agency since 2015 that I am aware of. In my last discussion with, I believe, your predecessor or possibly her's, in 2015, the Town was presented a proposed bill for approximately \$7400.00 for 2 animal impounds for the prior year. It was explained to me at that time that the costs were to off-set the costs of the animal services for citizens who voluntarily came to your shelter and the associated care costs, and the education programs that the Routt County Humane Society wished to implement at that time. While we strongly support the mission of responsible pet ownership and treatment, I am sure you can understand that a small municipality would have problems with a cost of approximately \$3700.00 per impounded animal. It was also made very clear to me that this was the only acceptable path forward and to continue to take advantage of the services of the Routt County Humane Society. I believe there were other jurisdictions within Routt County that were also faced with this dilemma during the same time. This all being said, I would be happy to discuss any policy changes that might have been implemented within RCHS under your leadership.

As you mentioned summer is right around the corner and engaging with our partner agencies is always welcome. Please feel free to reach out to me either via email or phone (970-276-2535) I will be back in the office on Monday if you try calling.

Take care and have a great weekend.

**Greg Tuliszewski**

Chief of Police

5/3/21

Good morning Chief Tuliszewski,

Thank you for your email and summary of past interactions with Routt County Humane Society. I certainly understand your position and welcome the opportunity to provide you with an update of programs provided by Routt County Humane Society and opportunities to collaborate on animal related services. I also look forward to learning more about the Department's policies and needs regarding community animals.

From your email, Hayden appears to be more progressive and committed to educating its citizens on responsible pet ownership than most jurisdictions. As a point of reference for intakes from Hayden, most of the animals brought into RCHS are stray kittens and cats located within the Town.

Would you be available for either a Zoom or in-person meeting within the next few weeks? Please let me know of your availability and we can schedule from there. Again, thank you for your time and consideration of this request.

Have a great day!

Elaine

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[Quoted text hidden]

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**Elaine Hicks** <ehicks@routthumane.org>  
To: Greg Tuliszewski <greg.tuliszewski@haydencolorado.org>

Wed, Aug 11, 2021 at 1:36 PM

Good afternoon Chief Tuliszewski,

Hope all is well with you, especially given the extraordinary amount of traffic through Hayden! Thanks for doing such a good job of keeping citizens updated via Facebook and trying to be the calm voice of reason during yet again another challenging situation.

I'm following up on the last email I sent you in May concerning the intake of animals from Hayden. I've attached a very simple spreadsheet which shows the number of animals, especially cats and where they were found, that have been brought to Routt County Humane Society (RCHS) in 2020-2021. This does not include the number of phone calls we get concerning free-roaming cats in Hayden. I understand that your policy is to tell people not to bring stray animals to RCHS but what is your policy concerning cats? The municipal code seems vague when it comes to cats except for the requirement to be vaccinated against rabies.

RCHS has borne the cost of care for these animals through agency resources and donor funding. The number of kittens found in Hayden suggests a feral cat problem that has gone unchecked for some time. Free roaming cats pose many health and safety risks to the community and understandably, finding cost effective solutions has been difficult for local governments. However, according to Animal Care Management, A Guide for Local Governments, "A good animal care and control program is a community responsibility and should be budgeted as any other program or service available to citizens." I was hoping we could collaborate and come up with a solution that would be beneficial to Hayden citizens and yet provide for the humane treatment of cats.

In the previous email, you discussed the cost of care that had been presented by my predecessor and how cost-prohibitive it was for a small town. I certainly understand that. It is expensive to care for animals, but RCHS is open to discussions on what that fee structure would look like, and I can assure you it would be much more reasonable. In addition, with the police department's cooperation and help from citizens and volunteers, RCHS can help develop and manage feral-cat colonies which would reduce the number of unwanted cats in town.

I applied for a grant from the Colorado Pet Overpopulation Fund (CPOF) and received some funding for

the sterilization of free roaming cats. RCHS already offers low cost spay/neutering to a targeted population as well as low-cost vaccines to all pet owners. This added service would fund spay/neuters and promote a TNR (Trap, Neuter, Release) program that has proven to be successful in reducing the cat population. This appears to be a solution that would be mutually beneficial to all.

I am hoping we can schedule a time to talk about the cats and how to handle the intakes going forward. Without a plan for cats, RCHS will be referring citizens back to Hayden for animal care and control. We will continue to take animals from Hayden if the public is willing to pay the fees for out of service areas. Lack of an animal control plan, especially during kitten season, can become a government liability if citizens seek redress for injury and damage caused by free-roaming animals. The health and safety of both the human and animal population is our goal.

Thank you for your time and I look forward to hearing from you.

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**Hayden Animal Count (version 1).xlsb.xlsx**

11K

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**Elaine Hicks** <ehicks@routthumane.org>  
To: matthew.mendisco@haydencolorado.org

Tue, Sep 14, 2021 at 2:12 PM

Good afternoon Mr. Mendisco,

Hope all is well and that you're enjoying the cooler Fall weather. Below is email correspondence I have had with Chief Tuliszewski concerning the stray animal population, most notably cats, from the Town of Hayden. I sent emails on May 3, 2021 and August 11, 2021 regarding the cat population as Routt County Humane Society (RCHS) continues to receive calls and visits from patrons with felines from Hayden. I have yet to receive a response from Chief Tuliszewski.

In the email dated May 3, 2021 from Chief Tuliszewski, he stated the following: "As a policy the Hayden Police Department does not direct citizens to Routt County Humane Society for services nor have we impounded or placed any animals with your agency since 2015 that I am aware of." This does not appear to be the case as citizens who have called the police department requesting assistance with stray animals, especially cats, have been told to take them to RCHS. I personally went to the police station in June 2021 to purchase licenses for my dogs and was told by a PD employee that the police department takes strays to the humane society.

My email dated August 11, 2021 included a spreadsheet of the animals RCHS has taken in from Hayden and the locations where they were found. The majority of these animals were cats that were found primarily in the trailer park which suggests a feral cat problem. The municipal code does not seem to address free roaming cats with the exception of the need to be vaccinated for rabies; however, as cats do not need to be registered, it is difficult to determine how this is enforced. I offered assistance to Chief Tuliszewski with a trap/neuter/release program and/or to discuss a fee structure for animals brought in from the Town of Hayden but as noted above, have yet to receive a response.

Animal care and control is considered to be an essential government service that should be adequately funded. In today's society, the main carrier of rabies into the human community is not the dog but the cat. Free roaming cats are more likely to come into contact with other nocturnal roamers such as skunks and raccoons, which are the primary vector species of rabies in the wild (Animal Control Management, A Guide for Local Governments). Cats also carry other zoonotic diseases that can be spread to humans (worms, cat scratch fever, etc.). Without a proactive approach to animal care and control, it can become a local government liability if citizens seek compensation for injury and damage from free roaming animals.

As RCHS has seemingly funded animals brought in from Hayden, please be advised that RCHS will no longer accept animals from Hayden unless the owner or person bringing the animal in is willing to pay the out of service fee. Patrons will be referred back to Hayden for services. Donor dollars should not be used to fund a municipal responsibility, especially since RCHS has reached out to help solve the cat overpopulation problem. As a side note, I even offered to do a vaccine clinic for Hayden residents but was advised by Chief Tuliszewski that "it was happening this year." The PD employee told me the vaccination event, which was scheduled to coincide with the Hayden cleanup day, was cancelled as the veterinarian was unavailable. RCHS really wants to be a resource for community pets and to partner with our local communities to ensure the health and safety of not only the animals, but the humans as well.

Thank you for your attention in this matter and please let me know if you have any questions or concerns that I can address.

Elaine



Elaine Hicks  
Executive Director

970.879.7247 760 Critter Court  
970.233.8740 Steamboat Springs

ROUTTHUMANE.ORG M PO Box 772080  
Steamboat Springs,  
CO 80477

Twitter Facebook Instagram

[Quoted text hidden]

Hayden Animal Count (version 1).xlsb.xlsx  
11K

Mail Delivery Subsystem <mailer-daemon@googlemail.com>  
To: ehicks@routthumane.org

Tue, Sep 14, 2021 at 2:12 PM



**Message blocked**

Your message to **matthew.mendischo@haydencolorado.org** has been blocked. See technical details below for more information.



Elaine Hicks &lt;ehicks@routthumane.org&gt;

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**Animal Care**

1 message

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**Elaine Hicks** <ehicks@routthumane.org>  
To: mathew.mendisco@haydencolorado.org

Mon, Oct 18, 2021 at 12:43 PM

Good afternoon Mr Mendisco,

I am just following up to ensure you received the email below that was sent a couple of weeks ago. Routt County Humane Society (RCHS) continues to receive calls from Hayden residents about feral kittens/cats within the Town's jurisdiction. We would like to be able to advise them of the Town's resources and response to these inquiries, especially as winter approaches. RCHS continues to be open to discussions concerning the animal care and control challenges of this stray population.

Thank you for your time and attention to this matter.

Have a great day!  
Elaine Hicks

On Tue, Sep 14, 2021 at 2:12 PM Elaine Hicks <ehicks@routthumane.org> wrote:  
Good afternoon Mr. Mendisco,

Hope all is well and that you're enjoying the cooler Fall weather. Below is email correspondence I have had with Chief Tuliszewski concerning the stray animal population, most notably cats, from the Town of Hayden. I sent emails on May 3, 2021 and August 11, 2021 regarding the cat population as Routt County Humane Society (RCHS) continues to receive calls and visits from patrons with felines from Hayden. I have yet to receive a response from Chief Tuliszewski.

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Thank you for your attention in this matter and please let me know if you have any questions or concerns that I can address.

Elaine



Elaine Hicks  
Executive Director

o 970.879.7247  
D 970.233.8740

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o 760 Critter Court  
Steamboat Springs

M PO Box 772080  
Steamboat Springs,  
CO 80477

# Animal Intakes from Hayden, CO

January 1, 2020-December 31, 2020

Date	Type	Address	Cat	Dog	Rabbit	
9/3/2020	Owner Sur	166 S. 6th Street, Hayden	1			
10/28/2020	Owner Sur	402 Meadow Brook, Hayden			1	
7/9/2020	Seized	413 Meadow Brook Ct, Hayden		1		Routt County ACO
7/9/2020	Seized	413 Meadow Brook Ct, Hayden		1		Routt County ACO
7/9/2020	Seized	413 Meadow Brook Ct, Hayden		1		Routt County ACO
7/9/2020	Seized	413 Meadow Brook Ct, Hayden		1		Routt County ACO
6/2/2020	Stray	Hayden Trailer Park, Hayden	1			
6/2/2020	Stray	365 Jackson Alley, Hayden	25			
6/15/2020	Stray	Downtown Hayden	1			
7/1/2020	Stray	365 Jackson Alley, Hayden	1			George Morris
6/29/2021	Stray	365 Jackson Alley, Hayden	1			George Morris
7/12/2020	Stray	275 Park Alley, Hayden	1			Martin Pope
7/12/2020	Stray	275 Park Alley, Hayden	2			
7/21/2020	Stray	Dumpster behind City Hall	1			
9/12/2020	Stray	102 Shady Lane, Hayden		1		
<b>Total</b>			<b>34</b>	<b>5</b>	<b>1</b>	<b>40</b>

# Animal Intakes from Hayden, CO

January 1, 2021 - August 9, 2021

4/5/2021	Owner Sur	299 Harvest Dr, Hayden		1		
3/9/2021	Stray	368 Vista View Dr, Hayden	1			
4/30/2021	Stray	Next to Napa		1		
4/24/2021	Stray	275 Park Alley	1			
6/8/2021	Stray	275 Park Alley	6			
<b>TOTAL</b>			<b>8</b>	<b>2</b>		<b>10</b>