

MUNICIPAL CODE

OF THE

TOWN OF PIERCE

COLORADO

2016

A Codification of the General Ordinances
of the Town of Pierce, Colorado

municode

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Book No. _____

OFFICIALS
of the
TOWN OF PIERCE

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Mayor Pro Tem
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Mary Heberlee
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Elizabeth Van Why

Town Clerk
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Town Attorney
Don Hoff

SUPPLEMENTATION

Supplements to this Code provide periodic updating through the removal and replacement of pages. This inter-leaf supplementation system requires that each page which is to be removed and replaced is identified so that the updating may be accurately accomplished and historically maintained.

Instructions for supplementation are provided for each supplement, identified by Supplement number, date and inclusive ordinance numbers. The Instructions for posting the removal and replacement of pages must be followed and accomplished in sequence, with the most recent supplementation posted **last**.

When supplementation is completed and the removal and replacement of all pages are accomplished, the Instructions should be placed under the Supplementation tab, behind this page, with the most recent Instruction sheet on top. Previous Instructions should not be removed, so that the user may refer to this tab section to verify whether the code book is fully updated with all supplements included.

The maintenance of a Municipal Code with all supplementation is an important activity which deserves close attention so that the value of the code is maintained as a fully comprehensive compilation of the legislative ordinances of the municipality.

AMENDMENTS

Amendments may be made to the Code by additions, revisions or deletions therefrom. Those changes may be made as follows:

Additions: Additions may be made by ordinance to the Code as follows:

The "Pierce Municipal Code" is amended by the addition thereto of a new Section 2-2-90, which is to read as follows:

(Set out full section number, title and contents.)

or if the location of the new section number or numbers is undetermined, the Code may be amended as follows:

The "Pierce Municipal Code" is amended by the addition of the following:

(Set out section title and contents.)

Revisions: A revision of the Code may be accomplished as follows:

Section 2-2-90 of the "Pierce Municipal Code" is repealed in its entirety and readopted to read as follows:

(Set out section number, title and entire contents of the readopted code section.)

or as follows:

Section 2-2-90 of the "Pierce Municipal Code" is amended to read as follows:

(Set out section number, title and entire contents of the amended code section.)

Repeal: Sections, articles and chapters may be repealed as follows:

Section 2-2-90 of the "Pierce Municipal Code" is repealed in its entirety.

MUNICIPAL CODE CORPORATION

PREFACE

The Town of Pierce, a statutory Town, has published its Municipal Code in a format which features the following:

The *Table of Contents* is the table containing each chapter and article title, with reference to page location. Preceding each chapter is a chapter table of contents, also identifying each article by the subject name provided.

The *three-place section numbering system* places the chapter number first, followed by the article number and section number, separated by hyphens. Each section may be cited by the chapter, article and section number which are in sequence within each chapter.

The *open chapter and page numbering system* creates reserved chapter and page numbers for expansion or revision of the code without undue complication when changes are made to the code by supplementation.

The *Code Comparison Table* and *Disposition of Ordinances Table* identify the sources for the contents of the code. The Code Comparison Table identifies prior code sections and their location in the new code. The Disposition of Ordinances Table provides ordinance numbers in chronological order and location by section number for the present code contents. Thus, if there is interest in determining whether a prior code section, an ordinance or a portion thereof, is contained within the code, the Code Comparison Table and Disposition of Ordinances Table will provide that information. The *Table of Up-to-Date Pages* lists all of the current pages through the most recent supplementation.

The *Index* provides references by common and legal terminology to the appropriate code sections. Cross references are provided with the Index when appropriate.

Supplements to the code provide regular updating of the code to maintain it as a current compilation of all the legislation which has general and continuing effect. Without regular supplementation, the code would soon lose its usefulness as a complete source of the general law of the municipality. Supplementation is accomplished by the periodic publication of additions and amendments to the code.

MUNICIPAL CODE CORPORATION
Tallahassee, Florida

STATE OF COLORADO

TOWN OF PIERCE, COLORADO

ORDINANCE NO. 2016-4

AN ORDINANCE OF THE TOWN OF PIERCE, COLORADO, ADOPTING BY REFERENCE AND ENACTING A NEW MUNICIPAL CODE FOR THE TOWN OF PIERCE; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; 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.

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

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

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

Section 3. The following codes were previously adopted by reference and incorporated in the Pierce Municipal Code. One (1) copy of each is on file in the Town Clerk's office:

- (1) The *Model Traffic Code for Colorado*, 2010 edition, published by the Colorado Department of Transportation, as adopted and amended in Section 8-1-10, et seq.;
- (2) The *International Building Code*, 2012 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-1-10, et seq.;
- (3) The *International Residential Code*, 2012 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-2-10, et seq.;
- (4) The *National Electrical Code*, 2011 edition, published by the National Fire Protection Association, as adopted in Section 18-3-10;
- (5) The *International Mechanical Code*, 2012 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-4-10, et seq.;

- (6) The *International Plumbing Code*, 2012 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-5-10, et seq.;
- (7) The *International Fuel Gas Code*, 2012 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-6-10, et seq.;
- (8) The *International Fire Code*, 2012 edition, published by the International Code Council, Inc., and the Western Fire Chiefs Association, as adopted in Section 18-7-10;
- (9) The *International Energy Conservation Code*, 2009 edition, published by the International Code Council, as adopted and amended in Section 18-8-10, et seq.;
- (10) The *International Property Maintenance Code*, 2012 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-9-10, et seq.;
- (11) The *International Existing Building Code*, 2012 edition, published by the International Code Council, Inc., as adopted and amended in Section 18-10-10, et seq.;
- (12) The *Uniform Code for the Abatement of Dangerous Buildings*, 1997 edition, published by the International Conference of Building Officials, as adopted and amended in Section 18-11-10, et seq.; and
- (13) The *International Building Conservation Code*, 1997 edition, published by the International Conference of Building Officials, as adopted in Section 18-12-10.

Section 4. The penalties provided by the Municipal Code of the Town of Pierce are hereby adopted as follows:

- (1) **Sec. 1-4-20. General penalty for violation. (Chapter 1, General Provisions; Article 4, General Penalty)**
 - (a) Any person violating any of the provisions of this Code for which a different penalty is not specifically provided shall be deemed guilty of a misdemeanor and, upon conviction of any violation of the foregoing primary or secondary code, shall be punished by a fine of not more than \$2,650.00, to be adjusted by inflation on January 1, 2014, or imprisoned for not more than one year, and each subsequent year, or by both such fine and imprisonment for each offense, except as hereinafter provided in Section 1-4-30. In addition, such person shall pay all costs and expenses in the case, including attorney fees. When a violation of any section of this

Code or any part of the adopted codes occurs and continues for more than one day, each day such violation occurs or continues shall constitute a separate offense.

- (b) For the purposes of this Section, the term *inflation* means the annual percentage change in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Denver-Boulder, All Items, All Urban Consumers, or its successor Index.

(2) Sec. 1-4-30. Application of penalties to juveniles. (Chapter 1, General Provisions; Article 4, General Penalty)

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 \$2,650.00, or as adjusted in Section 1-4-20 above, or useful public service or such other penalty, excluding imprisonment as may be appropriate. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Notwithstanding this Section, the application of imprisonment penalties which may otherwise be applicable to such offenses and as are allowed by state law may be imposed in the discretion of the Municipal Judge.

(3) Sec. 1-4-40. Altering or tampering with Code; penalty. (Chapter 1, General Provisions; Article 4, General Penalty)

Any person who alters, changes or amends this Code, except in the manner prescribed in this Chapter, or who alters or tampers with this Code in any manner so as to cause the ordinances of the Town to be misrepresented thereby, shall, upon conviction thereof, be punished as provided by Section 1-4-20 above.

(4) Sec. 1-4-50. Penalty for violation of ordinances adopted after adoption of Code. (Chapter 1, General Provisions; Article 4, General Penalty)

Any person who violates any provision of any ordinance of a permanent and general nature passed or adopted after adoption of this Code, either before or after it has been inserted in this Code by a supplement, shall, upon conviction thereof, be punished as provided by Section 1-4-20 above unless another penalty is specifically provided for the violation.

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

The Municipal Court shall have original jurisdiction of all cases arising under the ordinances of the Town, with full power to carry the

same into effect and to punish violations thereof by the imposition of such fines and penalties as provided in Section 1-4-20 of this Code. The Municipal Court shall have further power to issue orders, injunctions, restraining orders and judgments as may be necessary to conduct the business of the Municipal Court. The Municipal Court shall have power to compel attendance of witnesses and to punish for contempt of such Court by a fine not to exceed the amount set forth in Section 1-4-20, or by jail sentence not to exceed five days, and shall have all powers incident to a court of record in relation to the same.

(6) Sec. 2-4-150. Delivery of summons or subpoena. (Chapter 2, Administration; Article 4, Municipal Court)

- (a) Any summons or subpoena issued in accordance with this Article shall be served in any case by any police officer in the Town or in any particular case by a person specifically designated by the Municipal Court for that purpose.
- (b) Any person who fails to appear in response to any summons or subpoena served on him or her shall be guilty of a violation of this Article and, upon conviction, shall be fined in accordance with the provisions of Section 1-4-20 of this Code.

(7) Sec. 2-4-200. Stay. (Chapter 2, Administration; Article 4, Municipal Court)

In the discretion of the Municipal Judge, a stay of execution may be granted to enable the defendant to pay the fine or penalty at a later date or in installments. In case the defendant has not met the terms of the stay of execution, the Municipal Court may issue a warrant for the arrest of such defendant or impose such other penalties, fines and fees as the Municipal Court deems just.

(8) Sec. 4-4-60. Penalty. (Chapter 4, Revenue and Finance; Article 4, Business and Occupation Tax on Telephone Utility Companies)

If any officer, agent, manager or employee of a telephone utility company which is subject to the provisions of this Article fails, neglects or refuses to make or file the annual statement of accounts as provided herein, the officer, agent, manager or employee shall, on conviction thereof, be punished by a fine of not less than \$50.00 nor more than \$300.00, provided that each day after said statement becomes delinquent during which said officer, agent, manager or employee so fails, neglects or refuses to make and file such statement shall be considered a separate and distinct offense.

(9) Sec. 5-1-70. Customer service. (Chapter 5, Franchises and Communication Systems; Article 1, Cable Television Franchise)

* * * *

(d) If a trunk or distribution cable is placed in a new development within the boundaries of the Town, the cable system shall be activated within 90 days after placement and service made available to the first occupied home within seven days after activation upon request of the home occupant. If the request for service requires a drop or line extension in excess of 150 feet, the Company must extend and make available service to such home at a connection charge not to exceed the actual construction and installation (including labor) cost incurred by the Company for the distance exceeding 150 feet, provided that the Company may require payment in advance from the subscriber. If, except for reasons beyond the Company's control, the aforementioned is not met, the Company shall pay to the Town a penalty of \$25.00 for each day beyond such time requirements.

* * * *

(10) Sec. 5-2-70. Violation. (Chapter 5, Franchises and Communication Systems; Article 2, Electric Franchise)

Any person found guilty of a violation of Section 5-2-60 above shall, upon conviction, be fined in any sum of not less than \$25.00 or more than \$100.00.

(11) Sec. 6-1-100. Suspension. (Chapter 6, Business Licenses and Regulations; Article 1, Business Licenses)

A license may be suspended:

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

(12) Sec. 6-1-150. Penalty. (Chapter 6, Business Licenses and Regulations; Article 1, Business Licenses)

Failure to comply with the terms of this Article shall constitute a violation of this Code. Any person who is found guilty of, or pleads

guilty or nolo contendere to, the violation of any section of this Code shall be subject to a penalty as set forth in Section 1-4-20 of this Code.

(13) Sec. 7-1-110. Removal and assessment. (Chapter 7, Health, Sanitation and Animals; Article 1, Administration and Abatement of Nuisances)

- (a) When violations of this Chapter exist and are not otherwise abated, the Administrative Authority is directed to inspect and supervise premises within the Town known to cause violations of this Chapter to be abated. Such abatement may include, but is not limited to, the removal of refuse, rubbish, weeds, junk or trash and, when such abatement or removal is completed by the Town, the Town shall be entitled to collect a reasonable charge from the owner or occupant in accordance with this Section. Every owner of real property remains liable for violations of responsibilities imposed by this Chapter, even though such obligation may also be imposed upon the occupant of the premises.
- (b) If any person fails to comply with the provisions of this Article, in addition to the penalty provided therefor, a written notice may be served upon the owner or agent in charge of such property, such notice to be served personally or by mail, requiring the removal from the property of all refuse and rubbish found on the premises or in the adjoining streets and alleys. Such notice shall require removal of all refuse and rubbish within seven days after mailing or delivery of such notice, except that, if such accumulation of refuse and rubbish constitutes or may create a fire, health or safety hazard or harborage for rodents, such notice shall require removal within 72 hours. If such refuse and rubbish are not removed within the stated time and maintained within compliance for the remainder of the calendar year, the Town may remove or cause to be removed from the property all refuse and rubbish found on the premises or in the adjoining streets and alleys and assess the whole cost thereof, including 15 percent of the costs for inspection and other incidental costs in connection therewith, upon the land. The costs and any charges assessed by the Town pursuant to this Article associated with removal of refuse and rubbish shall be paid by the owner of the property or agent for such owner within 30 days after mailing of the bill or assessment of such cost by the Town to said owner or agent. The Town shall have the right to proceed for the collection of any unpaid charges for rubbish or refuse removal in the manner provided by law for collection of debts and claims on behalf of the Town, including, without limitation, collection and lien procedures provided in this Section.

* * * *

(14) Sec. 7-5-80. Nuisance animal. (Chapter 7, Health, Sanitation and Animals; Article 5, Animals)

- (a) Keeping any animal that menaces or attacks a person, vehicle or other animal, goes upon school premises without the permission of the person in charge thereof or damages, destroys or injures any shrubbery, plants, flowers, lawn, fence or other property, either private or public, is unlawful, and the owner shall, in addition to any fine or penalty, be responsible for appropriate restitution.
- (b) Areas in which animals are kept shall be maintained in a manner which does not create odors, dust, noise or drainage offensive to the senses of smell, hearing or sight, thereby constituting a hazard or nuisance to the use or enjoyment of adjoining properties.

(15) Sec. 7-5-220. Declaration of nuisance and unlawful acts; duty to maintain chicken habitat. (Chapter 7, Health, Sanitation and Animals; Article 5, Animals)

- (a) The unsanitary or unsafe keeping of chicken hens within the Town is hereby declared unlawful and a public nuisance. It shall be the duty of every owner or keeper of chicken hens to maintain the chicken hen habitat in a secure, neat, tidy, methodical, systematic, clean and orderly condition, permitting no accumulation of odor, dust, droppings, feed, organic material, pests or loitering of predators. Any owner or keeper who is found to have violated the provisions of this Section shall be deemed subject to the nuisance abatement measures provided in Article 1 of this Chapter.
- (b) Any person found to be in violation of the provisions of this Article shall be subject to immediate and permanent revocation of any permit issued to such person under this Article.
- (c) Any person found to be in violation of the provisions of this Article shall, upon conviction, be punished by a fine not to exceed the maximum established under Subsection 1-4-20(a) of this Code, exclusive of court costs.
- (d) The remedies contained in this Article are cumulative and nonexclusive and shall not be deemed to limit the Town's authority to seek injunctive relief in a court of competent jurisdiction.

(16) Sec. 7-6-150. Penalties. (Chapter 7, Health, Sanitation and Animals; Article 6, Trees)

Any person convicted of violating any provision of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(17) Sec. 8-1-30. Amendments. (Chapter 8, Vehicles and Traffic; Article 1, Model Traffic Code)

The 2010 edition of the adopted code is adopted as if set out at length, save and except the following deletions, modifications and additions. The adopted code is hereby expressly amended as follows:

- (1) Sections 1701 and 1702 are not adopted.
- (2) Section 1701 is adopted to read as follows:

"1701. Municipalities - traffic offenses classified - schedule of fines.

"(1) Except as set forth herein, it is a traffic infraction for any person to violate any of the provisions of this code. Such a traffic infraction shall constitute a civil matter. The Colorado Rules of Municipal Procedure shall apply to traffic infraction proceedings, except that no warrant for arrest shall be issued for the defendant's failure to appear when the only violation charged would constitute a noncriminal traffic infraction and the defendant's driver's license is issued by the State of Colorado or any other state which participates in the Interstate Nonresident Violator Compact, as codified at Section 24-60-2101, C.R.S. Instead, the court may enter a judgment of liability by default against the defendant for failure to appear, assess any penalty and costs established by law and report the judgment to the appropriate state motor vehicle department which may assess points against the defendant's driver's license and may take appropriate action to ensure that the judgment is satisfied. There is no right to a trial by jury for any noncriminal traffic infraction.

"(2) The following violations set forth in this Code are not traffic infractions but violation of the following sections shall constitute a Class 1 traffic offense as defined by Section 42-4-1701, C.R.S.

"(a) A violation of Section 1101(1) involving driving twenty miles per hour or more in excess of the reasonable and prudent speed or in excess of the lawful speed limit is a criminal traffic offense.

"(b) Any person who violates Section 607, 705, 1105, 1401, 1402(2), 1409, 1413, 1703 or 1903 of this code commits a criminal traffic offense.

"(3) Decriminalized traffic infractions as provided in this code shall be subject to the following penalties:

<i>"Minimum Penalty</i>	<i>Maximum Penalty</i>
\$25.00	\$750.00

"(4) Court costs and surcharges as authorized by law or ordinance shall be added to the fine.

"(5) Criminal traffic offenses as provided in this code shall be subject to the following penalties, which are authorized upon conviction:

<i>"Minimum Penalty</i>	<i>Maximum Penalty</i>
Fine of \$50.00 or 1 day imprisonment, or both	Fine of \$1,000.00 or 90 days imprisonment, or both

"(6) Court costs, surcharges, late payment fees or other fees as authorized by law or ordinance or established by a court shall be added to the fine.

* * * *

"(8) Court costs and surcharges as authorized by law or ordinance shall be added to the fine.

"(9) The speed limits set forth above shall be the absolute speed limits and shall not be subject to the provisions of Section 1101(4)."

(3) Section 1707 is hereby amended to read as follows:

"1707. Penalty assessment notice.

"(1) Payment of a penalty assessment notice by the person to whom the notice is tendered shall constitute an acknowledgment of liability by such person of his or her violation of the offense stated in such notice.

"(2) Payment of the prescribed fine within the time set forth upon the penalty assessment shall be deemed a complete satisfaction of the violation, and the Town, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof. Checks tendered and accepted and on which payment is received shall be deemed sufficient receipt.

"(3) Should the defendant charged by a penalty assessment notice accept the notice but fail to pay the prescribed penalty thereon within twenty days thereafter, he or she shall be allowed to pay such penalty thereon and up to the maximum court costs permitted for municipal courts under state law to the Clerk of the Pierce Municipal Court prior to the time for appearance as specified in the notice."

(18) Sec. 8-1-70. Violation; penalty. (Chapter 8, Vehicles and Traffic; Article 1, Model Traffic Code)

- (a) It is unlawful for any person to violate any of the provisions of this Article or the Model Traffic Code as adopted herein.
- (b) Except as otherwise set forth in this Article, every person convicted of a violation of this Article or the Model Traffic Code shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(19) Sec. 8-2-20. Penalties. (Chapter 8, Vehicles and Traffic; Article 2, Vehicle Regulations; Division 1, General Provisions)

- (a) It is unlawful for any person to violate any of the provisions of this Article.
- (b) Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and each such person, upon conviction of any violation of this Article, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(20) Sec. 8-2-160. Penalties. (Chapter 8, Vehicles and Traffic; Article 2, Vehicle Regulations; Division 2, Truck Routes)

Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and such person, upon conviction of any violation of this Article, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(21) Sec. 10-6-70. Tobacco product use and possession. (Chapter 10, General Offenses; Article 6, Minors)

* * * *

- (g) The Municipal Court may, in its discretion and as part of the sentence to be imposed, require a person convicted of violating any portion of this Section to complete court-approved public service in an amount up to 24 hours. Additionally, upon the first conviction of any person, the Municipal Court shall emphasize education as a component of any sentence.

(22) Sec. 10-6-90. Penalties. (Chapter 10, General Offenses; Article 6, Minors)

- (a) It is unlawful for any person to violate any of the provisions of this Article.
- (b) Any person violating any of the provisions of Section 10-6-80 above shall be deemed guilty of a misdemeanor, and such person,

upon conviction of any violation of Section 10-6-80, shall be punished by a fine of \$100.00 for the first offense and \$200.00 for the second offense.

- (c) Any person who is under the age of 18 years shall be punished by a fine as set forth in Subsection (b) above, but in no event shall the fine be more than \$2,650.00, nor shall imprisonment be a penalty for any person under the age of 18 years. Notwithstanding the provisions of this Section, the application of imprisonment penalties which may otherwise be applicable to such offenses and as are allowed by state law may be imposed at the discretion of the Municipal Judge.

(23) Sec. 10-7-160. Penalties. (Chapter 10, General Offenses; Article 7, Alcoholic Beverages and Drugs; Division 2, Drugs)

- (a) Any person violating any of the provisions of this Division, upon conviction thereof, shall be punished as follows:
 - (1) Any person who openly and publicly displays or uses more than one ounce but not more than two ounces of marijuana or marijuana concentrate, upon conviction thereof, shall be punished by a fine of \$500.00.
 - (2) A person who is 21 years of age or older who transfers any amount of marijuana to a person who is less than 21 years of age, upon conviction thereof, shall be punished by a fine not to exceed \$2,650.00 or by imprisonment not to exceed 30 days, or both such fine and imprisonment.
 - (3) A person who unlawfully cultivates, grows or possesses more than six marijuana plants and fewer than 12 marijuana plants shall, upon conviction thereof, be punished by a fine not to exceed \$2,650.00 or by imprisonment not to exceed 30 days, or both such fine and imprisonment.
 - (4) A person 21 years or older who possesses more than one ounce of marijuana but not more than two ounces shall, upon conviction thereof, be punished by a fine of not more than \$100.00.
 - (5) Upon conviction of any other violation of this Division, a person shall be sentenced by a fine not to exceed \$2,650.00 or by imprisonment not to exceed 30 days, or both such fine and imprisonment.
- (b) In appropriate circumstances, the Court is authorized to require treatment or impose probation, useful public service or other alternative sentencing measures as the Court may deem just.

- (c) For any violation of this Article which continues for more than one day, each day such violation occurs or continues shall constitute a separate offense.

(24) Sec. 10-8-30. Carrying concealed weapon; forfeiture. (Chapter 10, General Offenses; Article 8, Weapons)

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- (c) Every person convicted of any violation of this Section or Section 10-8-50 below shall forfeit to the Town such dangerous or deadly weapon so used.

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(25) Sec. 11-2-70. Penalties. (Chapter 11, Streets, Sidewalks and Public Places; Article 2, Excavations)

Any person convicted of violating the provisions of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(26) Sec. 13-1-110. Waste of water prohibited. (Chapter 13, Municipal Utilities; Article 1, Water Service)

Consumers shall prevent unnecessary waste of water and keep all water outlets closed when not in actual use. Hydrants, urinals, water closets, bathtubs and other fixtures must not be left running for any purpose other than the use for which they were intended. In addition to the penalty provided herein for Code violations, the water supply may be turned off when any such waste occurs.

(27) Sec. 13-1-190. Unlawful acts. (Chapter 13, Municipal Utilities; Article 1, Water Service)

It is unlawful for any person to use or take water from the Town water works without a permit therefor, to make any fraudulent representation for the purpose of obtaining water, to take or use water from the water works for a different purpose than provided in the customer's permit, to willfully or unreasonably waste water or to violate any of the regulations set forth in this Chapter. Each and every such unlawful act shall constitute a violation of this Code and shall be punishable as provided in Section 1-4-20 of this Code.

(28) Sec. 13-1-220. Penalty for violation of water restrictions. (Chapter 13, Municipal Utilities; Article 1, Water Service)

- (a) The penalty for violation of Section 13-1-200 or 13-1-210 of this Article shall be as set forth in Section 1-4-20 of this Code. If a water user persists in violations, the Board of Trustees may autho-

alize the placement of a flow restrictor upon the property on which the violations have occurred, or may terminate or restrict water service to the property.

- (b) Nothing in this Article shall prohibit or limit the Town from imposing additional water restrictions, including elimination of lawn irrigating or sprinkling entirely, or such other measures as the Board of Trustees deems appropriate if drought, emergency or other conditions warrant such additional restrictions.

(29) Sec. 13-2-110. Billings; payment. (Chapter 13, Municipal Utilities; Article 2, Wastewater Enterprise)

The sewer charges levied pursuant to this Article shall be payable monthly and shall be added to and made a part of the monthly water bill of the various properties in the Town. Properties outside the Town shall pay monthly and in advance, or as provided by agreement, and if the same are not paid within ten days thereafter, a penalty of ten percent of such charge shall be added to such bill.

(30) Sec. 13-2-120. Collection of unpaid and overdue charges. (Chapter 13, Municipal Utilities; Article 2, Wastewater Enterprise)

Each sewer charge levied pursuant to this Article shall be a lien therewith, and, if the same is not paid within 60 days after it becomes due and payable, the Town Clerk shall certify such unpaid rates or charges to the County Treasurer, to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty thereon to defray the cost of collection. The same shall be collected and paid over by the County Treasurer to the Town in the same manner as taxes are authorized to be paid by state statute. All laws of the State for the assessment of general taxes, including the laws for the sale of property taxes and redemption of the same, shall apply thereto. Such rates and charges may also be certified to the Board of County Commissioners and shall become a lien upon the real property served by such sewer connections and collected in the same manner as though they were part of the taxes.

(31) Sec. 13-2-300. Removal and assessment. (Chapter 13, Municipal Utilities; Article 2, Wastewater Enterprise)

- (a) If any person fails to comply with the provisions of this Article, in addition to the penalty provided therefor, a written notice may be served upon the owner or agent in charge of such property, such notice to be served personally or by mail, requiring the cleaning or maintenance of any grease trap or sand and oil trap. Such notice shall require cleaning or maintenance of the trap within seven days after the mailing or delivery of such notice. If such cleaning

or maintenance is not performed within the stated time and maintained in a proper manner, the Town may cause such cleaning and/or maintenance to be done and assess the whole cost thereof, including 15 percent of the cost for inspection and other incidental costs in connection therewith. The costs and any charges assessed by the Town pursuant to the this Article associated with the cleaning and maintenance of a trap shall be paid by the owner of the property or agent for such owner within 30 days after mailing of the bill or assessment of such cost by the Town to said owner or agent. The Town shall have the right to proceed for the collection of any unpaid charges for cleaning and/or maintenance of a trap in the manner provided by law for collection of debts and claims on behalf of the Town, including, without limitation, collection and lien procedures provided in this Section and as provided by law.

- (b) In addition to any other means provided by law for collection, if any such assessment is not paid within 30 days after it is made and notice thereof is mailed, the same may be certified by the Town Clerk to the County Treasurer and placed upon the tax list for the current year, and thereby collected in the same manner as other taxes are collected, with a 15-percent penalty thereon to defray the cost of collection, as provided by state law.

* * * *

(32) Sec. 13-2-330. Penalty. (Chapter 13, Municipal Utilities; Article 2, Wastewater Enterprise)

Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and each such person, upon conviction of any violation of this Article, shall be punished in accordance with the provisions of Section 1-4-20 of this Code. The Court may impose such other penalty as may be authorized by Sections 13-10-113 and 25-8-103(8), C.R.S., and the Federal Water Pollution Control Act, which includes civil penalties of up to \$10,000.00 per day, and, for criminal pollution, a fine of up to \$25,000.00, as described in Sections 25-8-608 and 25-8-609, C.R.S. The penalties herein set forth may be in addition to any administrative charge imposed.

(33) Sec. 13-3-40. Interference with or destruction of facilities. (Chapter 13, Municipal Utilities; Article 3, Nonpotable Water Enterprise)

* * * *

- (g) Nonpotable water service may be discontinued to any user who wastes water or violates the regulations regarding the use of nonpotable water. Such service shall not be restored until the

cause of waste has been corrected or the violation abated and all fines and fees paid. An administrative fine of \$25.00 may be imposed by the Town for each incident of waste or violation of use regulations.

(34) Sec. 13-4-90. Violation and penalty. (Chapter 13, Municipal Utilities; Article 4, Cross-Connection Control)

Violation of any of the provisions of this Article shall, upon conviction, be punished in accordance with the provisions of Section 1-4-20 of this Code. In addition, such person shall pay all costs and expenses of the matter, including attorney's fees. If any violation of any section of this Article occurs or continues for more than one day, each day such violation occurs or continues shall constitute a separate offense.

(35) Sec. 16-10-620. Enforcement. (Chapter 16, Zoning; Article 10, Sign Code; Division 7, Nonconformities and Enforcement)

- (a) *Enforcement authority.* This Article shall be enforced by the Chief Administrative Official or the Code Enforcement Officer.
- (b) *Immediate removal of signs.* Signs that are unlawfully located within the public right-of-way may be summarily removed by the Town and disposed of without notice.
- (c) *Penalty for noncompliance.* Every person convicted of a violation of any provision of this Article shall be punished by fine not exceeding \$2,650.00 per day the violation continues. The Municipal Court may further order the defendant to remove a prohibited or unlawful sign within 20 days and, if the defendant fails to do so, that the Town may remove such sign and charge the property owner for the cost of removal plus a five-percent fee for administration, inspection and other incidentals.
- (d) *Serving of notice.*
 - (1) Notices of violation of this Article shall be either:
 - a. Sent by first-class mail, postage prepaid, to the address of the record owner of the real estate and/or person in possession and control of the property upon which the violation is alleged; or
 - b. Personally served upon such person.
 - (2) The notice of violation shall identify the sign or activity that is in violation of this Article and cite the section number that is allegedly violated. The notice of violation shall provide a period of not less than 14 days to cure the violation.
 - (3) Failure to comply with the terms of the notice of violation may result in a summons to appear in Municipal Court.

- (e) *Lien for collection of fines, penalties and costs.* In order to collect fines, penalties and costs that are assessed by the Municipal Court, the Town may file a lien against the property upon which the prohibited or unlawful sign is located, such lien to have priority over all liens except general taxes and prior special assessments. The lien shall be placed upon the tax rolls for the current year, to be collected in the same manner as other taxes are collected. The Town may file such lien at any time not less than 30 days after judgment is entered by the Municipal Court.
- (f) *Alternative procedure.* The Board of Trustees finds that the signs and sign elements that are prohibited by Section 16-10-120 of this Article are a public nuisance. As such, in the alternative to the procedure set out in this Section, the Town may enforce this Article with respect to prohibited signs and prohibited sign elements in accordance with Chapter 7 of this Code.

(36) Sec. 16-11-30. Penalty. (Chapter 16, Zoning; Article 11, Flood Damage Prevention)

Any person who violates this Article, upon conviction thereof, shall be punishable by a fine of up to \$2,650.00. Each occurrence of a violation shall be deemed a separate offense.

(37) Sec. 16-18-110. Site distance; clear vision. (Chapter 16, Zoning; Article 18, Supplementary Regulations)

- (a) *Purpose.* The purpose of the sight distance regulation is to provide for the preservation and promotion of the public health, welfare and safety of the inhabitants of the Town by establishing minimum standards for the unobstructed cross-visibility at intersections of two public rights-of-way.
- (b) *Definitions.*

* * * *

Sight distance obstruction means any object that interferes with the ability of a motor vehicle operator or pedestrian to adequately view traffic or control devices for the purpose of safe and proper use of public rights-of-way; such objects shall include, but not be limited to, walls, fences, hedges, shrubs, trees, signs, benches, vehicles and other such objects extending more than three feet above the flowline. A sight distance obstruction is hereby declared by the Board of Trustees to be a safety hazard and is a violation of this Code. Such violation may be punished or abated as provided in Chapter 7 of this Code.

* * * *

(38) Sec. 17-1-100. Penalty. (Chapter 17, Subdivisions; Article 1, General Administrative Provisions)

Any person who violates any of the provisions hereof shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(39) Sec. 17-9-90. Enforcement. (Chapter 17, Subdivisions; Article 9., Mobile Home Parks)

- (a) *Revocation of license.* The officer as designated by the Town may revoke any license to maintain and operate a park when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this Article. After such conviction, the license shall be reissued if the circumstances leading to conviction have been remedied and the park is being maintained and operated in full compliance with the law.

* * * *

- (d) *Penalty.* Any person violating this Article shall be fined in accordance with the provisions of Section 1-4-20 of this Code.

(40) Sec. 18-1-40. Violations. (Chapter 18, Building Regulations; Article 1, Building Code)

It is unlawful and constitutes a public nuisance for any person to maintain any property, building or other structure in the Town in a condition which is in violation of the provisions of this Chapter. Any person convicted of violating the provisions of this Chapter shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(41) Sec. 18-11-40. Penalties. (Chapter 18, Building Regulations; Article 11, Dangerous Building Code)

Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor and each such person, upon conviction, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(42) Sec. 18-14-100. Violations; penalties. (Chapter 18, Building Regulations; Article 14, Building Moving)

- (a) It is unlawful for any person to violate any of the provisions of this Article.

- (b) Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and each such person, upon conviction, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

Section 5. Additions or amendments to the Code, when passed in the form as to indicate the intention of the Town to make the same a part of the Code, shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after this Ordinance that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to those provisions of the Code.

Section 7. This Ordinance shall become effective thirty (30) days after publication thereof.

INTRODUCED this 8th day of August, 2016.

TOWN OF PIERCE , COLORADO

ATTEST:

/s/ _____
M. Sue Spurgeon-Paris, Mayor

/s/ _____
Pat Larson, Town Clerk

(SEAL)

ADOPTED AND ORDERED PUBLISHED on this 29th day of August, 2016.

TOWN OF PIERCE, COLORADO

ATTEST:

/s/ _____
M. Sue Spurgeon-Paris, Mayor

/s/ _____
Pat Larson, Town Clerk

(SEAL)

APPROVED AS TO FORM:

/s/ _____
Don Hoff, Town Attorney

PIERCE MUNICIPAL CODE

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ARTICLE 1 CODE**Sec. 1-1-10. Adoption of Code.**

Pursuant to the provisions of Article 16 of Title 31, C.R.S., there is hereby adopted the *Pierce Municipal Code*, promulgated by the Town of Pierce, Colorado, as a compilation of all of the ordinances of the Town of Pierce of a general and permanent nature through Ordinance No. 2016-4, for the purpose of providing an up-to-date code of ordinances, properly organized and indexed, in published form for the use of the citizens and officers of the Town. The published code known as the *Pierce Municipal Code*, published by Municipal Code Corporation, of which one copy is now on file in the office of the Town Clerk and may be inspected during regular business hours, is enacted and adopted by reference as a primary code and incorporated herein as if set out at length. (Prior Code, § 1-1; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-1-20. Title and scope.

This Code shall be known as the *Pierce Municipal Code*, and it shall be sufficient to refer to this Code as the *Pierce Municipal Code* in any prosecution for the violation of any provision thereof or any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction of or repeal of the *Pierce Municipal Code*. Further reference may be had to the articles, sections and subsections of the *Pierce Municipal Code*, and such references shall apply to the numbered article, and section or subsection as it appears in the Code. (Prior Code, § 1-1; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-1-30. Code supersedes prior ordinances.

This Code shall supersede all other municipal codes consisting of compilations of general and permanent ordinances and parts of ordinances passed by the Board of Trustees. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-1-40. Adoption of secondary codes by reference.

Secondary codes may be adopted by reference, as provided by state law. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-1-50. Repeal of ordinances not contained in Code.

All existing ordinances and portions of ordinances of a general and permanent nature which are inconsistent with any ordinance included in the adoption of this Code are hereby repealed to the extent of any inconsistency therein as of the effective date of the ordinance adopting this Code, except as hereinafter provided. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-1-60. Matters not affected by repeal.

The repeal of ordinances and parts of ordinances of a permanent and general nature by Section 1-1-50 of this Code shall not affect any offense committed or act done, any penalty or forfeiture incurred or any contract, right or obligation established prior to the time said ordinances and parts of ordinances are repealed. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-1-70. Ordinances saved from repeal.

The continuance in effect of temporary and/or special ordinances and parts of ordinances, although omitted from this Code, shall not be affected by such omission therefrom, and the adoption of this Code shall not repeal or amend any

such ordinance or part of any such ordinance. Among the ordinances not repealed or amended by the adoption of this Code are ordinances:

- (1) Creating, opening, dedicating, naming, re-naming, vacating or closing specific streets, alleys and other public ways.
- (2) Establishing the grades or lines of specific streets, sidewalks and other public ways.
- (3) Creating specific sewer and paving districts and other local improvement districts.
- (4) Authorizing the issuance of general obligation or specific local improvement district bonds.
- (5) Making special assessments for local improvement districts and authorizing refunds from specific local improvement district bond proceeds.
- (6) Annexing territory to or excluding territory from the Town.
- (7) Dedicating or accepting any specific plat or subdivision.
- (8) Calling or providing for a specific election.
- (9) Authorizing specific contracts for purchase of beneficial use of water by the Town.
- (10) Approving or authorizing specific contracts with the State, with other governmental bodies or with others.
- (11) Authorizing a specific lease, sale or purchase of property.
- (12) Granting rights-of-way or other rights and privileges to specific railroad companies or other public carriers.

- (13) Granting a specific gas company or other public utility the right or privilege of constructing lines in the streets and alleys or of otherwise using the streets and alleys.
 - (14) Granting a franchise to a specific public utility company or establishing rights for or otherwise regulating a specific public utility company.
 - (15) Appropriating money.
 - (16) Levying a temporary tax or fixing a temporary tax rate.
 - (17) Relating to salaries.
 - (18) Amending the Official Zoning Map.
- (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-1-80. Changes in previously adopted ordinances.

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

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 2 DEFINITIONS AND USAGE

Sec. 1-2-10. Definitions.

The following words and phrases, whenever used in the ordinances of the Town of Pierce and/or any codification of the same, shall be construed as defined in this Section, unless a different meaning is intended from the context or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

Administrative Authority means the Town Administrator, the Town Administrator's designee or

such other administrative official appointed to perform inspections, removal or other duties and to promote the enforcement of this Chapter.

Board of Trustees means the Board of Trustees of the Town of Pierce.

Code means the Pierce Municipal Code as published and subsequently amended, unless the context requires otherwise.

County means the County of Weld, Colorado.

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

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

May is permissive.

Misdemeanor means and is to be construed as meaning violation and is not intended to mean crime or criminal conduct.

Month means a calendar month.

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

Ordinance means a law of the Town; provided that a temporary or special law, administrative action, order or directive may be in the form of a resolution.

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

Person means a natural person, joint venture, joint stock company, partnership, association, club, company, firm, corporation, business, trust or organization, or the manager, lessee, agent, servant, officer or employee of any of them.

Personal property includes money, goods, chattels, things in action and evidences of debt.

Preceding and *following* mean next before and next after, respectively.

Property includes real and personal property.

Real property includes lands, tenements and hereditaments.

Shall and *must* are both mandatory.

Sidewalk means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

State means the State of Colorado.

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

Tenant and *occupant*, applied to a building or land, includes any person who occupies all or a part of such building or land, whether alone or with others.

Town means the Town of Pierce, Colorado, or the area within the territorial limits of the Town of Pierce, Colorado, and such territory outside of the Town over which the Town has jurisdiction or control by virtue of any constitutional or statutory provision.

Written includes printed, typewritten, photocopied, mimeographed, multi-graphed or otherwise reproduced in permanent visible form.

Year means a calendar year.
(Ord. No. 2016-4, § 1, 8-29-2016)

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

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

(Ord. No. 2016-4, § 1, 8-29-2016)

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

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

(Ord. No. 2016-4, § 1, 8-29-2016)

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

All words and phrases shall be construed and understood according to the common and approved usage of the language; however, technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such peculiar and appropriate meaning.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-2-50. Grammatical interpretation.

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

- (1) Any gender includes the other genders.
- (2) The singular number includes the plural and the plural includes the singular.
- (3) Words used in the present tense include the past and future tenses and vice versa, unless manifestly inapplicable.

- (4) Words and phrases not specifically defined shall be construed according to the context and approved usage of the language.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 3 GENERAL

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

(a) Article and section headings contained in this Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any article or section thereof.

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

(Prior Code, § 1-2; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-3-20. Authorized acts.

When this Code requires an act to be done which may as well be done by an agent, designee or representative as by the principal, such requirement shall be construed to include all such acts performed when done by an authorized agent, designee or representative.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-3-30. Prohibited acts.

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

(Ord. No. 2016-4, § 1, 8-29-2016)

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

The provisions of this Code, and all proceedings under them, are to be construed with a view to effect their objectives and to promote justice. (Ord. No. 2016-4, § 1, 8-29-2016)

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

The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby. (Ord. No. 2016-4, § 1, 8-29-2016)

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

All ordinances, as soon as possible after their passage, shall be recorded in a book kept for that purpose and authenticated by the signature of the Mayor and Town Clerk. All ordinances of a general or permanent nature, and those imposing any fine or forfeiture, shall be published in a newspaper published within the Town. Such ordinances shall not take effect until 30 days after such publication, except for ordinances calling for special elections or necessary for the immediate preservation of the public peace, health and safety and containing the reasons making the same necessary in a separate section. The excepted ordinances shall take effect upon their final passage and adoption and the approval and signature of the Mayor, if they are adopted by an affirmative vote of three-fourths of the members of the Board of Trustees. (Ord. No. 2016-4, § 1, 8-29-2016)

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

Ordinances and parts of ordinances of a general and permanent nature, passed or adopted after the adoption of this Code, may be passed or adopted either in the form of amendments to this Code or without specific reference to this Code. However, in either case, all such ordinances and parts of ordinances shall be deemed amendments to this Code, and all of the substantive, permanent and general parts of said ordinances and

changes made thereby shall be inserted into and made in this Code as provided in Section 1-3-80 below.

(Ord. No. 2016-4, § 1, 8-29-2016)

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

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

(b) It shall be the duty of the Town Clerk, or someone authorized and directed by the Town Clerk, to keep up to date the one certified copy of the book containing this Code required to be filed in the office of the Town Clerk for the use of the public.

(Ord. No. 2016-4, § 1, 8-29-2016)

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

The Mayor and Town Clerk shall carefully examine at least one copy of the Code adopted by this ordinance to see that it is a true and correct copy of this Code. Similarly, after each supplement has been prepared, printed and inserted in this Code, the Mayor and Town Clerk shall carefully examine at least one copy of this Code as supplemented. The copy of this Code as originally adopted or amended shall constitute the permanent and general ordinances of the Town and shall be so accepted by the courts of law, administrative tribunals and all others concerned.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-3-100. Copy of Code on file.

At least one copy of this Code so certified and sealed most recently shall be kept in the office of

the Town Clerk at all times, and such Code may be inspected by any interested person at any time during regular office hours, but may not be removed from the Town Clerk's office except upon proper order of a court of law.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-3-110. Sale of Code books.

Copies of this Code book may be purchased from the Town Clerk upon the payment of a fee to be set by resolution of the Board of Trustees.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-3-120. Constitutionality and severability.

(a) The provisions of this Code are declared to be severable, and if any section, provision, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The Board of Trustees hereby declares that it would have passed this Code and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional; and if, for any reason, this Code is declared invalid or unconstitutional, then the original ordinance shall be in full force and effect.

(b) It is further declared that, if any provision or part of this Code, or the application thereof to any person or circumstances, is held invalid, the remainder of this Code and the application thereof to other persons shall not be affected thereby.

(Prior Code, § 1-3; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 4 GENERAL PENALTY

Sec. 1-4-10. Violations.

It is unlawful for any person to violate any of the provisions of this Code and any of the secondary codes adopted herein.

(Prior Code, § 8-1; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-4-20. General penalty for violation.

(a) Any person violating any of the provisions of this Code for which a different penalty is not specifically provided shall be deemed guilty of a misdemeanor and, upon conviction of any violation of the foregoing primary or secondary code, shall be punished by a fine of not more than \$2,650.00, to be adjusted by inflation from January 1, 2014, or imprisoned for not more than one year, and each subsequent year, or by both such fine and imprisonment for each offense, except as hereinafter provided in Section 1-4-30. In addition, such person shall pay all costs and expenses in the case, including attorney fees. When a violation of any section of this Code or any part of the adopted codes occurs and continues for more than one day, each day such violation occurs or continues shall constitute a separate offense.

(b) For the purposes of this Section, the term *inflation* means the annual percentage change in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Denver-Boulder, All Items, All Urban Consumers, or its successor Index.

(Prior Code, § 8-1; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-4-30. Application of penalties to juveniles.

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

\$2,650.00, or as adjusted in Section 1-4-20 above, or useful public service or such other penalty, excluding imprisonment as may be appropriate. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge. Notwithstanding this Section, the application of imprisonment penalties which may otherwise be applicable to such offenses and as are allowed by state law may be imposed in the discretion of the Municipal Judge.

(Prior Code, § 8-1; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-4-40. Altering or tampering with Code; penalty.

Any person who alters, changes or amends this Code, except in the manner prescribed in this Chapter, or who alters or tampers with this Code in any manner so as to cause the ordinances of the Town to be misrepresented thereby, shall, upon conviction thereof, be punished as provided by Section 1-4-20 above.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-4-50. Penalty for violation of ordinances adopted after adoption of Code.

Any person who violates any provision of any ordinance of a permanent and general nature passed or adopted after adoption of this Code, either before or after it has been inserted in this Code by a supplement, shall, upon conviction thereof, be punished as provided by Section 1-4-20 above unless another penalty is specifically provided for the violation.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 1-4-60. Interpretation of unlawful acts.

Whenever in this Code any act or omission is made unlawful, it is also unlawful to cause, allow, permit, aid, abet or suffer such unlawful act or

omission. Concealing or in any manner aiding in the concealing of any unlawful act or omission is similarly unlawful.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 5 INSPECTIONS

Sec. 1-5-10. Entry.

Whenever necessary to make an inspection to enforce any provision of this Code or any ordinance, or whenever there is probable cause to believe that there exists a Code or ordinance violation in any building or upon any premises within the jurisdiction of the Town, any public inspector of the Town may, upon presentation of proper credentials and upon obtaining permission of the occupant or, if unoccupied, the owner, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him or her by ordinance. In the event the occupant, or, if unoccupied, the owner, refuses entry to such building or premises or the public inspector is unable to obtain permission of such occupant or owner to enter such building or premises, the public inspector is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(Ord. No. 2016-4, § 1, 8-29-2016)

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

Law enforcement officers certified with the State, members of the Fire Department, other fire departments operating under a mutual assistance agreement or automatic aid agreement with the Town, certified emergency medical technicians and paramedics during the course of employment with a governmental agency are hereby granted the authority to enter private residences within the Town without invitation from the occupant of the residence at any time such persons have reasonable grounds to believe a medical emergency is in

progress within the subject premises and the occupant of such premises is incapable of consenting to the entry because of such medical emergency.
(Ord. No. 2016-4, § 1, 8-29-2016)

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

Unauthorized entry pursuant to Section 1-5-20 above shall be permissible only after the individuals seeking entry have announced both their purpose and authority in a loud and conspicuous voice and have waited a reasonable period of time for the occupant to respond before making entry.
(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 6 SEAL

Sec. 1-6-10. Corporate seal.

A seal, the impression of which shall contain in the center the word "Seal" and around the outer edge the words "Town of Pierce, Colorado," shall be and hereby is declared to be the Seal of the Town.
(Ord. No. 2016-4, § 1, 8-29-2016)

Chapter 2

Administration

Article 1 Elections

- Sec. 2-1-10. Conduct of elections.
- Sec. 2-1-20. Write-in candidate affidavit.
- Sec. 2-1-30. Cancellation of election.

Article 2 Mayor and Board of Trustees

- Sec. 2-2-10. Board of Trustees; terms, authority, qualifications and vacancies.
- Sec. 2-2-20. Mayor.
- Sec. 2-2-30. Mayor Pro Tem.
- Sec. 2-2-40. Acting Mayor.
- Sec. 2-2-50. Compensation.
- Sec. 2-2-60. Regular meetings.
- Sec. 2-2-70. Special meetings.
- Sec. 2-2-80. Conduct of meetings; voting.
- Sec. 2-2-90. Boards and commissions.

Article 3 Officers and Employees

- Sec. 2-3-10. Appointed officers.
- Sec. 2-3-20. Powers and duties of officers.
- Sec. 2-3-30. Oath of office; bond.
- Sec. 2-3-40. Removal of Town officers.
- Sec. 2-3-50. Social Security.

Article 4 Municipal Court

- Sec. 2-4-10. Created.
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- Sec. 2-4-60. Presiding Judge's powers.
- Sec. 2-4-70. Municipal Court Clerk.
- Sec. 2-4-80. Jurisdiction and powers of Court.
- Sec. 2-4-90. Sessions of Court.
- Sec. 2-4-100. Hours.
- Sec. 2-4-110. Rules of procedure.
- Sec. 2-4-120. Commencement of action.
- Sec. 2-4-130. Content of complaint or summons; warrant; subpoena.
- Sec. 2-4-140. Witnesses.
- Sec. 2-4-150. Delivery of summons or subpoena.
- Sec. 2-4-160. Defects and objections as to form of summons.
- Sec. 2-4-170. Bail.
- Sec. 2-4-180. Explanation of defendant's rights.

PIERCE MUNICIPAL CODE

- Sec. 2-4-190. Continuance.
- Sec. 2-4-200. Stay.
- Sec. 2-4-210. Sentence suspended.
- Sec. 2-4-220. Jury trials.
- Sec. 2-4-230. Surcharge; disposition.

Article 5 Police Department

- Sec. 2-5-10. Creation; composition.

Article 6 Planning Commission

- Sec. 2-6-10. Composition.
- Sec. 2-6-20. Terms.
- Sec. 2-6-30. Removal.
- Sec. 2-6-40. Alternate member.
- Sec. 2-6-50. Officers.
- Sec. 2-6-60. Meetings.
- Sec. 2-6-70. Purpose.

ARTICLE 1 ELECTIONS**Sec. 2-1-10. Conduct of elections.**

All elections shall be held and conducted in accordance with the Colorado Municipal Election Code of 1965. The Town may by ordinance determine to follow all or part of the provisions of the Uniform Election Code for any election.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-1-20. Write-in candidate affidavit.

No write-in vote for any municipal office shall be counted unless the person for whom the write-in vote has been cast has filed an affidavit of intent, indicating that such person desires the office and is qualified to assume the duties of the office if elected, and such affidavit has been filed with the Town Clerk prior to 20 days before the election.

(Ord. No. 2004-5, § 1, 3-8-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-1-30. Cancellation of election.

(a) In any municipal election in the Town where the only matter before the voters is the election of persons to office and if, at the close of business on the nineteenth day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent as set forth in Section 2-1-20 above, the Town Clerk shall certify such fact to the Board of Trustees and it shall hold a meeting and may cancel the election and by resolution declare the candidates elected.

(b) Notice of such cancellation shall be published, if possible, and notice of such cancellation shall be posted at each polling place and in not less than one other public place.

(Ord. No. 2004-5, § 2, 3-8-2004; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 2 MAYOR AND BOARD OF TRUSTEES**Sec. 2-2-10. Board of Trustees; terms, authority, qualifications and vacancies.**

(a) *Terms.* The Board of Trustees shall consist of six Trustees and the Mayor. Trustees shall be elected to serve staggered terms of four years.

(b) *Authority.* The Board of Trustees shall constitute the legislative body of the Town, shall have the power and authority, except as otherwise provided by statute, to exercise all power conferred upon or possessed by the Town, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof.

(c) *Qualifications.* Each Trustee shall be a resident of the Town and a registered elector therein. If any Trustee moves from or becomes, during the term of his or her office, a nonresident of the Town, he or she shall be deemed thereby to have vacated his or her office.

(d) *Vacancies.* In case of the death, resignation, vacation or removal for cause of any of the Trustees during their term of office, the Board of Trustees, by a majority vote of all remaining members thereof, may select and appoint, from among the duly qualified electors of the Town, a suitable person to fill the vacancy. The person so appointed shall hold office until the next regular election and until his or her 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 vacancies exist in the offices of Trustee and successors are to be elected at the next election to fill the unexpired terms, the three candidates for Trustee receiving the highest number of votes shall be elected to four-year terms, and the candidates

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

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-2-20. Mayor.

(a) The Mayor shall be elected to serve a term of four years. The Mayor shall meet the same qualifications as a Trustee and, in the event of a vacancy in the office of Mayor, such vacancy shall be filled in the same manner as a vacancy in the office of Trustee, as set forth in Section 2-2-10 above.

(b) The Mayor shall preside over all meetings of the Board of Trustees and shall perform such duties as may be required of him or her by statute or ordinance. Insofar as is required by statute and for all ceremonial purposes, the Mayor shall be the executive head of the Town.

(c) The Mayor shall execute and authenticate by his or her signature all bonds, warrants, contracts and instruments of and concerning the business of the Town, as the Trustees or any statutes or ordinances may require.

(d) Except as may be required by statute, the Mayor shall exercise only such powers as the Trustees specifically confer upon him or her.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-2-30. Mayor Pro Tem.

At its first meeting following each biennial election, the Board of Trustees shall choose one of the Trustees as Mayor Pro Tem. In the absence of the Mayor from any meeting of the Board of Trustees, during the absence of the Mayor from the Town or during the inability of the Mayor to act, the Mayor Pro Tem shall perform the duties of the Mayor.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-2-40. Acting Mayor.

In the event of the absence or disability of both the Mayor and the Mayor Pro Tem, the Trustees may designate another Trustee to serve as acting Mayor during such absence or disability.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-2-50. Compensation.

(a) Each member of the Board of Trustees shall be paid the sum of \$50.00 for each monthly Board meeting actually attended by such Board Member.

(b) The Mayor shall be paid \$125.00 for each monthly Board meeting actually attended by the Mayor.

(c) In the event that the Mayor Pro Tem presides at any regular meeting of the Board of Trustees, his or her compensation shall be the same as the compensation for a member of the Board of Trustees.

(d) The compensation paid to any member of the Board of Trustees, including the Mayor, shall not be increased or diminished for the term of office for which he or she has been elected or appointed. The Mayor or any Trustee who has resigned or vacated an office prior to the end of his or her elective or appointed term shall not be eligible to election or reappointment to the same during such term if the rate of compensation has been increased.

(Ord. No. 3-1993, §§ 2, 3, 5, 12-13-1993; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-2-60. Regular meetings.

The regular meetings of the Board of Trustees shall be held on the second Monday of each month at the Town Hall at 7:30 p.m., or such other time as the Board of Trustees may determine by resolution. Regular monthly meetings shall be held on the second Monday, whether or not such date

coincides with a legal holiday, unless such meeting is changed, either by resolution or other action of the Board of Trustees.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-2-70. Special meetings.

(a) Any four members of the Board of Trustees may call special meetings by written notice to each member of the Board of Trustees, personally served or left at the member's usual place of residence by the Town Clerk, at least 48 hours in advance of the meeting.

(b) The Board of Trustees at any duly convened meeting may, by majority vote, call a special meeting for a future date. Notice of such meeting shall be given to any member of the Board of Trustees not in attendance.

(c) Should the Board of Trustees convene for a special meeting pursuant to a request of an interested party for the purpose of accommodating time constraints of said interested party, the Board of Trustees may, in its discretion, assess fees for the special meeting against the interested party. The Board of Trustees may from time to time by resolution adopt a schedule of fees which may be assessed for special meetings. Said fees shall reasonably compensate the staff of the Town and the Town Attorney for time spent in preparation for attendance at special meetings.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-2-80. Conduct of meetings; voting.

(a) Meetings of the Board of Trustees shall be conducted by the Mayor according procedures adopted by the Town. In appropriate circumstances, the Town may rely on *Robert's Rules of Order, Revised*, to guide the proceedings.

(b) A majority shall constitute a quorum to do business at all meetings of the Board of Trustees, and each member, including the Mayor, shall vote upon every question put by the Chair unless al-

lowed by the Board of Trustees to abstain. The Mayor shall preside at all meetings of the Board of Trustees and shall have the same voting powers as any member of the Board of Trustees. Upon the taking of any vote, the Town Clerk shall record in the minutes the names of those voting and their votes.

(c) At the hour appointed for meeting, the members shall be called to order by the Mayor or, in his or her absence, by the Mayor Pro Tem, and the Town Clerk shall proceed to call the roll, note the absentees and announce whether a quorum is present. If a quorum is present, the Board of Trustees shall proceed with the business before it, in the manner and order as established by the Board of Trustees.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-2-90. Boards and commissions.

The Board of Trustees shall create and appoint members to such boards and commissions as may now or hereafter exist, including but not limited to the following:

(1) Board of Adjustment; and

(2) Planning Commission.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 3 OFFICERS AND EMPLOYEES

Sec. 2-3-10. Appointed officers.

(a) The following officers of the Town shall be appointed by a majority vote of all the members of the Board of Trustees, at the discretion of the Board of Trustees:

(1) Town Administrator;

(2) Town Attorney;

(3) Town Clerk; and

(4) Municipal Judge.

(b) Said officers shall hold their respective offices until their successors are duly appointed and qualified. Vacancies shall be filled by appointment of the Board of Trustees.

(Ord. No. 2016-4, § 1, 8-29-2016)

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

Appointed officers of the Town shall have such powers and perform such duties as are now or hereafter may be prescribed by state law and the ordinances of the Town, shall further perform any additional duties required by the Board of Trustees, and shall be subject to the control and orders of the Board of Trustees.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-3-30. Oath of office; bond.

(a) When required by the Board of Trustees, each officer or employee, before entering upon the duties of his or her office, shall take and subscribe to an oath to support the Constitutions and laws of the United States and the State and the ordinances of the Town.

(b) In all cases where, by law, ordinance or resolution of the Board of Trustees, a bond is required of any such officer, he or she shall make and execute to the Town a bond in such sum as is required, to be approved by the Board of Trustees, conditioned upon the faithful performance of all duties pertaining to such office, the proper care of all money or property of the Town coming into his or her hands and the proper accounting for or delivery of the same.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-3-40. Removal of Town officers.

(a) *Cause for removal.* By a majority vote of all members of the Board of Trustees, the Mayor, Town Clerk, Town Treasurer, any member of the Board of Trustees or any other officer of the Town may be removed from office. No such removal shall be made without a charge in writing and an

opportunity of hearing being given unless the officer against whom the charge is made has moved out of the limits of the Town. When any elected officer ceases to reside within the limits of the Town, he or she may be removed from office pursuant to this Section. Appointed officers or employees of the Town need not reside within the limits of the Town. A Municipal Judge may be removed during his or her term of office only for cause, as set forth in Section 13-10-105(2), C.R.S.

(b) *Specification of charges.* All charges preferred against any such officer of the Town, for any cause or causes specified in the foregoing subsection for the removal of such officer, shall be made in writing to the Board of Trustees and shall clearly specify any such cause or causes of removal.

(c) *Service of charges and notice of hearing.* A copy of such charges and specifications, together with a notice of the time and place of hearing, shall be served upon the accused at least 15 days before the day of hearing.

(d) *Hearing.* At the time and place so set, the Board of Trustees shall meet and proceed according to its rules to hear the evidence against the accused officer, as well as the evidence offered in his or her behalf, adjourning from time to time as may be necessary, until all the evidence has been given.

(e) *Decision.* Within three days after the evidence has been given, the Board of Trustees shall vote by yeas and nays upon each charge and specification separately. The question upon each charge shall be "Is the accused guilty?" If the Board of Trustees, by a lawful number, finds the accused officer guilty of any specified charge aforesaid, it shall resolve that the accused be removed from office and his or her office declared vacant.

(f) *Appearance by counsel.* Upon the trial as aforesaid, the accused shall be heard by himself or herself or by counsel in his or her defense, and the

Town may also be represented by counsel in the prosecution of such charges. The Chief of Police, the Mayor or the Town Clerk may serve any paper required to be served by any provisions of this Article.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-3-50. Social Security.

In the opinion of the Board of Trustees, the extension of the social security system to employees and officers of the Town will be of great benefit not only to the employees and officers by providing that said employees and officers may participate in the provision of the old-age and survivors insurance system, but also to the Town by the efficiency of its government.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 4 MUNICIPAL COURT

Sec. 2-4-10. Created.

A Municipal Court in and for the Town is hereby created and established. The Municipal Court shall be a qualified Municipal Court of record as described in Section 13-10-102, C.R.S. A verbatim record of the proceedings and evidence at trials shall be kept by an electronic device. Appeals shall be conducted in accordance with state law as provided in the state statutes and the Municipal Court Rules of Procedure for qualified Municipal Courts of record. The Municipal Court shall have all of the powers and duties set forth in Article 13 of Title 10, C.R.S., and the Municipal Court Rules of Procedure.

(Ord. No. 2-75, § 2, 2-3-1975; Ord. No. 1-97, § 1, 3-10-1997; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-20. Appropriations.

The Board of Trustees shall annually appropriate an amount sufficient to pay the salary of the

Town Attorney's office, the clerical help, office help, office expense and expense of supplies necessary to carry out the provisions of this Article.

(Ord. No. 2-75, § 3, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-30. Appointment of Municipal Judge.

The Municipal Court shall be presided over by a presiding Municipal Judge, appointed by the Board of Trustees for a term of two years or for a term of office which expires on the date of the next election of the Board of Trustees. Any vacancy in the office of Municipal Judge shall be filled by appointment of the Board of Trustees for the remainder of the unexpired term. The Municipal Judge shall perform no other duties during the hours the Municipal Court is in session except such as may be approved by the Board of Trustees by motion or resolution. The Board of Trustees may appoint additional judges from time to time as may be needed to preside in the absence of the presiding judge. The Municipal Judge may be removed by the Board of Trustees for cause.

(Ord. No. 2-75, § 4, 2-3-1975; Ord. No. 1-97, § 1, 3-10-1997; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-40. Salary.

Annual compensation of the Municipal Judge shall be set by the Board of Trustees and paid as may be agreed between the Municipal Judge and the Board of Trustees.

(Ord. No. 2-75, § 7, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-50. Oath and bond.

Before entering upon the duties of his or her office, the Municipal Judge shall take and subscribe, before a judge of a court of record, and file with the Board of Trustees an oath or affirmation that he or she will support the Constitution of the

United States, the Constitution and laws of the State and the ordinances of the Town and will faithfully perform the duties of his or her office. (Ord. No. 2-75, § 6, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-60. Presiding Judge's powers.

The presiding Municipal Judge has all judicial powers relating to the operation of his or her Court, subject to any rules of procedure governing the operation and conduct of municipal courts promulgated by the Colorado Supreme Court. The presiding Municipal Judge has authority to issue local rules of procedure for the Town consistent with any rules of procedure adopted by the Colorado Supreme Court. (Ord. No. 2-75, § 8, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-70. Municipal Court Clerk.

The Board of Trustees may appoint a person to serve as the Municipal Court Clerk, whose duties shall be as assigned by the Board of Trustees. (Ord. No. 2-75, § 9, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

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

The Municipal Court shall have original jurisdiction of all cases arising under the ordinances of the Town, with full power to carry the same into effect and to punish violations thereof by the imposition of such fines and penalties as provided in Section 1-4-20 of this Code. The Municipal Court shall have further power to issue orders, injunctions, restraining orders and judgments as may be necessary to conduct the business of the Municipal Court. The Municipal Court shall have power to compel attendance of witnesses and to punish for contempt of such Court by a fine not to exceed the amount set forth in Section 1-4-20, or

by jail sentence not to exceed five days, and shall have all powers incident to a court of record in relation to the same.

(Ord. No. 2-75, § 11, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-90. Sessions of Court.

There shall be regular sessions of court for the trial of cases, and the Municipal Judge shall hear and determine complaints for the violation of any Town ordinances where there is probable cause to believe that an offense has been committed; provided, however, that it shall be lawful for the Municipal Judge to hold a special session of court at any time, including Sundays, holidays and night court, if, in the discretion of the Municipal Judge, a special session is advisable.

(Ord. No. 2-75, § 13, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-100. Hours.

The Municipal Court shall be open during such hours as are set by the Municipal Judge with the consent and approval of the Board of Trustees, including such night sessions as the Board of Trustees shall approve. In case of any conflict between the Municipal Judge and the Board of Trustees as to said hours, the decision of the Board of Trustees shall govern. The Municipal Court shall be closed on Sundays and holidays except for special sessions.

(Ord. No. 2-75, § 14, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-110. Rules of procedure.

Any rules of procedure contained herein or promulgated by the Municipal Judge that conflict with the Rules of Procedure for Municipal Courts as promulgated by the Colorado Supreme Court shall be invalid and of no force and effect.

(Ord. No. 2-75, § 16, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-120. Commencement of action.

An action for the violation of this Code or any ordinance of the Town shall be brought in the name of the People of the State as plaintiff against the person who is alleged to have violated the ordinance as defendant, and shall be commenced by the filing of a complaint, by the issuance of a summons or citation or by the issuance of both summons and complaint. Each act or series of related acts committed by the same person, constituting a violation of any of the provisions of this Code, may be consolidated for the purpose of filing a complaint, issuing and serving summonses and subpoenas, trial and appeal, but the Municipal Judge shall impose a separate fine or penalty for each offense of which the defendant is convicted.

(Ord. No. 2-75, § 17, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-130. Content of complaint or summons; warrant; subpoena.

Every complaint or summons shall state the name of the defendant, the number of the chapter and section of this Code alleged to have been violated, the type of offense to which each of said sections relates, the date and place of each alleged violation, that the defendant is known or believed to have committed such offense and that the defendant is required to appear to answer the charge on a date and at a time and place designated in the complaint or summons. The complaint or summons, except as provided herein, shall be signed by the person alleging the violation, and the complaint shall be verified by the complainant unless he or she is a police officer.

(Ord. No. 2-75, § 18, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-140. Witnesses.

The defendant and the Town shall be entitled to compel the attendance of any witnesses, subject to

the jurisdiction of the Municipal Court. Upon a written request to the Municipal Court for the attendance of a witness subject to the jurisdiction of the Municipal Court, the Municipal Court shall cause to be served upon such witness a subpoena compelling his or her attendance at a given time in the Municipal Court for the purpose of giving testimony.

(Ord. No. 2-75, § 19, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-150. Delivery of summons or subpoena.

(a) Any summons or subpoena issued in accordance with this Article shall be served in any case by any police officer in the Town or in any particular case by a person specifically designated by the Municipal Court for that purpose.

(b) Any person who fails to appear in response to any summons or subpoena served on him or her shall be guilty of a violation of this Article and, upon conviction, shall be fined in accordance with the provisions of Section 1-4-20 of this Code.

(Ord. No. 2-75, § 20, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-160. Defects and objections as to form of summons.

No objection to the form of any summons or complaint shall be considered by the Municipal Court because of any defect unless such objection was made by the defendant prior to trial of the case on its merits, but trial of the case on its merits shall not waive any objection theretofore made.

(Ord. No. 2-75, § 21, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-170. Bail.

A defendant shall be entitled to bail and bail may be forfeited as set forth in the Colorado Municipal Court Rules of Procedure.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-180. Explanation of defendant's rights.

At the beginning of each Municipal Court session, the Municipal Judge shall explain to the defendants their rights in Municipal Court, as well as the order of trial; provided, however, that this may be done by a pamphlet distributed to each defendant.

(Ord. No. 2-75, § 27, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-190. Continuance.

A person who is duly summoned, who cannot be tried on account of the absence of witnesses or for any other good and sufficient cause, may request in open Court a continuance of his or her case. The Municipal Judge may continue the matter upon terms set by him or her. Additional continuances may be granted upon application of the defendant or his or her attorney. Where a person on appearance is on bond and a continuance is requested, the Municipal Judge shall have the power to continue the bond for a period of the continuance. Nothing herein shall affect the right of the Town Attorney to request a continuance.

(Ord. No. 2-75, § 28, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-200. Stay.

In the discretion of the Municipal Judge, a stay of execution may be granted to enable the defendant to pay the fine or penalty at a later date or in installments. In case the defendant has not met the terms of the stay of execution, the Municipal Court may issue a warrant for the arrest of such defendant or impose such other penalties, fines and fees as the Municipal Court deems just.

(Ord. No. 2-75, § 31, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-210. Sentence suspended.

The Municipal Judge is hereby authorized to suspend the payment of any fine, or any part

thereof, assessed for a violation of this Code or any ordinance, and he or she may suspend all or any part of any jail sentence imposed for such a violation. He or she may impose reasonable conditions upon such suspension and revoke such suspension and reinstate the sentence for a violation of such conditions.

(Ord. No. 2-75, § 33, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-220. Jury trials.

(a) In the event of a proper request for a jury trial, a jury trial shall be held as provided in Article 10 of Title 13, C.R.S., and the Colorado Municipal Court Rules of Procedure.

(b) Jurors shall be paid the sum of \$6.00 per day for actual jury service and \$3.00 for each day of service on the jury panel alone, or such other fees as the Board of Trustees may determine by resolution or ordinance.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-4-230. Surcharge; disposition.

(a) The Municipal Judge is authorized to assess costs against any defendant who is convicted of a violation of this Code in the Municipal Court in an amount not to exceed \$35.00 after trial to the Municipal Court and in an amount not to exceed \$100.00 after trial to a jury.

(b) A surcharge in the amount of \$20.00 shall be assessed against each defendant convicted of a violation of this Code in the Municipal Court. The surcharge shall be used to defray the costs of code enforcement service.

(Ord. No. 2004-2, §§ 1, 2, 1-12-2004; Ord. No. 2007-5, §§ 1, 2, 4-9-2007; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 5 POLICE DEPARTMENT

Sec. 2-5-10. Creation; composition.

There is hereby created a Police Department for the Town. The Police Department may consist of

such officers as the Board of Trustees may determine are necessary, or the Board of Trustees may contract with other governmental entities for police protection. The Police Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the Board of Trustees. (Ord. No. 1-75, §§ 1, 2, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 6 PLANNING COMMISSION

Sec. 2-6-10. Composition.

The Planning Commission shall consist of five members, such members being the Mayor and one other member of the Board of Trustees as ex officio members, and three persons appointed by the Mayor.

(Ord. No. 2-2001, § 1, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-6-20. Terms.

Planning Commission members appointed by the Mayor shall serve a term of four years. The ex officio members shall be full voting members, and such members' terms shall correspond to their respective terms on the Board of Trustees.

(Ord. No. 2-2001, § 1, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-6-30. Removal.

A members, including an ex officio member, may be removed by the Board of Trustees if the member:

- (1) Misses two consecutive meetings or misses three regular monthly meetings in a calendar year;
- (2) Neglects his or her duty or commits malfeasance in office; or

- (3) Has been given written notice of the reasons for the proposed removal in writing at least seven days prior to removal and is given an opportunity to respond to the Board of Trustees regarding the reasons set forth in the notice.

(Ord. No. 2-2001, § 1, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-6-40. Alternate member.

The Board of Trustees may appoint an alternate member of the Planning Commission. The alternate member shall be counted as a member for purposes of establishing a quorum. Three members of the Planning Commission shall constitute a quorum. Such alternate member is encouraged to attend all meetings of the Planning Commission, but shall only participate in the proceedings of the Planning Commission if a regular member is absent from the meeting. If a regular member is absent at the beginning of the meeting and later arrives, the alternate member shall not participate further in the proceedings.

(Ord. No. 2-2001, § 1, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-6-50. Officers.

The Planning Commission shall select a Chair and Vice Chair from the non-ex officio members, except that the alternate member shall not serve as an officer of the Planning Commission. In the absence of both the Chair and Vice Chair, any member of the Planning Commission may conduct the meeting.

(Ord. No. 2-2001, § 1, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-6-60. Meetings.

The Planning Commission may conduct at least one regular meeting each month, and such other meetings as may be required to conduct the business of the Planning Commission. The Planning Com-

mission is not required to meet when there is no business before the Planning Commission to transact. A member of the administrative staff of the Town shall attend each meeting and shall keep a record of the Planning Commission's resolutions, transactions, findings and determinations. If no administrative staff is available, a member of the Planning Commission shall keep the record. The records of the Planning Commission are public records.

(Ord. No. 2-2001, § 1, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 2-6-70. Purpose.

The Planning Commission is created for the following purposes:

- (1) To prepare and maintain, subject to periodic revision as necessary, a Master Plan as described by state statutes.
- (2) To implement the provisions of Chapters 16 and 17 of this Code, and to perform all functions and powers referred to in said chapters where reference is made.
- (3) To study and recommend to the Board of Trustees amendments to the Zoning Map of the Town.
- (4) To study and recommend appropriate zoning classifications for all annexations to the Town.
- (5) To exchange information with the various governmental agencies charged with planning and zoning responsibilities and with the Board of Adjustment.

- (6) To have all other duties and powers incidental to the above and any and all powers and duties set out by state statute, except that nothing herein shall permit the Planning Commission to make amendments or changes in the zoning of the Town, such powers expressly being reserved by the Board of Trustees.

(Ord. No. 2016-4, § 1, 8-29-2016)

Chapter 4

Revenue and Finance

Article 1 Fiscal Year

Sec. 4-1-10. Fiscal year established.

Article 2 General and Special Funds

Sec. 4-2-10. Custody and management of funds.
Sec. 4-2-20. General Fund created.
Sec. 4-2-30. Capital Improvement Fund created.
Sec. 4-2-40. Conservation Trust Fund created.

Article 3 Sales and Use Tax

Sec. 4-3-10. Purpose.
Sec. 4-3-20. Definitions.
Sec. 4-3-30. Licenses.
Sec. 4-3-40. Property and services taxed.
Sec. 4-3-50. Exemptions.
Sec. 4-3-60. Amount of tax and schedule.
Sec. 4-3-70. General provisions.
Sec. 4-3-80. Collection, administration and enforcement.
Sec. 4-3-90. Imposition and purpose of use tax.
Sec. 4-3-100. Application.
Sec. 4-3-110. Motor and other vehicle use tax.
Sec. 4-3-120. Use tax; alternative dispute resolution procedures; deficiency notice or claim for refund.
Sec. 4-3-130. Sales tax; credit for sales or use tax previously paid.
Sec. 4-3-140. Amendments.

Article 4 Business and Occupation Tax on Telephone Utility Companies

Sec. 4-4-10. Definitions.
Sec. 4-4-20. Levy of tax.
Sec. 4-4-30. Effective date.
Sec. 4-4-40. Filing statement.
Sec. 4-4-50. Failure to pay.
Sec. 4-4-60. Penalty.
Sec. 4-4-70. Inspection of records.
Sec. 4-4-80. Local purpose.
Sec. 4-4-90. Tax in lieu of other taxes.

Article 5 Fee Schedule

Sec. 4-5-10. Fee Schedule established.

ARTICLE 1 FISCAL YEAR

Sec. 4-1-10. Fiscal year established.

The fiscal year of the Town shall commence on January 1 of each year and end on December 31 of the same year.

(Ord. No. 1-69, § 1, 10-6-1969; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 2 GENERAL AND SPECIAL FUNDS

Sec. 4-2-10. Custody and management of funds.

Moneys in the funds created in this Code shall be in the custody of and managed by the Town Treasurer. The Town Treasurer shall maintain accounting records and account for all of said moneys as provided by law. Moneys in the funds of the Town shall be invested or deposited by the Town Treasurer in accordance with the provisions of law. All income from the assets of any fund shall become a part of the fund from which derived and shall be used for the purpose for which such fund was created; provided that, except as otherwise provided in this Code or by other ordinances or laws, the Board of Trustees may transfer out of any fund any amount at any time to be used for such purpose as the Board of Trustees may direct. (Ord. No. 2016-4, § 1, 8-29-2016)

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

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

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

the General Fund Fixed Assets) not specifically belonging to any existing special fund of the Town.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-2-30. Capital Improvement Fund created.

There is hereby created a special fund, to be known as the Capital Improvement Fund, and the funds therein shall be used only for the purposes set forth in any ordinance authorizing the placement of funds into the Capital Improvement Fund. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-2-40. Conservation Trust Fund created.

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

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 3 SALES AND USE TAX

Sec. 4-3-10. Purpose.

The purpose of this Article is to impose a sales tax upon the sale at retail of tangible personal property in the Town pursuant to the authority granted to the Town by Article 2 of Title 29, C.R.S. This Article shall be so construed and interpreted as to effectuate the general purpose of making it uniform with the sales tax of the State levied by Article 26 of Title 39, C.R.S.

(Ord. No. 1-88, § 1, 2-8-1988; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-3-20. Definitions.

For the purpose of this Article, the definitions of words herein contained shall be as the words are defined in Section 39-26-102, C.R.S., and those definitions are incorporated herein by reference.

(Ord. No. 1-88, § 2, 2-8-1988; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-3-30. Licenses.

(a) It is unlawful for any person to engage in the business of selling tangible personal property at retail and to furnish certain services as herein specified without first having obtained a license therefor, which license shall be granted and issued by the Town Clerk and shall be in force and effect until December 31 of the year in which the license is issued, unless sooner revoked. Such license shall be granted or renewed only upon application stating the name and address of the person desiring the license, the name and location of the business and such other information as the Town Clerk may require.

(b) It shall be the duty of each licensee on or before January 1 of each year during which this Article remains in effect to obtain a renewal of the license if the licensee remains in a retail business or liable to account for the tax herein provided, but nothing herein contained shall be construed to empower the Town Clerk to refuse such renewal, except revocation for cause of the licensee's prior license.

(c) In case business is transacted at two or more separate places by one person, a separate license for each place of business shall be required.

(d) Each license shall be numbered and shall show the name, residence, place and character of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable.

(e) Any license may be revoked for cause as provided in Section 39-26-103, C.R.S., which provision is incorporated herein by this reference.

(f) No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this Article.

(g) Any person engaged in the business of selling tangible personal property at retail and the furnishing of certain services as herein specified without having first secured a license therefor as provided in this Article shall be guilty of a violation of this Article.

(Ord. No. 1-88, § 3, 2-8-1988; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-3-40. Property and services taxed.

(a) There is hereby levied and there shall be collected and paid a sales tax in the amount as provided in this Article upon the sale at retail of tangible personal property and the furnishing of certain services, as provided in Article 26 of Title 39, C.R.S., which provisions are incorporated herein by this reference.

(b) The amount subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.

(c) The gross receipts from 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., regardless of the place to which delivery is made.

(Ord. No. 1-88, § 4, 2-8-1988; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-3-50. Exemptions.

(a) There shall be exempt from taxation under the provisions of this Article all of the tangible personal property and services which are exempt from the provisions of Article 26 of Title 39, C.R.S., which exemptions are incorporated herein by reference, except the exemptions set forth in Section 39-26-707, C.R.S., the exemption for all sales of food, and Section 39-26-715, C.R.S., the sale and purchases of electricity, coal, wood, gas, fuel oil, but not for resale, to occupants of residences, whether owned, leased or rented by said occupants, for the purpose of operating residen-

tial fixtures and appliances which provide light, heat and power for such residences. For the purpose of this Subsection (a), the term *gas* includes natural, manufactured and liquefied petroleum gas.

(b) All sales of tangible personal property on which a specific ownership tax has been paid or is payable shall be exempt from sales tax when such sales meet both of the following conditions:

- (1) The purchaser is a nonresident of or has his or her principal place of business outside of the Town; and
- (2) Such tangible personal property is registered or required to be registered outside the limits of the Town under state law.

(c) The sales tax shall not apply to the sale of construction and building materials as the term is used in Section 29-2-109, C.R.S., if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the Town evidencing that a local use tax has been paid or is required to be paid.

(Ord. No. 1-88, § 5, 2-8-1988; Ord. No. 3-88, § 1, 3-14-1988; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-3-60. Amount of tax and schedule.

(a) There is hereby imposed a two-percent sales tax upon the sale at retail of tangible personal property and the furnishing of certain services as specified in Section 4-3-40 above and as provided in Article 26 of Title 39, C.R.S., and any amendment thereto enacted before or after the effective date of the ordinance codified herein, which provisions are incorporated herein by this reference.

(b) The imposition of the tax on the sale at retail of tangible personal property and the furnishing of certain services subject to this tax shall be in accordance with schedules set forth in the rules and regulations of the Colorado Depart-

ment of Revenue and in accordance with the regulations which may be enacted by separate resolution or ordinance of the Board of Trustees.

(Ord. No. 1-88, § 6, 2-8-1988; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-3-70. General provisions.

(a) For the purpose of this Article, 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 or her agent to a destination outside the limits of the Town or to a common carrier for delivery to a destination outside the limits of the Town.

(b) In the event a retailer has no permanent place of business in the Town or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of the sales tax imposed by this Article shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by rules and regulations promulgated by the Colorado Department of Revenue.

(Ord. No. 1-88, § 7, 2-8-1988; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-3-80. Collection, administration and enforcement.

(a) The collection, administration and enforcement of the sales tax imposed by this Article shall be performed by the Colorado Director of Revenue in the same manner as the collection, administration and enforcement of the state sales tax. Accordingly, the provisions of Articles 26 and 21 of Title 39, C.R.S., and Article 2 of Title 29, C.R.S., and all rules and regulations promulgated by the Director of the Colorado Department of Revenue pertaining to such collection, administration and enforcement are incorporated herein by this reference.

(b) At the time of making the monthly return of the tax, as required by this Article, every retailer shall be entitled to subtract from the tax so remitted a sum equal to three and one-third percent of said tax as his or her fee. The above fee shall be known as the "vendor's fee."

(c) If the retailer is delinquent in remitting tax, he or she shall forfeit the three and one-third percent provided in Subsection (b) above, unless good cause is shown for such delinquent remittance.

(Ord. No. 1-88, § 8, 2-8-1988; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-3-90. Imposition and purpose of use tax.

There is hereby imposed a use tax in the amount of two percent upon the motor vehicles and building and construction materials which are purchased outside the Town for use or consumption within the Town as authorized by Part 1 of Article 2 of Title 29, C.R.S.

(Ord. No. 1-88, § 9, 2-8-1988; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-3-100. Application.

This use tax shall not apply to the storage, use or consumption of:

- (1) Tangible personal property by the United States government, the State or its institutions or political subdivisions in their governmental capacities only, or by religious or charitable corporations in the conduct of their regular religious or charitable functions.
- (2) Any tangible personal property the sale of which is subject to a retail sales tax imposed by the Town.
- (3) Tangible personal property brought into the Town by a nonresident thereof for his or her own storage, use or consumption while temporarily within the Town; how-

ever, this exemption does not apply to the storage, use or consumption of tangible personal property brought into the State by a nonresident to be used in the conduct of business in the State.

- (4) 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 a business.
- (5) 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 the furnished shipping case thereof.
- (6) Any article of tangible personal property, the use or sale of which has already been subjected to a legally imposed sales or use tax of another statutory or home rule municipality equal to or in excess of two percent. A credit shall be granted against the Town's use tax with respect to a person's use or consumption in the Town of tangible personal property purchased by him or her in a previous statutory or home rule municipality. The amount of the credit shall be equal to the tax paid by him or her by reason of the imposition of the sales or use tax of the previous statutory or home rule municipality on his or her purchase or use of the property. The amount of the credit shall not exceed two percent.
- (7) Tangible property and household effects acquired outside of the Town and brought into it by a nonresident acquiring residency.

(Ord. No. 1-88, § 10, 2-8-1988; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-3-110. Motor and other vehicle use tax.

The two-percent use tax provided for herein shall be applicable to every motor vehicle for which registration is required by state law; no registration shall be made of any motor or other vehicle for which registration is required; and no certificate of title shall be issued for such vehicle by the Colorado Department of Revenue or its authorized agents until such tax due upon the use, storage or consumption thereof pursuant to this Article has been paid. The use tax imposed by this Article shall be collected by the authorized agent of the Department of Revenue in the County, and the proceeds of said use tax shall be paid to the Department of Revenue and remitted to the Town by the Department of Revenue in its usual course of business.

(Ord. No. 1-88, § 11, 2-8-1988; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-3-120. Use tax; alternative dispute resolution procedures; deficiency notice or claim for refund.

The taxpayer may elect a hearing on the Town's final decision for a deficiency notice or claim for refund within 15 days after mailing of such a final decision pursuant to the procedures set forth in Section 29-2-106.1, C.R.S.

(Ord. No. 1-88, § 12, 2-8-1988; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-3-130. Sales tax; credit for sales or use tax previously paid.

The sales and use tax herein imposed shall not apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales tax or use tax lawfully imposed on the purchaser or user by another statutory or home rule municipality equal to or in excess of two percent. The credit shall be granted against the Town sales tax with respect to such transaction equal in amount to the lawfully

imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule municipality. The amount of the credit shall not exceed two percent.

(Ord. No. 1-88, § 13, 2-8-1988; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-3-140. Amendments.

The Board of Trustees by a majority vote may amend, alter or change this Article except as to the two-percent rate of tax as herein imposed.

(Ord. No. 1-88, § 14, 2-8-1988; Ord. No. 2016-4, § 1, 8-29-2016)

**ARTICLE 4 BUSINESS AND OCCUPATION
TAX ON TELEPHONE UTILITY
COMPANIES****Sec. 4-4-10. Definitions.**

As used in this Article, the following words shall have the meanings indicated:

Line means a separate telephone number or telephone circuit identification number provided to a customer at retail, except that, to the extent a provider provides basic local exchange service through trunks, *line* means a network access register or its functional equivalent provided to a customer at retail.

Local exchange provider or new provider means any company or entity providing basic local exchange service through use of its own facilities through resale or through any combination thereof providing telephone exchange service at retail.

(Ord. No. 2004-9, § 2, 8-9-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-4-20. Levy of tax.

(a) There is hereby levied on and against each telephone utility company or basic local exchange service provider, together with any new provider, operating within the Town a tax on the occupation

and business of supplying local exchange telephone service to the inhabitants of the Town. The annual amount of tax levied shall be equal to \$3.00 for each telephone account for which local exchange telephone service is provided within the Town.

(b) The tax herein imposed shall be remitted to the Town on or before February 1 of each year. The tax herein imposed shall be calculated on an annual basis using the number of retail telephone accounts in service on December 31 of the immediately preceding year.

(Ord. No. 4-78, § 1, 12-12-1978; Ord. No. 2004-9, § 1, 8-9-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-4-30. Effective date.

The tax levied by this Article shall commence on January 1, 1979, and shall be due and payable in one installment, with the first installment due 30 days after the effective date.

(Ord. No. 4-78, § 2, 12-12-1978; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-4-40. Filing statement.

Within 30 days after the effective date as provided in Section 4-4-30 above, each telephone utility company subject to this Article shall file with the Town Clerk, in such form as the Town Clerk may require, a statement showing the total telephone accounts for which local exchange telephone service was provided within the corporate limits of the Town on the effective date. Such statement shall be filed within 30 days after each anniversary of the effective date showing such accounts on the anniversary date.

(Ord. No. 4-78, § 3, 12-12-1978; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-4-50. Failure to pay.

If any telephone utility company subject to the provisions of this Article fails to pay the taxes as herein provided, 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 and hereby is declared to be a debt due and owing from such company to the Town. The Town Attorney, upon direction of the Board of Trustees, shall commence and prosecute to final judgment and determination in any court of competent jurisdiction an action at law to collect said debt in the name of the people of the State.

(Ord. No. 4-78, § 4, 12-12-1978; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-4-60. Penalty.

If any officer, agent, manager or employee of a telephone utility company which is subject to the provisions of this Article fails, neglects or refuses to make or file the annual statement of accounts as provided herein, the officer, agent, manager or employee shall, on conviction thereof, be punished by a fine of not less than \$50.00 nor more than \$300.00, provided that each day after said statement becomes delinquent during which said officer, agent, manager or employee so fails, neglects or refuses to make and file such statement shall be considered a separate and distinct offense.

(Ord. No. 4-78, § 5, 12-12-1978; Ord. No. 2004-9, § 4, 8-9-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-4-70. Inspection of records.

The Town and its officers, agents or representatives shall have the right at all reasonable hours and times to examine the books and records of the telephone utility company which are subject to the provisions of this Article and to make copies of the entries or contents thereof.

(Ord. No. 4-78, § 6, 12-12-1978; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-4-80. Local purpose.

The tax herein provided is upon occupations and businesses in the performance of local func-

tions and is not a tax upon those functions relating to interstate commerce. It is expressly understood that none of the terms of this Article shall be construed to mean that any telephone utility company is issued a franchise by the Town.
(Ord. No. 4-78, § 7, 12-12-1978; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 4-4-90. Tax in lieu of other taxes.

The tax herein provided shall be in lieu of all other payments by or fees and taxes on any telephone utility subject to the provisions of this Article, other than ad valorem taxes, and in addition shall be in lieu of any free service furnished the Town by said telephone utility.
(Ord. No. 4-78, § 8, 12-12-1978; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 5 FEE SCHEDULE

Sec. 4-5-10. Fee Schedule established.

The Board of Trustees shall establish a centralized Fee Schedule, which shall contain all of the fees required by this Code. Such fees shall be updated annually by resolution and shall be collectible and enforceable in all respects as though set forth herein verbatim.
(Ord. No. 2016-4, § 1, 8-29-2016)

Chapter 5

FRANCHISES AND COMMUNICATION SYSTEMS

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Sec. 5-1-20.	Nature of franchise.
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Sec. 5-1-40.	Franchise rights subject to local powers.
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Sec. 5-4-20. Imposed.
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ARTICLE 1 CABLE TELEVISION FRANCHISE

Sec. 5-1-10. Grant of franchise.

The Town of Pierce (hereinafter referred to as the "Town") hereby grants to TDS Baja Broadband LLC (hereinafter referred to as the "Company"), a nonexclusive franchise to construct and operate a cable television system within the Town, subject to the terms and conditions as hereinafter specified.

(Ord. No. 2-96, § 1, 4-8-1996; Ord. No. 2011-4, § 2, 8-8-2011; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-1-20. Nature of franchise.

The franchise granted by the Town under the provisions of this Article grants the Company the right, privilege and duty to operate and maintain in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all such extensions thereof and additions thereto in the Town, poles, wires, cables and underground conduits, manholes and other television fixtures necessary for the maintenance and operation of a cable system for the interception, sale, transmission and distribution of television programs and communications signals, and the right to sell the same to inhabitants of the Town, on the terms and conditions herein provided. The Town expressly reserves the right to grant a similar use of said streets, alleys, public ways and public places to any other person or firm, company or association, at any time during the period of this franchise. This franchise grants no rights for use of the public rights-of-way other than for a system used in the provision of cable television service and other communications services.

(Ord. No. 2-96, § 1, 4-8-1996; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-1-30. Term of franchise.

The term of the franchise granted herein shall be for a period of 15 years from and after the effective date of this franchise as hereinafter provided, and subject to the conditions and restrictions as provided herein. The term of the franchise had been extended for a period of five years from its original expiration date of April 8, 2011. The term of the franchise has been extended for a period of ten years. The new expiration date is April 8, 2026.

(Ord. No. 2-96, § 1, 4-8-1996; Ord. No. 2011-4, § 1, 8-8-2011; Ord. No. 2016-2, 3-14-2016; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-1-40. Franchise rights subject to local powers.

In accepting this franchise, the Company acknowledges that its rights hereunder are subject to the power of the Town to adopt and enforce laws applicable 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.

(Ord. No. 2-96, § 1, 4-8-1996; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-1-50. Franchise fees.

The Company shall, during each year of operation under this franchise, pay into the General Fund of the Town, on or before the last day of June and the last day of December, a sum, in the currency of the United States, equal to three percent of all the revenues earned by the Company from within the Town during the preceding six-month period. The franchise fee shall not be considered in the nature of a tax, but shall be considered a fee and shall be in addition to any and all taxes of general applicability which are now or hereafter required to be paid by any law of the Town, the State or the United States. In the event that the fee is not paid when due, interest shall

accumulate on the unpaid fee at the rate of 18 percent per annum. In the event franchise fees are prohibited by any regulation or law, the Company shall negotiate in good faith with the Town for an equitable payment for the use of the public rights-of-way.

(Ord. No. 2-96, § 1, 4-8-1996; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-1-60. Records and reports.

The Company shall keep true, accurate and current books of account, which books and records shall be made available for inspection and copying during business hours within 48 hours of notice by the Administrative Authority or his or her authorized representative. If requested information is not kept at the system office, the Company shall have seven days to provide such requested information.

(Ord. No. 2-96, § 1, 1996; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-1-70. Customer service.

(a) The Company shall comply with and be bound by all of the customer service standards in effect and applicable to cable television systems of the size of that serving the Town, as required by the laws of the United States, including the Communications Act of 1934, as amended by the Cable Television Consumer Protection and Competition Act of 1992 and as otherwise heretofore or hereafter amended (the "Cable Act") and the rules and regulations of the Federal Communications Commission (FCC). Attached to the ordinance codified herein, marked Exhibit "A," and incorporated herein by reference are those customer service standards (47 C.F.R., Section 76.309). The customer service standards shall, in any event, be no less than those required under present federal standards incorporated under Exhibit "A" and

shall be modified to comply with updated federal standards should those standards contain more stringent requirements for the Company.

(b) The Company shall, whenever it receives requests for service from at least 20 subscribers within one mile from its existing system, extend such system to such subscribers at no cost to the subscribers for system extension other than usual connection fees for all subscribers. The one mile shall be measured in the extension length of the Company's cable required for service located within the public way or easements and shall not include the length of necessary service drop to the subscriber's home or premises.

(c) If a trunk or distribution cable is placed aerial or underground adjacent to an occupied home within the boundaries of the Town, such line shall be activated within 90 days of placement and service made available to the occupied home within seven days after activation upon request of the home occupant if the home is within 150 feet of the trunk or distribution line. If the request for service requires a drop or line extension in excess of 150 feet, the Company must extend and make available service to such home at a connection charge not to exceed the actual construction and installation (including labor) cost incurred by the Company for the distance exceeding 150 feet, provided that the Company may require payment in advance from the subscriber.

(d) If a trunk or distribution cable is placed in a new development within the boundaries of the Town, the cable system shall be activated within 90 days after placement and service made available to the first occupied home within seven days after activation upon request of the home occupant. If the request for service requires a drop or line extension in excess of 150 feet, the Company must extend and make available service to such home at a connection charge not to exceed the actual construction and installation (including labor) cost incurred by the Company for the dis-

tance exceeding 150 feet, provided that the Company may require payment in advance from the subscriber. If, except for reasons beyond the Company's control, the aforementioned is not met, the Company shall pay to the Town a penalty of \$25.00 for each day beyond such time requirements.

(e) At such point in time when there are three remaining channels on the existing system or five years after execution of the agreement codified herein, whichever occurs first, the Company agrees to upgrade its system to 450 MHz in order to accommodate additional channels and an expanded system.

(Ord. No. 2-96, § 1, 4-8-1996; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-1-80. Construction, maintenance and installation.

The construction, maintenance and installation of the equipment and facilities by the Company, including connections to subscribers of the Company's service, shall be in accordance with all applicable ordinances and regulations of the Town, the National Electrical Safety Code and the technical standards established by the Federal Communications Commission.

(Ord. No. 2-96, § 1, 4-8-1996; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-1-90. Services.

The Company shall provide at no charge, upon request by the Administrative Authority, one service drop per facility at all public schools in the Town, to the Town library and to the Town Hall, so long as such buildings are within 300 feet of the cable system's feeder lines. If such school building is located more than 300 feet from existing cable system feeder lines or more than one drop is required at any one building, the charge for the additional footage and additional drops shall be based on the Company's cost of time and material

for installing such service. No monthly charges shall be made for providing basic cable service at these buildings.

(Ord. No. 2-96, § 1, 4-8-1996; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-1-100. Liability and indemnification.

The Company, its successors and assigns shall hold the Town harmless against any and all damages that may be caused by reason of the construction and operation of the Company's television distribution system in the Town to any and every person that may be damaged by reason of construction and operation of the Company's television distribution system in the Town. The Company, its successors and assigns shall cause to be defended, at its own expense, all actions that may be commenced against the Town for damages caused by reason of the construction or operation of such system. The Company shall carry public liability and property damage insurance in the sum of at least \$1,000,000.00 for each occurrence, \$1,000,000.00 for each accident and \$500,000.00 for property damage, and the Town, its officials, officers and employees and the United States of America shall be named as additional insureds, said insurance to be carried with a company on the approved list of the Secretary of the Interior, and copies or certificates of insurance to be delivered to the Town within ten days after the effective date of this franchise. The Town shall notify the Company's representative at its office within 30 days after the presentation of any claim or demand to the Town, either by suit or otherwise, made against the Town on account of any negligence of contact aforesaid on the part of the Company. The Company further agrees to carry workers' compensation insurance with statutory limits, and employer's liability insurance with limits of not less than \$100,000.00, which shall cover all operations to be performed by the Company as a result of this franchise. The Company agrees to furnish to the Town upon request certified copies

of certificates of insurance of said policies, which shall provide that insurance shall not be cancelled unless ten days' prior written notice shall be first given to the Town.

(Ord. No. 2-96, § 1, 4-8-1996; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-1-110. System construction and maintenance procedures.

All transmission and distribution structures, lines and equipment erected by the Company within the Town after the effective date of this franchise shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights of reasonable convenience of property owners who adjoin any of said streets, alleys or other public ways and places.

- (1) In case of disturbance of pavement, sidewalk, driveway or other surfacing, the Company shall, at its own cost and in a manner approved by the Town, replace and restore all paving, sidewalk, driveway or other surface of any street or alley disturbed in as good condition as before said work commenced and shall guarantee such work for a period of one year after such replacement or restoration has been completed.
- (2) In the event that, at any time during the period of this franchise, the Town lawfully elects to alter or change the grade of any street, alley or other public way, the Company, upon reasonable notice of 30 days from the Town, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense, such relocation to be completed within such period of time as may be specified by the Administrative Authority, but in no case less than 30 days.

- (3) The Company shall, upon request of any person holding a building moving permit, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering wires, shall be paid by the person requesting the same, and the Company shall have the authority to require such payment in advance. The Company shall be given not less than 48 hours' advance notice to arrange for such temporary changes.

- (4) The Company shall have the authority to trim trees upon any overhanging streets, alleys, sidewalks and public places of the Town so as to prevent the branches of such trees from coming in contact with the wires and cables of the Company. All trimming shall be done at the expense of the Company, and the Company shall leave such premises in a clean and neat appearance.

(Ord. No. 2-96, § 1, 4-8-1996; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-1-120. Transfer and assignments.

This franchise shall not be assigned or transferred without written approval of the Town, such approval not to be unreasonably withheld, provided that no such approval be required for the granting by the Company to one or more of its lenders of a security interest in the Company's rights hereunder, and provided that such lenders shall not assign this franchise unless the assignee is approved by the Town. Copies of such security agreements shall be delivered upon request to the Town.

(Ord. No. 2-96, § 1, 4-8-1996; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-1-130. Default of franchise.

Should the Company fail to pay any installment of the franchise fee promptly when the same

falls due or fail to keep and perform any other obligations of the Company as herein contained, the Town shall have the right to notify the Company thereof. Should the Company fail to cure, remedy or purge such condition within 30 days after the receipt of such notice, should bankruptcy proceedings be brought by or against the Company or should an assignment be made by the Company for the benefit of creditors, the Company shall be deemed to be in default. At the sole discretion of the Town, such a default may result in the termination of this franchise and the revocation of the franchise granted hereunder should the situation not be substantially cured within 30 days from the initial date of the default condition and notice thereof by the Town to the Company. If the Company does not believe a substantial default has occurred or believes that there exists a reason to excuse the substantial default, it must, within the thirty-day notice period, request a hearing before the Town. Such hearing shall occur within 30 days of the Company's request for hearing.

(Ord. No. 2-96, § 1, 4-8-1996; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-1-140. Waivers.

The waiver or forbearance by the Town of any failure on the part of the Company to comply with any of the Company's obligations under this franchise shall not be construed to constitute a waiver of any subsequent default.

(Ord. No. 2-96, § 1, 4-8-1996; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-1-150. Miscellaneous provisions.

In lieu of an application fee, the Company agrees to reimburse the Town for all publication costs and attorneys' fees incurred by the Town as a result of its application for renewal of this franchise, provided that the attorneys' fees incurred by the Town do not exceed \$500.00. The Company

agrees to provide either parental control devices or trap-out devices at a reasonable cost to customers to allow such customers to lock out channels. (Ord. No. 2-96, § 1, 4-8-1996; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 2 ELECTRIC FRANCHISE

Sec. 5-2-10. General.

Whenever the word "Town" is hereinafter employed, it shall designate the Town of Pierce, Weld County, Colorado, the Grantor, and whenever the word "Company" is used, it shall designate not only Home Light and Power Company, a Colorado corporation, the Grantee, but also Public Service Company of Colorado, its successors and assigns.

(Ord. No. 2-69 Art. I, 12-1-1969; Ord. No. 1-1990, § I, 5-14-1990; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-20. Grant.

There is hereby granted to the Company the right, privilege and authority to locate, build, construct, acquire, purchase, extend, maintain and operate into, within and through the Town plant, substations and works, for the generation, purchase, transmission and distribution of electrical energy, with the right and privilege for the period and upon the terms and conditions hereinafter specified to furnish, sell and distribute said electrical energy to the Town and the inhabitants thereof, for light, heat and power or other purposes, by means of conduits, cables, poles with wires strung thereon, or otherwise, on, over, under, along, across and through any and all streets, alleys, viaducts, bridges, roads, lanes and other public ways and places in the Town and on, over, under, along, across and through any extension, connection with or continuation of the same and/or on, over, under, along, across and through any and all such new streets, alleys, viaducts, bridges, roads, lanes and other public ways as may be hereafter

laid out, opened, located or constructed within the territory now or hereafter included in the boundaries of the Town.

(Ord. No. 2-69 Art. II, § 1, 12-1-1969; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-30. Use of public ways.

The Company is further granted the right, privilege and authority to excavate in, occupy and use any and all streets, alleys, viaducts, bridges, roads, lanes and other public ways and places under the supervision of properly constituted authority for the purpose of bringing electrical energy into, within and through the Town and supplying electrical energy to the Town and the inhabitants thereof and in the territory adjacent thereto; provided, however, that the Company shall so locate its plants, substations, works, transmission and distribution structures, lines, equipment and conduits within the Town as to cause minimum interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners whose property adjoins any of said streets, alleys or other public ways and places. Should it become necessary for the Company, in exercising its rights and performing its duties hereunder, to interfere with any sidewalk, pavement or any other public or private improvement, the Company shall repair in a workmanlike manner such sidewalk, graveled or paved street, road, alley or other public improvement after the installation of its poles, conduits or other structures. The Company shall use due care not to interfere with or damage any water mains, sewers or other structures now or which may hereafter be placed in said streets, alleys or other public places. (Ord. No. 2-69 Art. II, § 2, 12-1-1969; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-40. Maintenance of facilities.

(a) The Company shall so maintain its structures, apparatus, equipment, poles, wires and conduits as to afford all reasonable protection against

injury or damage to persons or property therefrom, and the Company shall save the Town harmless from all liability or damage and all reasonable expenses necessarily accruing against the Town arising out of the negligent exercise by the Company of the rights and privileges hereby granted; provided that the Company shall have had notice of the pendency of any action against the Town arising out of such exercise by the Company of said rights and privileges and be permitted at its own expense to appear and defend or assist in the defense of the same.

(b) If at any time it shall be necessary to change the position of any pole, conduit or service connection of the Company to permit the Town to lay, make or change street grades, pavements, sewers, water mains or other Town works, such changes shall be made by the Company at its own expense. (Ord. No. 2-69 Art. II, §§ 3, 4, 12-1-1969; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-50. Town use of Company facilities.

The Town shall have the right, without cost, to use all poles of the Company within the Town for the purpose of stringing wires thereon for its fire alarm, water control wires and police signal systems; provided, however, that the Company assumes and shall be subject to no liability and shall be subject to no additional expense in connection therewith. It is further provided that said wires shall be installed in accordance with the National Electrical Code and conform with Company standards.

(Ord. No. 2-69 Art. II, § 5, 12-1-1969; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-60. Responsibility for damage.

It is unlawful for any person to cut or raise any wire or remove any pole, or in any other way interfere with any of the Company's structures, apparatus, equipment or lines without first giving the Company 48 hours' notice of such desire or

intention, stating the time and place where such wires are to be cut or raised or pole removed, or structures, apparatus or equipment interfered with, in order that the Company may arrange to perform or oversee such work, and the Company may demand and receive reasonable compensation from the person served for any damages that may occur. (Ord. No. 2-69 Art. III, § 1, 12-1-1969; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-70. Violation.

Any person found guilty of a violation of Section 5-2-60 above shall, upon conviction, be fined in any sum of not less than \$25.00 or more than \$100.00. (Ord. No. 2-69 Art. III, § 2, 12-1-1969; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-80. Applicability of service.

The Company shall furnish electrical energy within the corporate limits of the Town or any addition thereto to the Town, to the inhabitants thereof and to any person or corporation doing business in the Town, or any addition thereto, at the rates and under the terms and conditions set forth in the rate schedules, standards for service, rules and regulations and service connection and extension policies, filed with or fixed by the Public Utilities Commission of the State of Colorado, or by any other competent authority having jurisdiction in the premises. (Ord. No. 2-69 Art. IV, § 1, 12-1-1969; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-90. Discrimination prohibited.

The Company shall not, as to rates, charges, service, facilities, rules, regulations or in any other respect make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage, provided that nothing in this grant shall be taken to prohibit the establishment from time to

time of a graduated scale of charges and classified rate schedules to which any customer coming within an established classification would be entitled. (Ord. No. 2-69 Art. IV, § 2, 12-1-1969; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-100. Extension of distribution system.

The Company will from time to time during the term of this franchise make such enlargements and extensions of its distribution system as the business of the Company and the growth of the Town justify, in accordance with its standards for service, rules and regulations, and service connection and extension policies for electric service concurrently in effect and on file with the Public Utilities Commission of the State of Colorado or other competent authority having jurisdiction in the premises. (Ord. No. 2-69 Art. IV, § 3, 12-1-1969; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-110. Service standards.

The Company, from time to time, may promulgate such rules, regulations, terms and conditions governing the conduct of its business, including the utilization of electrical energy and payment therefor, and the interference with or alteration of any of the Company's property upon the premises of its customers, as shall be necessary to ensure a continuous and uninterrupted service to each and all of its customers and the proper measurement thereof and payment therefor, provided that the Company shall keep on file in its office at Greeley, Colorado, available to the public, copies of its rate schedules, standards for service, rules and regulations and service connection and extension policies concurrently in effect and on file from time to time with the Public Utilities Commission of the State of Colorado or other competent authority having jurisdiction in the premises. (Ord. No. 2-69 Art. IV, § 4, 12-1-1969; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-120. Right of entry.

The Company, or any of its agents or servants, shall have the right and privilege to enter in and upon the premises of any customer at any and all times for the purpose of carrying out the provisions of this Article.

(Ord. No. 2-69 Art. IV, § 5, 12-1-1969; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-130. Franchise fee.

As a further consideration for this franchise, and accepted by the Town in lieu of all occupancy and license taxes and all other special taxes, assessments or excises upon the conduits, poles, wires or other property of the Company, or other levies that might be imposed, either as a franchise tax, occupancy tax, license tax, permit charge or for the inspection of meters, poles, conduits or other property of the Company, or otherwise, the Company shall pay to the Town a sum equal to three percent of its gross revenue derived from the sale of electricity within the corporate limits of the Town for electrical energy furnished for light, heat or power or other purposes, to each customer at any one location. Payments shall be made on or before the first day of February of each year for the preceding calendar year. For the purpose of ascertaining or auditing the correct amount to be paid under the provisions of this Section, the Town Clerk and/or any committee appointed by the Board of Trustees shall have access to the books of the Company for the purpose of checking the gross income received from operations within the Town.

(Ord. No. 2-69 Art. V, § 1, 12-1-1969; Ord. No. 1-1990, § I, 5-14-1990; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-140. Review of franchise fee.

(a) Once during each calendar year of the franchise term, the Board of Trustees, upon giving 30 days' notice to the Company of its intention so to

do, may review and change the consideration the Town may be entitled to receive as a part of the franchise; provided, however, that the Board of Trustees may only change the consideration to be received by the Town under the terms of this franchise to the equivalent of the consideration paid by the Company to any city or town in the State in which the Company supplies electric service under franchise.

(b) The Company shall, upon request, report to the Town within 60 days of the execution of a subsequent franchise or of any change of franchise in other municipalities that could have a significant financial impact on the consideration to be paid by the Company to the Town hereunder. If the Board of Trustees decides that the consideration shall be so changed, it shall provide for such change by ordinance; provided, however, that any change in the franchise fee is then allowed to be surcharged by the Company, and provided further that the consideration is not higher than the highest consideration paid by the Company to any municipality within the State. For purposes of this Section, *consideration* means the franchise fee established in Section 5-2-130 above, the undergrounding program established in Section 5-2-190 below, and also includes any other provision which is of similar significant financial benefit to the Town.

(Ord. No. 1-1990, § I, 5-14-1990; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-150. Effective date.

This Article shall become effective, as provided by law, 30 days after its publication following final passage, upon acceptance in writing by the Company within said period, and the terms, conditions and covenants thereof shall remain in full force and effect for a period of 25 years from and after said effective date.

(Ord. No. 2-69 Art. VI, § 1, 12-1-1969; Ord. No. 1-1990, § I, 5-14-1990; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-160. Removal of facilities.

Upon the expiration of this franchise, if the Company has not acquired an extension or renewal thereof and accepted the same, it may have, and it is hereby granted, the right to enter upon the streets, alleys, bridges, viaducts, roads, lanes and other places in the Town, for the purpose of removing therefrom any or all of its plants, structures, conduits, cables, poles and wire, or equipment pertaining thereto, at any time after the Town has had ample time and opportunity to purchase, condemn or replace them. In so removing said conduits, cables, poles and wire and equipment, the Company shall, at its own expense and in a workmanlike manner, refill any excavations that are made by it in the graveled or paved streets, alleys, bridges, viaducts, roads, lanes and other public places, after the removal of its poles, conduits or other structures.

(Ord. No. 2-69 Art. VI, § 2, 12-1-1969; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-170. Assignment of rights.

Nothing in this Article shall be so construed as to prevent the Company from assigning all of its rights, title or interest gained or authorized under or by virtue of the terms of this franchise.

(Ord. No. 2-69, Art. VI, § 3, 12-1-1969; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-180. Town powers.

The right is hereby reserved to the Town to adopt, from time to time, in addition to the provisions herein contained, such ordinances as may be deemed necessary to the exercise of its police power, provided that such regulations shall be reasonable and not destructive of the rights herein granted and not in conflict with the laws of the State, or with orders of other authorities having jurisdiction in the premises.

(Ord. No. 2-69 Art. VI, § 4, 12-1-1969; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-190. Underground electrical distribution lines in new areas.

The Company shall place newly constructed electrical distribution lines underground to serve new residential subdivision areas in accordance with the Company's tariffs and Town's subdivision regulations; provided, however, that the Company shall not be required to install any such facilities for which the charges provided in its tariffs have not been paid.

(Ord. No. 1-1990, § I, 5-14-1990; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-200. Overhead conversion at expense of Company.

(a) As and when requested by the Town, the Company will spend annually an amount equal to one percent of the preceding calendar year's electric revenues received from customers within the Town to move electric distribution lines located in streets and other public places within the Town underground, provided that the undergrounding shall extend for a minimum distance of one block or 750 feet, whichever is less, or as may be agreed to by the parties.

(b) Any unexpended portion of the one percent of electric revenue may be carried over to succeeding years and, in addition, upon request by the Town, the Company shall anticipate amounts to be available for up to three years in advance. Any amounts advanced shall be credited against amounts to be expended in succeeding years until such advances are eliminated. No relocation expenses which the Company is required to expend pursuant to Subsection 5-2-40(b) of this Article shall be charged to this allocation.

(c) Funds to be expended pursuant to this Section shall not be used in any project or situation for which and to the extent that the Town has received federal or state funds for the purpose of

undergrounding utilities. Funds to be expended pursuant to this Section may be used for "matching" purposes with state or federal monies.

(d) If the Public Utilities Commission authorizes a system-wide program of undergrounding electric distribution lines, the Company will allocate to the program of undergrounding in the Town such amount as is authorized by the Public Utilities Commission, but in no case less than a sum equal to one percent of annual electric revenues.

(e) In addition to the provisions of this Section, the Town may require additional lines to be moved underground at the Town's expense.

(f) The Town acknowledges that the establishment of this undergrounding program creates no vested right in the Town to the undergrounding monies. Further, if such monies are not expended pursuant to the conditions hereof, the allocation is not convertible to cash or available for any other purposes.
(Ord. No. 1-1990, § I, 5-14-1990; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-210. Review of undergrounding program.

Representatives of both the Town and the Company shall meet periodically to review the Company's undergrounding program. This review shall include:

- (1) Undergrounding programs, including conversions and replacements which have been accomplished or are underway by the Company, together with the Company's plans for additional undergrounding;
- (2) Undergrounding projects anticipated by the Town.

Such a meeting shall be held to achieve a continuing program for the orderly undergrounding of electrical distribution lines in the Town.
(Ord. No. 1-1990, § I, 5-14-1990; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-2-220. Cooperation with other utilities.

When undertaking a project of undergrounding, the Town and the Company shall work with other utilities or companies which have their lines overhead to attempt to have all lines undergrounded as part of the same project. When other utilities or companies are placing their lines underground, the Company shall cooperate with the utilities and companies and undertake to underground company lines as part of the same project, where feasible. The Company shall not be required to pay the cost of any other utility in connection with work under this Section.
(Ord. No. 1-1990, § I, 5-14-1990; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 3 GAS FRANCHISE

DIVISION 1 GENERAL PROVISIONS

Sec. 5-3-10. Definitions.

For the purpose of this franchise, the following words and phrases shall have the meanings given in this Article. 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. The word *shall* is mandatory and *may* is permissive. Words not defined in this Article shall be given their common and ordinary meaning.

Board of Trustees refers to and is the legislative body of the Town of Pierce.

Company refers to and is Atmos Energy Corporation, a Texas and Virginia corporation, and its successors and assigns.

Distribution facilities refer to and are only those facilities reasonably necessary to provide gas within the Town.

Facilities refer to and are all facilities reasonably necessary to provide gas into, within and through the Town and include plants, works, systems, lines, equipment, pipes, mains, underground links, gas compressors and meters.

Gas or natural gas refers to and is such gaseous fuels as natural, artificial, synthetic, liquefied natural, liquefied petroleum, manufactured or any mixture thereof.

PUC refers to and is the Public Utilities Commission of the State of Colorado or other authority succeeding to the regulatory powers of the Public Utilities Commission of the State.

Revenues refer to and are those amounts of money which the Company receives from its customers within the Town for the sale of gas under rates, temporary or permanent, authorized by the PUC, and represents amounts billed under such rates as adjusted for refunds, the net write-off of uncollectible accounts, corrections or other regulatory adjustments.

Streets and other public places refer to and are streets, alleys, viaducts, bridges, roads, lanes, easements, public ways and other public places in the Town.

Town refers to and is the Town of Pierce, Weld County, Colorado, and includes the territory as currently is or may in the future be included within the boundaries of the Town of Pierce.
(Ord. No. 2013-1, § 1, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-20. Grant of franchise.

The Town hereby grants to the Company, for the period specified and subject to the conditions, terms and provisions contained in this Article, the right to furnish, transport, sell and distribute gas to the Town and to all persons, businesses and industries within the Town; the right to acquire, construct, install, locate, maintain, operate and

extend into, within and through the Town all facilities reasonably necessary to provide gas to the Town and to all persons, businesses and industries within the Town and in the territory adjacent thereto; and the right to make reasonable use of all streets and other public places as may be necessary to carry out the terms of this franchise.

(Ord. No. 2013-1, § 2.1, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-30. Terms of franchise.

The term of this franchise shall be for ten years, beginning May 11, 2013, and expiring May 11, 2023.

(Ord. No. 2013-1, § 2.2, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 2 FRANCHISE FEE

Sec. 5-3-110. Fee established.

In consideration for the grant of this franchise, the Company shall collect and remit to the Town a sum equal to four percent of the revenues derived annually from the sale of gas within the Town, excluding the amount received from the Town itself for gas service furnished to it. Franchise fee payments shall be made in quarterly installments not more than 30 days following the close of the month for which payment is to be made. Quarters shall end on March 31, June 30, September 30 and December 31. Payments at the beginning and end of the franchise shall be prorated. Annual franchise fee payments shall be made on or before March 1 for the preceding calendar year ending December 31.

(Ord. No. 2013-1, § 3.1, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-120. Payment in lieu of other fees.

Payment of the franchise fee by the Company is accepted by the Town in lieu of any occupancy tax, license tax, permit charge, inspection fee or

similar tax, assessment or excise upon the pipes, mains, meters or other personal property of the Company, or on the privilege of doing business or in connection with the physical operation thereof, but does not exempt the Company from any lawful taxation upon its real property or any other tax not related to the franchise or the physical operation thereof.

(Ord. No. 2013-1, § 3.2, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-130. Change of franchise fee.

Once during each calendar year of the franchise, the Board of Trustees, upon giving 30 days' notice to the Company, may review and change the franchise fee that the Town may be entitled to receive as a part of the franchise; provided, however, that the Board of Trustees may only change the franchise fee amount such as to cause the Town to receive a franchise fee under this franchise equivalent to the franchise fee that the Company may pay to any other city or town in any other franchise under which the Company renders gas service in Colorado.

(Ord. No. 2013-1, § 3.3, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 3 CONDUCT OF BUSINESS

Sec. 5-3-210. Rules and regulations.

The Company may establish, from time to time, such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this franchise; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the laws of the State.

(Ord. No. 2013-1, § 4.1, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-220. Tariffs on file.

The Company shall keep on file in its nearest office copies of all its tariffs currently in effect and on file with the PUC. Said tariffs shall be available for inspection by the public.

(Ord. No. 2013-1, § 4.2, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-230. Compliance with PUC regulations.

The Company shall comply with all rules and regulations adopted by the PUC.

(Ord. No. 2013-1, § 4.3, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-240. Compliance with Company tariffs.

The Company shall furnish gas within the Town to the Town and to all persons, businesses and industries within the Town at the rates and under the terms and conditions set forth in its tariffs on file with the PUC.

(Ord. No. 2013-1, § 4.4, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-250. Applicability of Company tariffs.

The Town and the Company recognize that the lawful provisions of the Company's tariffs on file and in effect with the PUC are controlling over any inconsistent provision in this franchise dealing with the same subject matter.

(Ord. No. 2013-1, § 4.5, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 4 COMPANY FACILITIES

Sec. 5-3-310. Location of facilities.

Company facilities shall not unreasonably interfere with the Town's water mains, sewer mains or other municipal use of streets and other public places. Company facilities shall be located so as to

cause minimum interference with public use of streets and other public places and shall be maintained in good repair and condition.

(Ord. No. 2013-1, § 5.1, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-320. Excavation and construction.

All construction, excavation, maintenance and repair work done by the Company shall be done in a timely and expeditious manner that minimizes the inconvenience to the public and individuals. All such construction, excavation, maintenance and repair work done by the Company shall comply with all applicable state and federal codes. All public and private property whose use conforms to restrictions in easements disturbed by Company construction or excavation activities shall be restored as soon as practicable by the Company at its expense to substantially its former condition. The Company shall comply with the Town's requests for reasonable and prompt action to remedy all damage to private property adjacent to streets or dedicated easements where the Company is performing construction, excavation, maintenance or repair work. The Town reserves the right to restore property and remedy damages caused by Company activities at the expense of the Company in the event the Company fails to perform such work within a reasonable time after notice from the Town.

(Ord. No. 2013-1, § 5.2, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-330. Relocation.

(a) Relocation of any facility installed or maintained in the streets pursuant to this franchise or any previous franchises shall be made by the Company at its expense, if at any time the Town requests the Company to relocate the same in order to permit the Town:

- (1) To make any public use of the streets;
- (2) To construct any public improvement;

(3) To build any public project; or

(4) To pursue any municipal purpose in which the Town has financial or ownership interest.

(b) The Company shall complete such relocations as soon as practicable from the date when the Town makes its request, except that the Company may be granted an extension of time for completion equivalent to any delay caused by conditions not under its control.

(c) When requested by the Town, representatives of the Town and the Company shall meet to share information regarding anticipated Town projects which will require relocation of Company facilities. Such meetings shall be for the purpose of providing the Town with an estimated timetable within which the involved Company facilities shall be relocated, including an anticipated start date, so as to facilitate coordination with the timetable to be established by the Town for completion of the Town project. Following relocation, all property shall be restored to substantially its former condition by the Company at its expense in accordance with the then-existing Town laws, ordinances and regulations.

(d) Nothing herein contained shall be construed to impose any obligation upon the Town to make any payment for any relocation of the Company's facilities. The Company is not obligated hereunder to relocate any facilities at its expense, which were installed in private easements obtained by the Company, the underlying fee of which was, at some point subsequent to installation, transferred to the Town.

(Ord. No. 2013-1, § 5.3, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-340. Service to new areas.

If, during the term of this franchise, the boundaries of the Town are expanded, the Town will promptly notify the Company in writing of any

geographic areas annexed by the Town during the term hereof ("Annexation Notice"). Any such Annexation Notice shall be sent to the Company by certified mail, return receipt requested, and shall contain the effective date of the annexation, maps showing the annexed area and such other information as the Company may reasonably require in order to ascertain whether there exist any customers of the Company receiving natural gas service in said annexed area. To the extent there are such Company customers therein, the gross revenues of the Company derived from the sale and distribution of natural gas to such customers shall become subject to the franchise fee provisions hereof, effective on the first day of the Company's billing cycle immediately following the Company's receipt of the Annexation Notice. The failure by the Town to advise the Company in writing through proper Annexation Notice of any geographic areas which are annexed by the Town shall relieve the Company from any obligation to remit any franchise fees to the Town based upon gross revenues derived by the Company from the sale and distribution of natural gas to customers within the annexed area until the Town delivers an Annexation Notice to the Company in accordance with the terms hereof.

(Ord. No. 2013-1, § 5.4, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-350. Restoration of service.

In the event the Company's gas system, or any part thereof, is partially or wholly destroyed or incapacitated, the Company shall use due diligence to restore its system to satisfactory service within the shortest practicable time.

(Ord. No. 2013-1, § 5.5, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-360. Supply and quality of service.

The Company shall make available an adequate supply of gas to provide service in the Town. The

Company's facilities shall be of sufficient quality, durability and redundancy to provide adequate and efficient gas service to the Town.

(Ord. No. 2013-1, § 5.6, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-370. Safety regulations by Town.

The Town reserves the right to adopt, from time to time, reasonable regulations in the exercise of its police power which are necessary to ensure the health, safety and welfare of the public; provided that such regulations are not destructive of the rights granted herein. The Company agrees to comply with all such regulations in the construction, maintenance and operation of its facilities and in the provision of gas within the Town.

(Ord. No. 2013-1, § 5.7, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-380. Inspection, audit and quality control.

The Town shall have the right to inspect, at all reasonable times, any portion of the Company's system used to serve the Town and its residents. The Town shall also have the right to inspect and conduct an audit of the Company records relevant to compliance with any terms of this franchise at all reasonable times. The Company agrees to cooperate with the Town in conducting the inspection and/or audit and to correct any discrepancies affecting the Town's interest in a prompt and efficient manner.

(Ord. No. 2013-1, § 5.8, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

**DIVISION 5 MISCELLANEOUS
PROVISIONS**

Sec. 5-3-410. Assignment of rights.

Nothing in this Article shall prevent the Company from assigning its rights under this franchise.

(Ord. No. 2013-1, § 6.1, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-420. Saving clause.

If a court of competent jurisdiction declares any portion of this franchise to be illegal or void, the remainder of this franchise shall survive and not be affected thereby.

(Ord. No. 2013-1, § 6.2, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-3-430. Force majeure.

Notwithstanding anything expressly or impliedly to the contrary contained herein, in the event the Company is prevented, wholly or partially, from complying with any obligation or undertaking contained herein by reason of any event of force majeure, then, while so prevented, compliance with such obligations or undertakings shall be suspended, and the time during which the Company is so prevented shall not be counted against the Company for any reason. The term *force majeure*, as used herein, shall mean any cause not reasonably within the Company's control and includes, but is not limited to, acts of God, strikes, lockouts, wars, terrorism, riots, orders or decrees of any lawfully constituted federal, state or local body; contagions or contaminations hazardous to human life or health; fires, storms, floods, washouts, explosions, breakages or accidents to machinery or lines of pipe; inability to obtain or the delay in obtaining rights-of-way, materials, supplies or labor permits; temporary failures of gas supply; or necessary repair, maintenance or replacement of facilities used in the performance of the obligations contained in this Article.

(Ord. No. 2013-1, § 7, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 4 EMERGENCY TELEPHONE CHARGE**Sec. 5-4-10. Authority.**

An emergency telephone service authority is hereby created in order to establish and maintain

an emergency telephone service system in the County, to include the portions of the Town lying within the County.

(Ord. No. 5-87, § 1, 11-9-1987; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-4-20. Imposed.

There is hereby imposed, pursuant to Section 29-11-101, et seq., C.R.S., upon all telephone exchange access facilities within that portion of the Town located within the County, an emergency telephone charge in an amount not to exceed two percent of the tariff rates as approved by the Public Utilities Commission or \$0.50, whichever is less. Upon recommendation of the Weld Emergency Telephone Service Authority, the Board of Trustees may, by resolution, raise or lower the emergency telephone charge, but in no event shall such charge exceed the amount of two percent of the tariff as approved by the Public Utilities Commission.

(Ord. No. 5-87, § 2, 11-9-1987; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 5-4-30. Collection.

Telephone service suppliers providing telephone service in the Town are hereby authorized to collect the emergency telephone charge imposed by this Article in accordance with Section 29-11-101, et seq., C.R.S., and to provide those funds to the Weld Emergency Telephone Service Authority as provided in the Intergovernmental Agreement between the Town and the County.

(Ord. No. 5-87, § 3, 11-9-1987; Ord. No. 2016-4, § 1, 8-29-2016)

Chapter 6

Business Licenses and Regulations

Article 1 Business Licenses

Sec. 6-1-10.	Purpose.
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Sec. 6-1-50.	License fees.
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Sec. 6-1-80.	License nontransferable.
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Article 2 Alcoholic Beverages

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Article 4 Right-of-Way Permits

Sec. 6-4-10.	Revocable permit.
Sec. 6-4-20.	Revocation.
Sec. 6-4-30.	Application.
Sec. 6-4-40.	Damage to public property.

ARTICLE 1 BUSINESS LICENSES**Sec. 6-1-10. Purpose.**

The purpose of this Article is the regulation and registration of businesses operating within the Town for the health, safety and welfare of the citizens of the Town and for the proper collection of taxes to support the Town.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-1-20. License required.

Every person shall be and is hereby required to obtain a business license from the Town before operating, conducting or carrying on any retail trade, profession or business within the limits of the Town, except that nonprofit state corporations, excluding federal, state or municipal corporations, are hereby exempt from the license requirements set forth in this Article.

(Prior Code, § 7-2A; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-1-30. Separate license for each location.

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

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-1-40. License application.

(a) Every applicant shall state under oath or affirmation such facts as may be required for the granting of such license on a form provided by the Town Clerk, including the following information:

- (1) The name and address of the business;
- (2) The type of business carried on at that location;
- (3) Other business locations, if any; and

- (4) The name of the owner, manager or other person who is responsible for conducting the operations of the business, and his or her address and phone number.

(b) It is unlawful for any person to make any false statement or misrepresentation in connection with any application for a license.

(c) The name of the manager set forth on the business license and the address on the business license shall be the address to which notices and communications from the Town may be sent. It shall be the burden of the licensee to advise the Town of all changes to managers or addresses set forth on the business license application.

(Prior Code, § 7-2C; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-1-50. License fees.

The business license fee shall be the amount set forth in the Town Fee Schedule. The license shall be valid from January 1 of each year to December 31 of each year. License fees shall not be prorated. No portion of the license fee is refundable.

(Prior Code, § 7-2C; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-1-60. Issuance.

(a) A license shall be granted to each applicant upon payment of the fee described in Section 6-1-50 above and upon a finding by the Board of Trustees that the applicant is of good moral character and is not in default under the provisions of this Code or any state statute.

(b) The license issued by the Town Clerk shall contain the following information:

- (1) The amount of the license fee;
- (2) The expiration date of the license; and

- (3) The address of the business for which the license is issued and the person or corporation to whom the license is issued.

(Prior Code, § 7-2B, 7-2D; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-1-70. Carrying or posting license required.

The license shall be exhibited to the proper administrative authority and shall be posted on the business premises where it can be seen. If the business is not operated, conducted or carried on at a fixed location, then the licensee must carry the license upon his or her person when operating, conducting or carrying on any retail trade, profession or business. Every licensee shall produce his or her license for examination when requested to do so by any Town police officer or by any person representing the Town.

(Prior Code, § 7-2E; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-1-80. License nontransferable.

Any license issued under the provisions of this Article is nontransferable.

(Prior Code, § 7-2A; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-1-90. Period of license.

All licenses shall expire on January 1 of each calendar year.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-1-100. Suspension.

A license may be suspended:

- (1) When any money due the Town has not been paid. This includes failure to pay civil penalties, fines, taxes, impact fees or any other money owed to the Town.

- (2) When any activity conducted by the licensee or his or her employee or agent violates any federal, state or local rule, regulation or law.

- (3) Upon failure to comply with the terms and conditions of the license.

- (4) Upon any grounds of suspension provided by this Code.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-1-110. Revocation.

A license may be revoked by the Town:

- (1) When it appears that the license was obtained by fraud, misrepresentation or false statements within the application.

- (2) When it appears that the activity conducted pursuant to such license is a public nuisance as defined by this Code or state statute or violates any federal, state or local rule, regulation or law.

- (3) Upon failure to comply with the terms and conditions of the license.

- (4) Upon any grounds of revocation provided by this Code.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-1-120. Hearing prior to suspension or revocation.

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

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-1-130. Cease and desist.

If any business is operating without a license, the Mayor may issue an order to the business to cease and desist all further operation until a li-

cense is issued for the business. The order shall give the business three days to pay all amounts due the Town; or to post a bond in the amount owing the Town and to request in writing a hearing with the Town Clerk. If the business does nothing, it shall cease operations on the third day. The hearing will be before the Board of Trustees. The proceedings shall not relieve or discharge anyone from the civil liability for the payment of the taxes, penalty and interest or from the prosecution of the offense.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-1-140. Refund of fees.

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

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-1-150. Penalty.

Failure to comply with the terms of this Article shall constitute a violation of this Code. Any person who is found guilty of, or pleads guilty or nolo contendere to, the violation of any section of this Code shall be subject to a penalty as set forth in Section 1-4-20 of this Code.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 2 ALCOHOLIC BEVERAGES

Sec. 6-2-10. Licensing.

(a) The Board of Trustees shall be the Local Licensing Authority for the purpose of the issuance, suspension, revocation or other action as may be necessary pursuant to state law.

(b) All terms and definitions used in this Article shall be as set forth in the provisions of the Colorado Beer Code and the Colorado Liquor Code.

(Ord. No. 2016-4, § 1, 8-29-2016)

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

Pursuant to declaration by the General Assembly, the Colorado Beer Code, Section 12-46-101, et seq., C.R.S., the Colorado Liquor Code, Section 12-47-101, et seq., C.R.S., and Special Event Permits, Section 12-48-101, et seq., C.R.S., shall apply to the sale of fermented malt beverages, alcoholic beverages, special malt liquors, spirituous liquors and vinous liquors in the Town.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-2-30. Licensing fees.

The Town Clerk, at the time of receiving an application for a liquor license or liquor license renewal pursuant to the Colorado Beer Code or the Colorado Liquor Code, or a special event permit, shall collect the appropriate fees from such applicant. The fees collected as set forth in, and as they are from time to time change, the state statutes. Any discretionary fees authorized by the Colorado Beer Code or the Colorado Liquor Code shall be set forth in the Town Fee Schedule.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-2-40. Disorderly conduct in establishment.

(a) Each licensee shall conduct his or her establishment in a decent, orderly and respectful manner and shall not permit on the licensed premises the serving to or loitering of a visibly intoxicated person or habitual drunkard, nor shall the licensee or his or her employee or agent permit profanity, rowdiness, undue noise or other disturbance or activity offensive to the senses of the average citizen or to the residents of the neighborhood in which the establishment is located.

(b) It is unlawful for any licensee or his or her employee or agent to permit any unlawful disturbance or act of disorderly conduct by any person at the licensed premises.

(c) Each licensee or his or her employee or agent shall, upon learning of any unlawful disturbance or act of disorderly conduct that occurs on the premises, immediately report such act to law enforcement.

(d) It shall not be a defense that the licensee was not personally present at the licensed premises at the time of any violation of this Section; provided, however, that an employee or agent of the licensee shall not be liable under this Section when not on duty at the licensed premises. (Ord. No. 2011-7, §§ 1, 2, 9-12-2011; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-2-50. Manager required.

Each licensee who does not himself or herself manage the licensed establishment shall have a separate and distinct manager and shall register the manager of each licensed premises with the State and the Town. Upon the resignation or departure of a manager, each licensee shall promptly notify the Town and shall designate a new registered manager within 30 days. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-2-60. Optional premises.

(a) An optional premises license and optional premises for a hotel and restaurant license may be issued by the Authority.

(b) The following standards shall be applicable to the issuance of a license under this Section, in addition to all other applicable standards set forth in the Colorado Liquor Code for an optional premises license and optional premises for a hotel and restaurant license:

- (1) Eligible facilities. Outdoor sports and recreational facilities, as defined in Section

12-47-103(13.5), C.R.S., are eligible for licensing as an optional premises or an optional premises for a hotel and restaurant.

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

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

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

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-2-70. Designation of hearing officer.

(a) Whenever the Local Licensing Authority determines that a notice of adverse action on any license issued by the Town may be taken against such license, the Local Licensing Authority may appoint an impartial and independent hearing officer to determine if the allegations contained in

the notice are substantiated or not substantiated. The hearing officer shall conduct the hearing in an informal manner without strict regard to the Colorado Rules of Civil Procedure, but shall ensure that any licensee is afforded substantial due process before any adverse action is taken against any licensee.

(b) The hearing officer conducting a hearing on behalf of the Local Licensing Authority shall, after hearing the evidence and making appropriate findings, have the authority to revoke, suspend or deny an application for a new or renewing license and, in the making of such determination, shall base his or her decision upon the Colorado Liquor Code and the regulations applicable to such code promulgated by the Colorado Department of Revenue and other law. The hearing officer is authorized to impose such penalties with regard to revocation, suspension, fine in lieu of suspension, denial, summary suspension or other remedies authorized by the Colorado Liquor Code. If any allegations contained in any notice to a licensee are substantiated, the hearing officer may consider all relevant evidence, including the gravity of the violation and the circumstances of prior operation of the licensee, in making a determination as to adverse action against any licensee, and shall consider and give due regard to any guidelines promulgated by the Colorado Department of Revenue.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-2-80. Special events permit.

The Board of Trustees reserves to itself the ability to issue special event permits and, by adoption of this Section, elects not to notify the state licensing authority to obtain the state licensing authority's approval or disapproval of an application for a special event permit. The Local Licensing Authority is required only to report to the Colorado Liquor Enforcement Division, within ten days after it issues a permit, the name of the

organization to which the permit was issued, the address of the permitted location and the permitted dates of alcohol beverage service as authorized by Section 12-48-107, C.R.S.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-2-90. Educational requirements.

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

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 3 PEDDLERS AND SOLICITORS

Sec. 6-3-10. Definition.

The word *peddler*, as used in this Article, means any person, whether or not a resident of the Town, traveling from house to house or from street to street, for the purpose of soliciting orders, sales, subscriptions or donations for businesses of any kind or seeking information or donations, and also means and includes any person transacting a temporary business within the Town at an established place of business. The word *peddler* shall include the terms *solicitor*, *canvasser*, *door-to-door salesperson*, *transient* or *itinerant merchant* and *vendor*.

(Prior Code, § 7-3A; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-3-20. Refusing to leave.

Any peddler who enters upon premises owned, leased or rented by another and refuses to leave such premises, after having been notified by the owner or occupant of such premises or by his or

her agent to leave the same and not return to such premises, shall be deemed guilty of a misdemeanor.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-3-30. Hours of operation.

It is unlawful for any peddler to engage in the business of peddling within the Town between the hours of 5:00 p.m. and 10:00 a.m. the following morning or at any time on Sundays, except by specific appointment with or invitation from the prospective customer.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-3-40. Permit required.

It is unlawful for any person to engage in or carry on the business of peddling within the limits of the Town without first having registered in the office of the Town Clerk. The registrant shall give his or her complete identification, his or her signature, the name of his or her employer, the nature of the products, services or canvassing to be conducted, the names of the manufacturers or producers of such products or the organizations which he or she is representing and the proposed method of operation within the Town.

(Prior Code, § 7-3A; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-3-50. Application.

(a) Any person desiring to engage in the business of peddling within the Town shall complete a license application as set forth in Article 1 of this Chapter, and such license or permit to canvass shall not be valid until at least 72 hours after such application is filed with the Town Clerk.

(b) The application for a permit required by the provisions of this Article shall state or contain the following:

- (1) A statement as to whether or not the applicant has been convicted of any crime,

misdemeanor or violation of any state or federal law or municipal ordinance or code; the nature of the offense; the punishment or penalty assessed therefor, if previously convicted; and the place of conviction.

- (2) Whether the applicant, upon any sale or order, shall demand, accept or receive payment or deposit of money in advance of final delivery.
- (3) The period of time the applicant wishes to engage in business within the Town.
- (4) The local and permanent address of the applicant.
- (5) The local and permanent address and the name of the person, if any, that the applicant represents.
- (6) The kind of goods, wares, merchandise or services for which the applicant wishes to engage in such business within the Town.
- (7) The last three cities or towns wherein the applicant has worked before coming to the Town.
- (8) Such other relevant information as may be required for the investigation of the applicant, including such information as may be necessary for the Town to conduct a criminal background investigation.

(Prior Code, § 7-3B; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-3-60. Identification.

At the time of filing his or her application for a permit required by this Article, the applicant shall present his or her driver's license, or other state-approved identification card containing his or her photograph, to the Chief of Police.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-3-70. False information.

It is unlawful for any person to give any false or misleading information in connection with his or her application for a permit required by this Article.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-3-80. Certificate.

Each person who has registered with the Town Clerk as a solicitor or canvasser shall be issued a certificate indicating that he or she has registered and setting forth the effective dates of such registration. Each registrant shall at all times carry upon his or her person the registration certificate, and the same shall be exhibited by such registrant whenever he or she is requested to do so by any police officer or any person solicited or contacted. (Prior Code, § 7-3D; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-3-90. Fees.

(a) Each person registered with the Town shall pay a fee to the Town Clerk as set forth in the Town Fee Schedule. Such registration shall be valid for a period of 30 days and may be renewed for successive 30-day periods at the discretion of the Board of Trustees or the appropriate designated municipal official.

(b) Such license may be revoked, suspended or not renewed for good cause shown to the Board of Trustees or appropriate municipal official. Such cause shall consist of:

- (1) Engaging in a violation of any ordinance of the Town or any state statute.
- (2) Harassing or bothering residents or refusing to leave a premises when asked to do so.
- (3) Failing to display the permit issued by the Town upon request.

(Prior Code, § 7-3C; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-3-100. Exemptions from fees.

(a) No person shall be subject to the fee requirements of Section 6-3-80 above if he or she is bringing food products to the Town for sale, either in bulk or by retail, from house to house, provided that such food products were grown or raised by the person so having them for sale and are products of the State.

(b) This Article shall not apply to officers or employees of the Town, County, State or federal government or any subdivision or agency thereof when on official business.

(Prior Code, § 7-3E; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 4 RIGHT-OF-WAY PERMITS**Sec. 6-4-10. Revocable permit.**

(a) The Board of Trustees is authorized to issue a revocable permit to an applicant for use of a portion of the public right-of-way of any street, alley or public place. Such permit may be issued only when the following criteria have been met:

- (1) The public property which is sought to be used by a person for private purposes is not being fully used by the Town and the proposed use will not interfere with or diminish the Town's ability to use the property and to use and maintain adjoining property for the appropriate public purpose.
- (2) The person desiring to use the public right-of-way, street, alley or public place shall provide insurance as may be required by the Board of Trustees, naming the Town of Pierce as an additional insured on such insurance policy.
- (3) The permittee has filed an application upon forms provided by the Town and understands that such permit is revocable by the Town without cause.

(b) No permit shall be required for the otherwise lawful parking of motor vehicles in the public right-of-way.

(Ord. No. 2005-3, § 1, 6-13-2005; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-4-20. Revocation.

The revocable permit may be revoked at any time by the Board of Trustees whenever it has been determined that the permitted use is no longer in the best interest of the Town.

(Ord. No. 2005-3, § 2, 6-13-2005; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-4-30. Application.

A revocable permit shall only be granted upon application by a person and payment of such fee as may be determined to be appropriate by the Board of Trustees, and upon proof that the applicant has public liability insurance in an amount determined appropriate by the Town and naming the Town of Pierce as an additional insured. The insurance requirement may be waived by the affirmative vote of a majority of the Board of Trustees (being four members).

(Ord. No. 2005-3, § 3, 6-13-2005; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 6-4-40. Damage to public property.

Any damage to public property shall be promptly repaired by the permit holder. If such damage is not promptly repaired, it may be repaired by the Town and the cost charge to the permit holder, together with 15 percent for administration. If such costs are not paid, the Town may certify such costs to the County for collection as taxes pursuant to law.

(Ord. No. 2005-3, § 4, 6-13-2005; Ord. No. 2016-4, § 1, 8-29-2016)

Chapter 7

Health, Sanitation and Animals

Article 1 Administration And Abatement Of Nuisances

- Sec. 7-1-10. Definitions.
- Sec. 7-1-20. Purpose.
- Sec. 7-1-30. Common law nuisances.
- Sec. 7-1-40. Author of nuisances.
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- Sec. 7-1-70. Constitution of separate offense.
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Article 2 Nuisances

- Sec. 7-2-10. Accumulation to constitute nuisances.
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- Sec. 7-3-110. Depositing or discarding refuse.
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- Sec. 7-3-130. Interference with trash containers.
- Sec. 7-3-140. Town-wide cleanup.

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- Sec. 7-3-150. Refuse removal.
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Article 4 Weeds and Dead or Infected Trees

- Sec. 7-4-10. Weeds prohibited.
- Sec. 7-4-20. Removal from Town.
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- Sec. 7-5-10. Types of animals permitted.
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Article 6 Trees

- Sec. 7-6-10. Spacing of trees.
- Sec. 7-6-20. Distance from curb and sidewalk.
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HEALTH, SANITATION AND ANIMALS

- Sec. 7-6-70. Public and private tree care.
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- Appendix 7-A Trees for the Northern Front Range

ARTICLE 1 ADMINISTRATION AND ABATEMENT OF NUISANCES

Sec. 7-1-10. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

At the curb means at or near the perimeter of the premises, whether or not there is a curb, but does not mean or permit placement on the sidewalk or in the street.

Brush means voluntary growth of bushes, tree suckers and weeds and shall include any unmanaged and uncontrolled growth of vegetative matter. *Brush* also includes the foregoing material cut and left at an improper place.

Compost means a mixture consisting of decayed organic matter used for fertilizing and conditioning soil.

Garbage means solid wastes from the domestic and commercial preparation and handling of food and from the storage and sale of produce.

Hazardous waste means any chemical compound, substance or mixture that state or federal law designates as hazardous because it is ignitable, corrosive, reactive or toxic, including but not limited to solvents, degreasers, paint thinners, cleaning fluids, pesticides, adhesives, strong acids, alkalis and waste paint or ink. *Hazardous waste* also includes equipment required to be recycled at designated facilities.

Inoperable vehicle means any automobile, truck, tractor, motorcycle or self-propelled vehicle which is in a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed. A vehicle is presumed to be inoperable if:

- (1) It does not have a valid registration or license plate on it.

- (2) It is placed on jacks, blocks, chains or other supports.

- (3) The absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways.

Litter means all rubbish, waste material, refuse, garbage, trash, debris, paper, liquid waste or other material of any size, form or description.

Occupant means a person entitled to possession of the property or premises, whether or not the owner.

Owner means the owner of record, whether an individual, individuals or entity, any agent or representative of the record owner and any person entitled to possession of the premises.

Private trash means private household or business trash, including wastepaper, waste food, construction debris, furniture or other common household or business trash.

Property means and includes, in addition to the owner's lot or tract of land, whether improved or vacant, the area to the center of an alley abutting the lot or tract of land, if any, includes the area of up to and abutting a street, curb or gutter and all easements on the property, and includes any boulevard or area between a sidewalk and a street.

Public trash container means any trash container, trash bin, trash can or other receptacle placed in or near a public area for use by the members of the public using the public area.

Refuse means and includes any grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, rubbish containers, boxes, glass, cans, bottles, garbage, waste and discarded building and construction materials, including but not limited to plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material;

all rubbish of any kind or nature whatsoever; and any other materials commonly known as rubbish or refuse of any kind or character or by any means known.

Refuse container means a watertight receptacle of a solid and durable metal or nonabsorbent, fire-resistant plastic with a tightly fitting, insect-proof and rodent-proof cover of metal or plastic or a tightly secured plastic bag.

Topping means the severe cutting back of limbs to stubs larger than three inches in diameter or the removal of a tree's crown to a degree that the normal canopy is significantly disfigured.

Trash means any worn out, broken up or used refuse, rubbish, toppings, twigs, leaves of trees or worthless matter or material.

Weed means an unsightly, useless, troublesome, voluntary growth of herbaceous plants, including brush. *Weed* shall include bindweed, dandelion, leafy spurge, Canada thistle, Russian knapweed, perennial sow thistle, puncture vine, poverty weed, knapweed, Russian thistle, fireweed, hairy stickweed, sandbur, common ragweed, cockle-burs, common sunflower and all weeds, grass, brush or other rank or noxious vegetation 12 inches or more in height found growing on any lot or tract of land within the Town.

(Prior Code, § 3-4; Ord. No. 2003-2, § 13, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-1-20. Purpose.

The purpose of this Chapter is to protect the public health, safety and welfare by regulating the accumulation, storage, transportation and disposal of refuse and rubbish to prevent conditions that may create fire, health or safety hazards, harbor undesirable pests or impair the aesthetic appearance of the neighborhood or the Town.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-1-30. Common law nuisances.

Any nuisance which has been declared to be such by state courts or statutes or known as such at common law shall constitute a nuisance in the Town, and any person causing or permitting any such nuisance shall be in violation of this Article.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-1-40. Author of nuisances.

Any state of things prohibited by this Article shall be deemed to be a nuisance, and any person who shall hereafter make or cause such nuisance to exist shall be deemed to be the author thereof.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-1-50. Prohibition of nuisances.

No person being the owner, agent or occupant of, or having under his or her control, any building, lot, premises or unimproved real estate within the limits of the Town, shall maintain or allow any nuisance to be or remain therein.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-1-60. Ascertaining nuisances.

Whenever the pursuit of any trade, business or manufacture or the maintenance of any substance or condition of things shall, upon investigation, be considered by the Administrative Authority dangerous to the health of any of the inhabitants of the Town, the same shall be considered a nuisance and shall be abated.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-1-70. Constitution of separate offense.

In the case of any nuisance in or upon any street, alley or other public or private grounds, the author thereof shall be guilty of a separate offense for every period of 48 hours' continuance thereof after notice has been given to abate the same.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-1-80. Filing complaint.

In addition to or in lieu of any procedure for abatement, a direct complaint may be filed by any person or police officer against any person who violates any provision of this Chapter. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-1-90. Abatement of nuisance.

(a) Unless otherwise provided elsewhere in this Chapter, in all cases where a nuisance is found in any building or upon any grounds or other premises within the jurisdiction of the Town, 24 hours' notice shall be given, in writing, signed by the Administrative Authority, to the owner of said premises or the occupant or person in possession, charge or control of such building or other premises where he or she is known and can be found, to abate such nuisance and comply with the requirements of this Chapter. However, in the case where accumulated refuse has been deemed to be the nuisance, the Administrative Authority shall require the removal of such accumulated refuse within 30 days of such notice.

(b) Should any such nuisance, within or upon any public or private premises or as aforesaid, not be abated forthwith after the notice herein provided has been given, the Administrative Authority may declare the same to be a nuisance and order the Chief of Police to abate the same, which order shall be executed without delay, and the Chief of Police shall have the authority to call for the necessary assistance therefor.

(c) In case of any such nuisance in or upon any street, avenue, alley, sidewalk, highway or public grounds in the Town, the Chief of Police or Public Works Superintendent may abate the same forthwith without such notice being given.

(d) Any officer who is duly authorized to abate any nuisance specified in this Chapter shall have the authority to engage the necessary assistance and incur the necessary expense therefor.

(e) The expense incurred by the Town in abating any nuisance may be recovered from the author thereof as set forth in this Chapter. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-1-100. Right of entry.

The Administrative Authority, Chief of Police or any other authorized person may enter upon or into any lot, house or other building or premises, with the proper respect for the occupant's constitutional rights, to examine the same and to ascertain whether any such nuisance exists, and shall be free from any action or liability on account thereof. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-1-110. Removal and assessment.

(a) When violations of this Chapter exist and are not otherwise abated, the Administrative Authority is directed to inspect and supervise premises within the Town known to cause violations of this Chapter to be abated. Such abatement may include, but is not limited to, the removal of refuse, rubbish, weeds, junk or trash and, when such abatement or removal is completed by the Town, the Town shall be entitled to collect a reasonable charge from the owner or occupant in accordance with this Section. Every owner of real property remains liable for violations of responsibilities imposed by this Chapter, even though such obligation may also be imposed upon the occupant of the premises.

(b) If any person fails to comply with the provisions of this Article, in addition to the penalty provided therefor, a written notice may be served upon the owner or agent in charge of such property, such notice to be served personally or by mail, requiring the removal from the property of all refuse and rubbish found on the premises or in the adjoining streets and alleys. Such notice shall require removal of all refuse and rubbish within seven days after mailing or delivery of such notice, except that, if such accumulation of refuse and

rubbish constitutes or may create a fire, health or safety hazard or harborage for rodents, such notice shall require removal within 72 hours. If such refuse and rubbish are not removed within the stated time and maintained within compliance for the remainder of the calendar year, the Town may remove or cause to be removed from the property all refuse and rubbish found on the premises or in the adjoining streets and alleys and assess the whole cost thereof, including 15 percent of the costs for inspection and other incidental costs in connection therewith, upon the land. The costs and any charges assessed by the Town pursuant to this Article associated with removal of refuse and rubbish shall be paid by the owner of the property or agent for such owner within 30 days after mailing of the bill or assessment of such cost by the Town to said owner or agent. The Town shall have the right to proceed for the collection of any unpaid charges for rubbish or refuse removal in the manner provided by law for collection of debts and claims on behalf of the Town, including, without limitation, collection and lien procedures provided in this Section.

(c) Failure to pay, within ten days after mailing or delivery to the owner of the property, the amount assessed for refuse or rubbish removal as described in this Section shall cause such assessment to become a lien against such lot, block or parcel of land associated with and benefiting from said services. Said lien shall have priority over all liens, except general taxes and prior special assessments, and the same may be effected at any time after such failure to so pay by recordation with the County Clerk and Recorder of a certification by the Town, setting forth the costs to be charged against the property, the dates of service and descriptions of services giving rise to such charges. This lien and collection procedure is supplementary and in addition to any collection procedures described elsewhere within this Chapter.

(d) In addition to any other means provided by law for collection, if any such assessment is not paid within 30 days after it is made and notice

thereof is mailed, the same may be certified by the Town Clerk to the County Assessor and placed upon the tax list for the current year, and thereby collected in the same manner as other taxes are collected, with a 15-percent penalty thereon to defray the cost of collection, as provided by state law.

(Ord. No. 2010-5, § 1, 7-12-2010; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-1-120. Appeal of assessment.

(a) Any owner or occupant who disputes the amount of such assessment made against the property may, within 30 days of receipt of the notice of assessment, appeal the assessment and request a revision or modification of the assessment.

(b) The appeal shall be made in writing and delivered to the Town Clerk, and shall set forth such information as the petitioner believes appropriate. Such appeal shall be heard by the Board of Trustees within 30 days after the appeal is filed with the Town Clerk. Notice of such hearing and proceedings shall be given to the petitioner at least ten days prior to the hearing date. The petitioner shall have the burden of proof that revision or modification is necessary to preserve substantial justice.

(c) Within ten days after the hearing, the Board of Trustees shall make findings of fact based upon information presented, shall make a decision based upon such findings and may revise or modify such assessment, confirm the assessment or reject the assessment to promote substantial justice. The decision of the Board of Trustees shall be in writing, shall be final and shall be served upon the applicant within ten days after the date of such decision, personally or by certified mail, return receipt requested.

(Ord. No. 2010-5, § 1, 7-12-2010; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-1-130. Owner has ultimate responsibility.

Every owner of any lot, block or parcel of property within the Town remains liable for violation of the duties imposed by this Chapter even though such obligation is also imposed upon the tenants or occupants of his or her premises, and even though the owner has by agreement imposed on the occupant or other persons the duty of complying with this Chapter except that no owner shall be responsible for the cost of removal pursuant to Section 7-1-90 of this Chapter, unless said owner has been sent a notice described in Section 7-1-90 to an address the owner has provided to the Town or to the owner's address in the County Assessor's records..

(Prior Code, § 3-17; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-1-140. Cumulative remedies.

No remedy provided herein shall be exclusive, but the same shall be cumulative, and the taking of any action hereunder, including charge, conviction or violation of this Chapter in the Municipal Court, shall not preclude or prevent the taking of other action hereunder to abate or enjoin any nuisance found to exist.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-1-150. Concurrent remedies.

Whenever a nuisance exists, no remedy provided for herein shall be exclusive of any other charge or action, and, when applicable, the abatement provisions of this Chapter shall serve as and constitute a concurrent remedy over and above any charge or conviction of any municipal offense or any other provision of law. Any application of this Chapter that is in the nature of a civil action shall not prevent the commencement or application of any other charges brought under this Code or any other provision of law.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 2 NUISANCES**Sec. 7-2-10. Accumulation to constitute nuisances.**

Whenever, in or upon any lot or piece of ground within the limits of the Town, there is any damaged merchandise, litter, trash, rubbish, garbage, wrecked car, inoperable cars or other wrecked vehicles or an accumulation of junk vehicles or junk of any type upon any private or public property, except in areas specifically zoned in Chapter 16 of this Code for said purposes or otherwise designated by the Town for such purposes, the existence of any such material or items shall constitute a nuisance and shall be a violation of this Chapter.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-2-20. Posting handbills, posters and placards.

Any handbill, poster, placard or painted or printed matter which is stuck, posted or pasted upon any public or private house or other building or upon any fence, power pole, telephone pole or other structure without the permission of the owner, agent or occupant of the building shall be deemed a nuisance and may be abated as provided in this Chapter.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-2-30. Streets, streams and water supply.

No person shall throw or deposit, or cause or permit to be thrown or deposited, any offal composed of animal or vegetable substance or both, any dead animal, excrement, garbage or other offensive matter upon any street, avenue, alley, sidewalk or public or private grounds. No person shall throw or deposit, or cause or permit to be thrown or deposited in the Town, anything specified in this Section or any other substance that would tend to have a polluting effect into the water of any stream, ditch, pond, well, cistern,

trough or other body of water, whether artificially or naturally created, or so near any such place as to be liable to pollute the water.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-2-40. Stagnant ponds.

The permitting of stagnant water on any lot or piece of ground within the Town limits is hereby declared to be a nuisance. Every owner or occupant of a lot or piece of ground within the Town is hereby required to drain or fill up said lot or piece of ground whenever the same is necessary so as to prevent stagnant water or other nuisances from accumulating thereon. It is unlawful for any such owner or occupant to permit or maintain any such nuisance.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-2-50. Sewer inlet.

No person shall, in the Town, deposit in or throw into any sewer (sanitary or storm), sewer inlet or privy vault that has a sewer connection any article that might cause such sewer, sewer inlet or privy vault to become nauseous to others or injurious to public health.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-2-60. Nauseous liquids.

No person shall discharge or permit to be discharged out of or from or permit to flow from any building or property any foul or nauseous liquid or substance of any kind into or upon any adjacent ground or lot or into any street, alley or public place.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-2-70. Littering.

(a) It is unlawful for any person to throw, cause to be thrown or permit anyone in his or her employ to throw onto any public highway, thoroughfare, street, sidewalk or other place any kind of wire or scrap paper, any ashes, cans or glass of any

character, old clothes, cloth of any kind, boots, shoes, hats, leather, hair, straw or hay, animal, vegetable or any other substance whatever, or any type of advertising matter; or to distribute, cause to be distributed or permit anyone in his or her employ to distribute any type of advertising matter in such a manner so as to cause the littering of any public highway, thoroughfare, street, sidewalk or public place. It is further unlawful for any person to sweep, cause to be swept or cause anyone in his or her employ to sweep from any store, office, warehouse, factory, hotel or any other building, occupied in whole or in part for commercial purposes, any refuse or dirt from such building onto any public highway, thoroughfare, street, sidewalk or other public place in the Town.

(b) It is unlawful for any person to drive, move or propel a vehicle or to allow a vehicle owned by such person to be driven, moved or propelled in such a manner so as to cause any trash or rubbish to be spilled, dropped or jostled onto any street, highway, thoroughfare, sidewalk or other public place in the Town; or to load or allow a vehicle to be so loaded so that the contents or any portion of the contents of such vehicle shall be spilled, dropped or jostled from such vehicle. Vehicles, including trucks loaded with or transporting any construction material, dirt, earth, clay, stone, macadam, brick, cement, sand, fuel, coal, wood, refuse or garbage, shall be loaded and the vehicle shall be in such condition so that none of the contents shall be loosed or spilled along the route which the vehicle is traveling.

(c) It is unlawful for any person operating a vehicle or being a passenger in any vehicle to throw or cause to be thrown from such vehicle onto any public highway, thoroughfare, street, sidewalk or other public place in the Town any rubbish or trash, fruit or fruit particles, wrappers, containers, paper, paper products, bottles, glass, cans, hulls, handbills, confetti, shavings, shells, stalks, animals, cloth or any other material of any

kind which would render such public highway, thoroughfare, street, sidewalk or other public place unsightly, unsafe, unclean or unsanitary.

(d) The owner or person in control of any private property shall at all times maintain the premises free of litter. No person shall throw or deposit litter on any private property in the Town, whether or not owned by such person; provided, however, that the owner or person in control of private property may maintain authorized private receptacles for the deposit of rubbish or other waste materials in such a manner that waste materials will be prevented from being carried or deposited onto any public or private property.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-2-80. Dumping on property.

It is unlawful for any person to use any land, premises or property within the Town for the dumping or disposal of any garbage, trash, litter, rubbish, offal, excrement, weeds, brush, discarded building materials or combustible materials of any kind.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-2-90. Dead animal removal.

When any animal dies or is killed in the Town, it shall be the duty of the owner or keeper thereof to remove the body of such animal forthwith from the Town or to properly bury or otherwise dispose of such animal. Should any owner or keeper thereof fail to promptly remove such animal from the Town, the Town is authorized to do so and may charge the owner or keeper the cost of such removal and collect from such owner or keeper the cost of such removal pursuant to Sections 7-1-90 through 7-1-150 of this Chapter.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-2-100. Abandoned motor vehicles.

(a) *Definition.* The term *abandoned vehicle* means:

- (1) Any motor vehicle left unattended on private property for a period of 24 hours or

longer without the consent of the owner or lessee of such property or his or her legally authorized agent.

- (2) Any motor vehicle left unattended on public property for a period of 24 hours or longer, unless the owner or driver has conspicuously affixed thereto a dated notice indicating his or her intention to return or has otherwise notified the appropriate law enforcement agency of his or her intention to remove the same within 72 hours.

(b) *Abandonment unlawful.* It is unlawful to abandon any vehicle in the Town on public or private property as defined in this Chapter. Any vehicle abandoned in violation of this Section may be towed by the proper law enforcement authority to an appropriate facility for holding such vehicle without liability to the Police Department or any agent acting on behalf of the Police Department for disposal according to state law.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-2-110. Inoperable vehicles.

(a) *Prohibitions.* Except as provided in this Section, it is unlawful for any person or agent, either as owner, lessee, tenant or occupant of any lot or land within the Town, to park, store or deposit or permit to be parked, stored or deposited thereon, an inoperable vehicle unless it is enclosed in a garage or other building.

(b) *Temporarily disabled vehicles.* The provisions of Subsection (a) above shall not apply to any person or agent with one vehicle inoperable for a period of 90 days or less.

(c) *Business activity and screening.* The provisions of this Section shall not apply to any person or agent who is conducting a business enterprise in compliance with existing zoning regulations or who places such vehicle behind screening of sufficient size, strength and density to screen such vehicle from the view of the public using the streets

and sidewalks and to prohibit ready access to such vehicle by children; provided, however, that nothing in this Section shall authorize the maintenance of a public nuisance.

(d) *Administrative procedures.* Whenever a complaint is made to the Police Department or other appropriate Town official or member of the Board of Trustees regarding an alleged violation of this Section, or whenever any police officer of the Town observes an apparent violation of this Section, the police officer may cause a written notice to be served upon the person in possession or the owner of the real property upon which such inoperable vehicle is located. Such notice shall inform such person of the violation and direct that he or she take action within ten days after receipt of such notice to comply with this Section or that prosecution will be commenced for violation thereof. If compliance is not made as directed, prosecution proceedings against the responsible person shall be commenced.

(Prior Code, §§ 3-8—3-10; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-2-120. Construction sites and building materials.

(a) Construction sites shall be kept neat and orderly at all times, and dust and debris shall be controlled so as to remain upon the construction premises.

(b) Construction materials shall not be stored upon more than 20 percent of the open space of any premises upon which construction is taking place and shall be so stored for no more than 30 days prior to or 30 days after actual construction.

(c) Used building materials and lumber which are prohibited for construction purposes by the adopted building code or other ordinances of the Town shall not be considered building materials and shall be considered refuse subject to Sections 7-3-110 and 7-3-150 of this Chapter.

(d) Recyclable materials shall be stored indoors and in a clean and sanitary manner so as to prevent the spread of disease and rodents. If not so stored, such recyclable materials shall be considered refuse and subject to Sections 7-3-110 and 7-3-150.

(Prior Code, § 3-18; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-2-130. Broken windows in vacant dwellings.

All broken windows in a vacant dwelling shall be replaced by the owner or agent within 72 hours after notice is given by the Chief of Police.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 3 GARBAGE AND REFUSE

Sec. 7-3-10. Accumulation of garbage, refuse and rubbish prohibited.

(a) The owner and occupant of any premises within the Town, whether business, commercial, industrial or residential premises, shall maintain the property in a clean and orderly condition, permitting no deposit or accumulation of materials other than those collected in conjunction with a business enterprise lawfully situated and/or licensed for such storage or collection. All garbage, refuse and rubbish stored on the premises shall be stored in refuse containers and the storage area shall be kept free of loose refuse. Any refuse or rubbish which by its nature is incapable of being stored in refuse containers shall be neatly stacked and stored. The number and size of refuse containers shall be sufficient to accommodate the accumulation of refuse from the property. Containers shall be secured and placed where they are not spilled by animals, wind or other elements and screened from view of the street.

(b) No person shall store or permit to remain on any business, commercial, industrial or residential premises owned or occupied by such person

any manure, refuse, animal or vegetable matter or any foul or nauseous liquid waste, garbage or rubbish, which is likely to become putrid, offensive or injurious to the public health, safety or welfare, for a period longer than seven days at any one time.

(c) The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that refuse and rubbish will be prevented from being carried by the elements to adjoining premises. All refuse and rubbish from construction or related activities shall be picked up at the end of each workday and placed in containers which will prevent refuse and rubbish from being carried by the elements to adjoining premises.

(d) The accumulation of refuse and rubbish which constitutes or may create a fire, health or safety hazard or harborage for rodents or is hazardous to persons is unlawful and is hereby declared to be a nuisance and a nonconforming use of the premises.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-20. Responsibility for collection and disposal.

(a) Each occupant or each owner of any premises wherein rubbish is produced or accumulated shall be jointly and severally responsible to provide for collection and removal of garbage, refuse and rubbish to the degree service is necessary to maintain the premises in a clean and orderly condition.

(b) All refuse containers or recyclable material containers shall be kept in an appropriate storage area except on collection day or within 12 hours preceding the time of regularly scheduled collection, when the containers may be placed at the curb or upon the edge of the alley for collection. Following collection, containers shall be returned to the storage area within 12 hours after collec-

tion. Containers shall not at any time be placed on the sidewalk or street or in any manner so as to impair or obstruct pedestrian, bicycle or vehicular traffic.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-30. Tampering with containers.

(a) No person, other than the owner or agent or employee of any owner, occupant or entity, shall tamper with any refuse container or its contents, remove the contents of any refuse container or remove a refuse container from the location where the same has been placed by the owner.

(b) No owner of any dog, cat or other pet shall permit, whether by overt act or omission, that pet to damage or open any refuse container or scatter the contents.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-40. Refuse containment in transit.

No person shall collect, transport or receive any refuse or rubbish within or upon any public streets in the Town or anywhere in the Town except in leak-proof containers or vehicles so constructed that no refuse or rubbish can leak or sift through, fall out of or be blown from such container or vehicle. Any person collecting or transporting any refuse or rubbish shall immediately pick up all refuse and rubbish which drops, spills, leaks or is blown from the collecting or transporting container or vehicle and shall otherwise clean the place onto which any such refuse or rubbish was so dropped, spilled, blown or leaked.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-50. Waste material; deposit on private property prohibited.

It is unlawful for any person to discard or abandon refuse or rubbish upon premises not owned or occupied by such person without the consent of the owner thereof or the person occupying the same, and such materials so deposited without

such consent shall be deemed to have been discarded and abandoned if the same remains upon such premises for a period exceeding 72 hours. Discarding and abandonment of any such materials shall be deemed to be permission by the owner thereof to the Town to remove the same and assess the costs of such removal against those persons discarding or abandoning the same in accordance with the provisions of Section 7-1-110 of this Article.

(Ord. No. 3-70, § 1-6, 3-2-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-60. Removal of refuse from business.

Discarded refuse, including automobile parts, stoves, furniture, wool, hides, junkyard refuse and packing house or slaughterhouse refuse, shall be removed periodically from such respective establishments by the proprietor so that the premises are clean and orderly at all times.

(Ord. No. 3-70, § 1-8, 3-2-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-70. Accumulation and use of manure.

Other than a light spread of manure which may be applied on lawns or gardens for fertilizing purposes, manure shall not be kept on any property for any purpose or kept in any place for later use, but shall be either plowed under or removed by the owner, occupant or agent.

(Ord. No. 3-70, § 1-9, 3-2-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-80. Town disposal sites.

Until changed by a proper resolution of the Board of Trustees, all garbage, rubbish, waste material and ash disposal sites shall be those provided by the County.

(Ord. No. 3-70, § 1-11, 3-2-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-90. Hazardous waste.

No person shall place hazardous waste in containers for collection or bury or otherwise dispose of hazardous waste on public or private property anywhere within the Town. Hazardous waste shall be disposed of at the Weld County Health Department Hazardous Waste Collection Facility or other approved facility. No person shall cause or permit any toxic or flammable liquids or any waste containing crude petroleum or its products to be discharged into or upon any property, gutter, street, alley, highway, stormwater facility or watercourse or upon the ground, unless such liquid has undergone suitable treatment. This Section shall not apply to the Police Department or Fire Department in an emergency or in an attempt to clean up a hazardous waste spill.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-100. Hazardous and other refuse prohibited.

It is unlawful to allow the accumulation or storage of any discarded automobile parts, refuse of all kind, junkyard refuse, packing house or slaughterhouse refuse. All business premises creating such refuse shall keep the premises clean and orderly at all times. Silt, sand or similar deposits from motor vehicle wash racks shall be removed to an appropriate disposal site by the establishment creating such deposits. Any accumulation of refuse that is explosive or inflammable which might endanger life or property shall be removed to such places as approved by the Administrative Authority, such removal to be completed by the establishment creating such refuse.

(Ord. No. 2-2000, § 1, 8-14-2000; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-110. Depositing or discarding refuse.

It is unlawful to deposit or place any refuse in such a manner as the same tends to become a nuisance or in such a manner that the same endan-

gers or tends to endanger the public health. No person shall in any manner, throw, place, scatter, deposit or bury refuse in or upon any public street, alley or other public place or upon his or her own premises or the premises of another, nor shall any person place private trash or refuse in any public or private trash container without the consent of the owner of such container.

(Ord. No. 2-2000, § 1, 8-14-2000; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-120. Private trash in public containers unlawful.

No person shall place any private trash or allow his or her private trash to be placed in a public trash container located in any park or public area, nor shall any person place his or her private trash in the trash container of another without the consent of the owner or lessor of such trash container. Trash bins located in or adjacent to parks and public areas shall be used only for the purpose of collecting trash generated at such park or public facility for the purpose of preparing or consuming food or beverages.

(Ord. No. 2-2000, § 1, 8-14-2000; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-130. Interference with trash containers.

No person shall remove, molest, handle or otherwise disturb any refuse containers, bags, dumpsters or other trash receptacle unless such person is the owner thereof.

(Ord. No. 2-2000, § 1, 8-14-2000; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-140. Town-wide cleanup.

The provisions of Sections 7-3-60 through 7-3-90 above shall not apply to the deposit of trash in a public trash dumpster or container specifically provided for the placement of private trash during the annual or semi-annual Town-wide cleanup.

(Ord. No. 2-2000, § 1, 8-14-2000; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-150. Refuse removal.

Every owner remains liable for violations of responsibilities imposed upon an owner by this Chapter, even though an obligation is also imposed on the occupant of the premises and even though the owner has by agreement imposed on the occupant the duty of maintaining the premises or furnishing required refuse containers and collection; except that no owner shall be responsible for the cost of removal pursuant to Section 7-1-110 of this Article, unless said owner has been sent a notice described in Section 7-1-110 to an address the owner has provided to the Town, or to the owner's address in the County Assessor's records.

(Prior Code, § 3-7; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-3-160. Administrative Authority.

The Administrative Authority is authorized and directed to inspect and supervise the premises within the Town and, if it is found that any refuse, rubbish or garbage exists on any property in violation of this Chapter, the Administrative Authority shall, in addition to any other action permitted under this Code, remove or cause to be removed from the property all refuse and rubbish found on the premises or in the adjoining streets and alleys and assess and collect a reasonable charge from the owner or occupant, all in accordance with the notice, removal and assessment provisions of Section 7-1-110 of this Chapter.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 4 WEEDS AND DEAD OR INFECTED TREES

Sec. 7-4-10. Weeds prohibited.

(a) It is unlawful for any person owning or having possession of any land, including any land abutting a public right-of-way, street, alley or side-

walk, to permit any weeds, grasses or unsightly vegetation to grow in height exceeding 12 inches or to otherwise become a nuisance. For purposes of this Section, the term *public right-of-way* means and includes the non-traveled portion of any street or alley.

(b) Failure to cut or otherwise remove weeds as described above shall be unlawful.
(Prior Code, § 3-11; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-4-20. Removal from Town.

If any person fails to comply with Section 7-4-10 above after issuance of a summons and complaint and a plea of guilty or trial to the Court and the finding of guilty, the Municipal Court may order the weeds cut by the Town and the cost of such cutting and removal shall be added to any fine and costs previously imposed. If, within ten days after such order, the costs of cutting and removal have not been paid, such costs shall become a lien upon the property and the Town Clerk may certify such costs to the County Assessor for collection as taxes in the manner set forth in Sections 7-1-110 of this Chapter. In addition, a lien may be recorded in the County Clerk and Recorder's office, which lien shall not expire until paid and shall be superior to any other lien except the lien for general taxes and prior special assessments.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-4-30. Sight obstruction.

Every owner or occupant of any property within the Town shall cut, trim or prune any weed, shrub, brush, tree or other vegetation which obstructs or interferes with a clear view of traffic signs or traffic on perpendicular streets or operation and maintenance of utility facilities or otherwise interferes with a sight distance triangle.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-4-40. Removal of dead or dangerous trees.

It shall be the duty of the owner, occupant or agent of any property to remove any dead trees or dead overhanging boughs or limbs which are dangerous to life or property located on the premises of such owner, occupant or agent.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-4-50. Removal or treatment of infected or infested trees.

Upon discovery of any destructive or communicable disease or other pestilence which endangers the growth, health, life or well-being of other trees or plants or which is capable of causing an epidemic spread of communicable disease or insect infestation, the Town shall require the property owner, occupant or agent to eradicate, remove or otherwise control such condition within a reasonable time, to be specified in a notice to the owner, occupant or agent. In addition to other notice provided herein, a notice shall be posted upon the dead, diseased, infected or infested tree.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-4-60. Owner's ultimate responsibility.

Every owner remains liable for violations of responsibilities imposed upon an owner by this Chapter, even though an obligation is also imposed on the occupant of the premises and even though the owner has by agreement imposed on the occupant the duty of maintaining the premises or furnishing required refuse containers and collection.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-4-70. Yard waste composting regulations; nuisance.

(a) Composting of yard wastes shall be permitted, subject to the following specifications. The compost holding unit:

- (1) Shall not exceed five-foot cubes (125 cubic feet) in volume;

- (2) Shall be in a container constructed of wood, wire, metal or plastic, excluding plastic bags, or in a pit not more than two feet deep or five feet in diameter;
- (3) May be a stationary or rotating unit;
- (4) Shall be located in the backyard and shall be screened or fenced so that it is not readily visible;
- (5) Shall be maintained to minimize odors; and
- (6) Shall not be allowed to attract rodents or to become a health or safety hazard.

(b) The creation or maintenance of yard waste composts in violation of the above specifications is hereby declared to be a public nuisance and may be abated according to the procedures established in this Chapter for the abatement of nuisances. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-4-80. Administrative Authority - trees.

The Administrative Authority is authorized and directed to inspect and supervise the premises within the Town and, if it is found that any dead or dangerous tree or any infected or infested tree exists on any property in violation of this Article, the Administrative Authority shall, in addition to any other action permitted under this Code, remove or cause to be removed the dead or dangerous tree or infected and infested tree found upon such premises or in the adjoining streets or alleys, and assess and collect a reasonable charge from the owner or occupant in accordance with the notice, removal and assessment provisions of Section 7-1-110 of this Chapter. (Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 5 ANIMALS

Sec. 7-5-10. Types of animals permitted.

(a) The only animals which are allowed to be kept by any person within the Town are dogs and cats. All other animals are prohibited except as may be allowed by permit pursuant to Subsection (b) below.

(b) Any person desiring an animal other than a dog or cat shall apply to the Board of Trustees for a permit to keep such animal as he or she desires, including livestock to be kept in an agricultural zone. The Board of Trustees shall grant such permit when the number and type of animals are compatible with the size of the lot and the character of the neighborhood and comply with such other criteria the Board of Trustees may determine relevant and when the number and type of animal comply with zoning regulations.

(c) This Section shall not apply to small animals normally kept in cages inside a residence or to poisonous reptiles, constrictors or dangerous or exotic animals. (Prior Code, § 4-1; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-20. Control of animals.

(a) All animals shall be kept under control. No owner, harboror, keeper or other person who has assumed responsibility for any animal shall allow such animal to run at large within the Town. If any animal is found at any place within the Town other than upon the premises of the owner, the owner is presumed to have violated this Section.

(b) A dog shall be considered running at large when it is neither on the premises of its owner nor on a leash ten feet or less in length attached to the dog and held by or tied to a person.

(c) All other animals are prohibited except as set forth in Section 7-5-10 above.

(d) Animals may be prohibited in parks or other public places when signs stating the same are erected at reasonable places indicating such prohibition. (Prior Code, § 4-2; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-30. Dog license required.

The owner, keeper, harboror or other person who has assumed responsibility for any dog within

the Town shall secure a license for such dog. However, no license shall be required for any dog under the age of six months or for dogs which are brought into the Town for a period of ten days or less.

(Prior Code, § 4-3; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-40. Term of dog license.

Licenses issued for dogs in this Town shall be good for a period of one year. The license term shall be from January 1 to December 31 of the same year. Dog licenses for each calendar year shall be obtained prior to the first day of March in the year for which the license is issued. Dogs brought into the Town shall be licensed no later than 30 days from the date they are brought into the Town.

(Prior Code, § 4-4; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-50. License fee and vaccination.

(a) Each applicant for a license shall pay to the Town Clerk a fee for an un-neutered dog and for a neutered dog in an amount set forth in the Town Fee Schedule.

(b) Any person who acquires or brings a dog into the Town after July 1 of each year shall be required to pay one-half of the fee set forth in this Section. This Subsection shall not apply to persons who have failed to apply and pay for a license in a timely manner as required by Section 7-5-40 above.

(c) No license shall be issued to any applicant for a dog license until such applicant has produced and displayed to the Town Clerk a certificate issued by a licensed doctor of veterinary medicine certifying that such dog has been vaccinated against rabies. It is unlawful for any person to own, keep harbor or possess any dog over the age of six months which has not been inoculated against rabies with an appropriate rabies vaccine. Any

person moving into the Town with a dog shall comply with this Section within 30 days after moving into the Town. Any person acquiring a dog shall comply with this Section within 30 days after the dog is brought into the Town.

(d) Each license issued by the Town shall state the expiration date of the current vaccination at the time the license is issued, and each licensee shall have the dog revaccinated against rabies prior to the actual expiration date of the prior rabies vaccination. Failure to have the dog revaccinated prior to the expiration of the prior vaccination shall be unlawful and a violation of this Section.

(e) The license issued by the Town shall contain the following information:

- (1) The name, address, telephone number and email address of the owner of the dog.
- (2) The breed, sex and color of the dog.
- (3) The date of inoculation and the type of vaccine used.
- (4) The expiration date of the current vaccination.
- (5) The tag number or other identifying information issued by the Town.

(f) Any owner, keeper, harboror or person responsible for a dog shall have such dog revaccinated no later than ten days after expiration, as set forth on the license. Failure to have the dog revaccinated within ten days after the prior vaccination has expired is unlawful.

(Prior Code, § 4-5; Ord. No. 2011-5, § 2, 8-8-2011; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-60. Issuance of license.

(a) Dogs specially trained to aid or assist handicapped or disabled persons and governmental service dogs are required to have a license but are exempt from payment of the license fee. Anyone claiming an exemption has the burden of proving

to the satisfaction of the licensing authority that the dog in question is entitled to such an exemption.

(b) The Town Clerk shall issue to each person making proper application and payment of fees as provided in this Article a dog license for each dog. The Town Clerk shall keep a suitable book for the registration of dogs and shall register therein all dogs whose owners, keepers or harborors have paid the license fee herein provided and shall keep a record of the date of registration, the name, sex, breed and color of each dog and the place where the same shall be kept.

(Prior Code, § 4-6; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-70. License tag required.

(a) The Town Clerk shall furnish to the person causing the dog to be licensed a suitable tab or tag bearing a number corresponding to that of the license issued for such dog and the year for which such license is issued. Each dog so licensed shall be provided by its owner, keeper or harboror with a collar or harness of suitable material to which such tags shall be securely fastened, and its owner shall keep such collar or harness with such tag fastened to the dog at all times.

(b) It is unlawful for any owner, keeper, harboror or other person who has assumed responsibility for a dog to permit such dog to wear any license tag other than the one issued by the Town for the dog.

(Prior Code, § 4-7; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-80. Nuisance animal.

(a) Keeping any animal that menaces or attacks a person, vehicle or other animal, goes upon school premises without the permission of the person in charge thereof or damages, destroys or injures any shrubbery, plants, flowers, lawn, fence

or other property, either private or public, is unlawful, and the owner shall, in addition to any fine or penalty, be responsible for appropriate restitution.

(b) Areas in which animals are kept shall be maintained in a manner which does not create odors, dust, noise or drainage offensive to the senses of smell, hearing or sight, thereby constituting a hazard or nuisance to the use or enjoyment of adjoining properties.

(Prior Code, § 4-8; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-90. Owner responsibility for animal defecation.

(a) Any owner taking the animal upon any public way or other public property in the Town shall immediately remove or cause to be removed and lawfully dispose of all fecal matter left on such property by the animal.

(b) Any owner taking any animal upon any private property other than his or her own property shall immediately remove or cause to be removed and lawfully dispose of all fecal matter left on such property by the animal.

(Prior Code, § 4-9; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-100. Confinement of female dog in heat.

The Administrative Authority may order any unspayed female dog that is in a stage of estrus (heat) and is not properly confined, or is creating a public nuisance, to be removed to a boarding facility or a veterinary hospital until the period of estrous is finished. All expenses incurred as a result of such order shall be paid by the animal's owner. Failure to comply with such an order is a violation of this Section, and the animal may be impounded at the owner's expense.

(Prior Code, § 4-10; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-110. Noisy animals.

(a) It is unlawful for the owner, keeper, harboror or any other person who has assumed the responsibility for an animal to permit such animal kept in any yard, house or other place to bark, howl, yelp, bawl or make other loud and persistent noise in a manner which, under non-mitigating circumstances, could be considered by reasonable persons of ordinary sensibilities as excessive or continuous.

(b) Whenever a person is charged with a violation of this Section, he or she shall not be convicted thereof unless two or more complaining witnesses testify at the trial or other corroborating evidence is presented and received.

(c) In cases where the owner is absent from the premises, the Administrative Authority, police officer or other designated officer of the Town shall have authority, without liability, to use all reasonable means to abate such nuisance, including the authority to impound such animal, upon receipt of a signed complaint; provided, however, that this authority does not extend to entering the owner's dwelling or any other building upon the owner's premises.

(d) The fact that the owner of an animal has a permit to keep any such animal does not relieve the person of the responsibility to comply with this Section.

(Prior Code, § 4-11; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-120. Animal bites; report and quarantine requirements.

(a) The owner of any animal that bites a human being shall report the occurrence to the Administrative Authority when known to him or her or reported to him or her, shall deliver the animal to the Administrative Authority and shall provide such further information required by the Administrative Authority.

(b) Any animal that bites a human being shall be quarantined pursuant to one of the following procedures for a period of not less than ten days:

- (1) The owner of the animal shall provide written assurances that the animal shall be and remain quarantined on the owner's premises.
- (2) In any other event, the animal shall be quarantined in the animal shelter or a veterinary hospital at the expense of the owner.

(c) Every person having knowledge thereof shall report to the Administrative Authority any suspected or positively diagnosed occurrence of rabies and any biting by any suspected or confined rabid animal.

(d) No person shall kill any suspected or confirmed rabid animal except in defense of a human being or other animal, or to prevent the escape of such suspected or confirmed rabid animal.

(e) No person shall remove the dead body of any suspected or confirmed rabid animal from where the animal was killed or found.

(f) If rabies has been diagnosed by a veterinarian or medical doctor in any animal, such animal shall be summarily destroyed and its brain sent immediately to the Colorado Department of Public Health and Environment for positive verification, at the owner's expense; or the animal or its body may be disposed of according to law, regulation or order of said Department.

(Prior Code, § 4-12; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-130. Vicious dog prohibited.

(a) No person shall own, keep, harbor or possess any vicious dog within the Town except as provided in Section 7-5-140 below; provided, how-

ever, that an animal is not a vicious animal because it has attacked or bitten any or all of the following persons:

- (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 into the animal owner's automobile or other vehicle wherein such animal is confined.
- (3) Any person engaged in attempting to stop a fight between such animal and another animal.
- (4) Any person engaged in attempting to aid such animal when it is injured.

(b) *Vicious animal* means any animal that constitutes a threat to human beings or other animals or which approaches any human being in a violent and terrorizing manner in an attitude of apparent attack on such human being.

(Prior Code, § 4-13; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-140. Guard dog.

Guard dogs shall be permitted only when they are confined inside a building or inside a chain-link fence at least six feet in height and such fence or building has such other anti-escape measures as may be deemed necessary by the Administrative Authority. Any person owning a guard dog shall post a sign reading "Danger - Guard Dog."

(Prior Code, § 4-14; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-150. Destruction or removal of vicious or nuisance animal.

The Municipal Court, in its sound discretion, may order any animal which has been deemed to be a vicious animal or a nuisance to be destroyed or otherwise removed from the Town.

(Prior Code, § 4-15; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-160. Limit on number of animals.

No person, residence or address shall be allowed to keep more than four dogs. This Section shall not apply where new litters are still nursing and such litters are less than 12 weeks old.

(Prior Code, § 4-16; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-170. Impoundment authorized.

It is lawful for the Administrative Authority, police officer or other designated officer of the Town to impound dogs and any other animals which have been found running at large or to return the dog or other animal to the owner, keeper, harboror or other person who has assumed responsibility of the dog and to issue such person a penalty assessment or summons and complaint for a violation of this Article. Any dog so impounded shall not be returned to the owner until a dog license has been purchased if the dog is unlicensed and until the redemption and administrative fees have been paid, which fees shall be set forth in the Town Fee Schedule.

(Prior Code, § 4-17; Ord. No. 2005-2, § 1, 6-13-2005; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-180. Disposition of unredeemed animals.

Any animal which has been impounded and not redeemed for a period of five days may be disposed of in any humane manner by the appropriate Administrative Authority.

(Prior Code, § 4-18; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-190. Inhumane treatment prohibited.

It is unlawful for any person to inhumanely treat any animal. Inhumane treatment may consist of failure to provide food, shelter or water, or to abuse by kicking, hitting, beating or otherwise mistreating any animal. Any animal receiving inhumane treatment may be removed or impounded

at the expense of the owner by the appropriate authority. It is unlawful for any person to inhumanely treat or to inhumanely kill any animal.

(Prior Code, § 4-19; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-200. Keeping of chickens; limitations and requirements.

The keeping of chicken roosters or more than eight chicken hens is prohibited upon any parcel of land within the Town. However, up to eight chicken hens may be kept per parcel of property, subject to the following requirements and subject to all other applicable provisions of this Article:

- (1) All structures devoted to the keeping of chicken hens shall be located between the rear-most portion of the residence and the rear lot line of the parcel in question. No chicken hens shall be permitted within any other portion of the lot or parcel.
- (2) If a parcel has more than one dwelling unit, all adult residents and the owners of the parcel must consent in writing to allowing the chicken hens on the property.
- (3) Any person keeping chicken hens pursuant to this Section must first have been issued a permit by the Town, the application for which shall be made available by the Town Clerk, and shall expressly incorporate an acknowledgement of the provisions of Section 7-5-20 above. The Town Clerk shall assess an application fee in an amount set forth in the Town Fee Schedule for each application received under this Article.
- (4) All chicken hens must be provided with a covered, predator-resistant chicken house that is properly ventilated, designed to be easily accessed, cleaned and maintained and at least two square feet per chicken in size, and no portion of which shall exceed six feet from grade.
- (5) During daylight hours, the chicken hens must have access to the chicken house, must have access to adequate fresh water and must also have access to an enclosure that is screened on all sides and on top and adequate to protect them from predators.
- (6) The chicken hens must be protected from predators by being closed in the chicken house from dusk until dawn.
- (7) Neither the chicken house nor any portion of the outdoor enclosure may be located less than 15 feet from any abutting property line unless the owner or keeper of the chicken hens obtains the written consent of the owners of all abutting properties to which the enclosure is proposed to be more closely located; in which event, the agreed-upon location shall then be deemed acceptable to all such abutting property owners, notwithstanding any subsequent change in ownership of such abutting properties.
- (8) The chicken hens must be sheltered or confined in such fashion as to prevent them from coming into contact with wild ducks or geese or their excrement.
- (9) The chicken hens shall be killed by or at the direction of the owner or keeper if so ordered pursuant to the lawful order of state or county health officials, or for the purpose of euthanasia when surrendered to a licensed veterinarian for such purpose, or as otherwise expressly permitted by law.
- (10) If the parcel upon which the keeping of chicken hens is proposed falls within the jurisdiction of a homeowners' association or similar covenant-based property owners' association, the requirements of this

Section shall be considered minimum requirements. Any such association shall have the right to lawfully adopt more stringent chicken-keeping standards, including the outright prohibition of chicken-keeping, for any parcel within the regulatory authority of such association.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-210. Owner or keeper slaughter of chicken hens.

An owner or keeper of chicken hens may slaughter his or her chicken hens for the purpose of food provision for the owner's or keeper's family. Any owner's or keeper's slaughter of chicken hens shall be accomplished in a humane and sanitary manner and shall take place out of public view. No person shall slaughter or dispose of chicken hens in exchange for valuable consideration.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-220. Declaration of nuisance and unlawful acts; duty to maintain chicken habitat.

(a) The unsanitary or unsafe keeping of chicken hens within the Town is hereby declared unlawful and a public nuisance. It shall be the duty of every owner or keeper of chicken hens to maintain the chicken hen habitat in a secure, neat, tidy, methodical, systematic, clean and orderly condition, permitting no accumulation of odor, dust, droppings, feed, organic material, pests or loitering of predators. Any owner or keeper who is found to have violated the provisions of this Section shall be deemed subject to the nuisance abatement measures provided in Article 1 of this Chapter.

(b) Any person found to be in violation of the provisions of this Article shall be subject to immediate and permanent revocation of any permit issued to such person under this Article.

(c) Any person found to be in violation of the provisions of this Article shall, upon conviction, be punished by a fine not to exceed the maximum established under Subsection 1-4-20(a) of this Code, exclusive of court costs.

(d) The remedies contained in this Article are cumulative and nonexclusive and shall not be deemed to limit the Town's authority to seek injunctive relief in a court of competent jurisdiction.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-230. Town disposal of chicken hens found at large.

Chicken hens found at large shall be treated as any other animal, as set forth in Section 7-5-20 of this Article. In addition to all other remedies available at law or equity, the Town shall have the authority to seize, impound and dispose of any chicken hens found at large within the Town's corporate limits. Such seizure, impoundment and disposal shall not require notice to any owner or keeper, nor any attempt to locate the owner thereof.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-5-240. Permit procedure.

Any person applying for a permit to keep chicken hens shall file an application provided by the Town and shall pay such fee as is set forth in the Town Fee Schedule. No permit for the keeping of chicken hens shall be granted until a hearing is held before the Board of Trustees and adjoining property owners have been notified of the permit application.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 6 TREES

Sec. 7-6-10. Spacing of trees.

The spacing of street trees shall be in accordance with the size of trees as listed in the key set

forth in Appendix 7-A to this Chapter. No trees shall be planted closer together than the following:

- (1) A distance of 25 feet for trees designated as small trees in the key for tree characteristics.
- (2) A distance of 25 to 40 feet for trees designated as medium trees in the key for tree characteristics.
- (3) A distance of 40 feet for trees designated as large trees in the key for tree characteristics.

Exceptions may be allowed for special plantings designed and approved by a landscape architect.

(Ord. No. 2003-2, § 4, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-6-20. Distance from curb and sidewalk.

Trees shall be planted no closer to curb lines or sidewalks than as set forth herein:

- (1) Small trees, no closer than two feet;
 - (2) Medium trees, no closer than three feet;
 - (3) Large trees, no closer than four feet.
- (Ord. No. 2003-2, § 5, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-6-30. Distance from street corners and fire-plugs.

No street tree shall be planted closer than 40 feet to a street corner, as measured from the point of the nearest intersecting curb or curb line. No tree shall be planted within ten feet of any fire hydrant.

(Ord. No. 2003-2, § 6, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-6-40. Distance requirements regarding utilities and service lines.

With the exception of the species listed as small trees in Appendix 7-A to this Chapter, no street tree shall be planted under or within 15 lateral feet of any overhead utility wire, or within ten feet of any underground water line, sewer line or other utility.

(Ord. No. 2003-2, § 7, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-6-50. Trees in commercial areas.

The Town hereby designates the area on Main Street from Highway 85 to Third Street and on First Street from Cave Avenue to Park Avenue as an area that has economic importance to the Town, and the Town hereby assumes control over the planting, maintenance and removal of trees in said area. Control, care and maintenance of the trees in the above-described area shall include trees planted by the Town after January 1, 1994, and any trees planted by the Town after the effective date of the ordinance codified herein and which are located in any median strip or street right-of-way. The Town does not by this Article assume jurisdiction or responsibility for the care, control or removal of any trees planted prior to January 1, 1994.

(Ord. No. 2003-2, § 8, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-6-60. Contractor requirements.

Contractors providing tree care service, including pruning or removal of trees or stumps in the Town, shall be insured and experienced in the business of tree care.

(Ord. No. 2003-2, § 9, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-6-70. Public and private tree care.

(a) The Town has the right to plant, prune, maintain and remove trees, shrubs and plants within the lines of all streets, alleys, avenues, lanes,

squares and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(b) The Town may issue an order for the removal of any tree or part thereof which is unsafe when it endangers persons or property, is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, is dead, decaying, infected with an injurious fungus or infested with insects, or has any other disease or an infestation which requires removal of part or all of the tree. The Town may also order the removal of trees which interfere with corner sight distances, traffic control or traffic control devices, including stop and speed limit signs.

(c) This Section shall apply to trees on public and private property. This Section does not prohibit the planting of street trees adjacent to a public street, provided that the selection and location of said trees are in accordance with the requirements of this Article.
(Ord. No. 2003-2, § 10, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-6-80. Prohibited trees.

The following trees, shrubs and plants shall not be planted on public or private property within the Town:

- (1) Female cottonwoods.
- (2) Female box elders.
- (3) Siberian elms.
- (4) Chinese elms.

(Ord. No. 2003-2, § 11, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-6-90. Required removal or trimming.

(a) It is the duty of the owner, occupant or other person in charge of a parcel of property within the Town to remove or trim any tree, shrub,

plant or other growth which interferes with the proper use of the parkways, streets or sidewalks or creates a hazard to traffic, property or persons.

(b) It is a violation of this Article for any owner, occupant or agent in charge of any parcel of property to fail to remove or trim any tree, shrub or plant after notice to do so has been provided by the Town by either certified mail, first-class mail or personal service.

(Ord. No. 2003-2, § 12, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-6-100. Tree topping, pruning or damage.

(a) It is unlawful as a normal practice for any person to top any street tree, park tree or other tree on public property. If other pruning practices are impractical, trees severely damaged by ice storms, winds or other natural causes or that are under any utility wires or other obstructions are exempt and may be topped.

(b) The owner of any tree that overhangs into a street or right-of-way within the Town shall prune the branches so that these branches do not obstruct the light from a municipal street lamp or obstruct the view of the street at an intersection. There shall be a clear space of 13 feet above the surface of the street or sidewalk. Owners of trees shall remove all dead, diseased or dangerous trees and broken or decayed limbs that constitute a menace to public safety. The Town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with the visibility of a traffic control device or sign.

(c) It is unlawful for any person to cut, trim, remove, injure, damage or destroy any shrub, vine, hedge or other vegetation upon public property within the Town or within the right-of-way in the

areas set forth in Section 7-6-50 unless such action is taken with the appropriate consent of the Administrative Authority of the Town.

(Ord. No. 2003-2, § 13, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-6-110. Unlawful acts.

It is unlawful for any owner, occupant or agent in charge of any lot, block or parcel of ground within the Town to fail to prune or remove any dead, dying, decayed or dangerous tree or part of any tree when such tree is unsafe, endangers persons or property, is injurious to sewers, electric power lines, gas lines, water lines or public improvements, is infested with an injurious fungus, is infested with insects or other disease or has an infestation which has caused the tree or any part thereof to become weak or hazardous to persons or property.

(Ord. No. 2003-2, § 14, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-6-120. Removal of trees by Administrative Authority.

(a) If any owner, occupant or agent in charge of any lot, block or parcel of ground within the Town fails to prune or remove any dead, dying, decayed or dangerous tree or part of any tree, such pruning or removal may be done by the Town. Prior to removal by the Town, the Town shall provide 60 days' notice to such owner, tenant or agent, to include the following:

- (1) That the removal of such tree is required because the tree is unsafe, endangers persons or property, is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, is dead, decaying, infected with an injurious fungus, infested with insects or other disease or has an infestation which requires removal of part or all of the tree.

- (2) That removal must be made within 60 days of the date of the notice or removal may be completed by the Town.
- (3) The name of the property owner or agent of such owner, the name of the current occupant if different from the owner, the tenant or agent's last known address, the address of the lot wherein the tree is located, a description of the tree by variety, if possible, and its location on the lot.
- (4) If the owner, tenant or agent does not prune or remove such dead, dying, decayed or diseased tree within the time set forth in the notice, then the Town shall be authorized to conduct such pruning or removal and may charge the entire cost thereof to the owner, tenant or agent, together with an additional 25 percent of such cost for inspection, administrative fees and incidental charges; provided, however, that the minimum charge shall be \$100.00.

(b) Notice pursuant to this Section shall be complete when such notice is mailed to the last known address of the owner, tenant or agent and is delivered to any occupant or posted upon the property and on the tree to be pruned or removed.

(c) Any charges made under this Section which are not paid within 30 days after billing shall be collected as set forth in Section 7-1-110 of this Chapter.

(Ord. No. 2003-2, § 15, 1-13-2003 Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-6-130. Appeal.

(a) Any person desiring to appeal any decision of the Tree Board or the Administrative Authority may appeal to the Board of Trustees, by filing with the Town Clerk at the Town Hall, a written appeal within ten days of the date of the notice containing the following information:

- (1) The name, address and telephone number of the person appealing the order.

- (2) The address and location of the tree required to be removed.
- (3) The reasons why the Tree Board or Administrative Authority should not require the removal or pruning of the subject tree.

(b) The Board of Trustees shall consider such appeal no later than 32 days after filing and issue an order within ten days after conclusion of the hearing on the matter.

(Ord. No. 2003-2, § 16, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-6-140. Right of entry upon property.

Upon presentation of proper credentials, the Administrative Authority or agent of the Town may enter upon any property, vacant lot or premises to perform any duty imposed by this Article, including inspection of trees or plants. The Administrative Authority or agent may take samples or borings of vegetation for testing as may be necessary to comply with this Article.

(Ord. No. 2003-2, § 18, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 7-6-150. Penalties.

Any person convicted of violating any provision of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(Ord. No. 2003-2, § 19, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

APPENDIX 7-A

Trees for the Northern Front Range

By no means does this list include every tree that could grow in northern Colorado. It is, however, an attempt to list the most commonly available trees and their characteristics. There is no perfect tree. Great care should be given to select the right tree for the right place. More detailed information on all trees can be obtained from your local nursery professional. It is recommended that no more than 15 percent of any one tree species be planted in a community. If you are interested in planting a tree not on this list, please contact your local Tree Board, Town Arborist or Town Forester.

KEY for Tree Characteristics

L = large trees: 40 feet tall at maturity

M = medium trees: 25 to 40 feet tall at maturity

S = small trees:

e = evergreen

d = deciduous

N = native to Colorado

:) = recommended for street trees

: (= not recommended for urban areas

* = colorful flowers, leaves or fruit

♦ = drought-tolerant at maturity

? = messy fruit may be a cleanup problem

♥ = provide food for birds and other wildlife species

<i>Scientific Name</i>	<i>Common Name</i>	<i>Characteristics</i>	<i>Comments</i>
<i>Abies concolor</i>	White fir, concolor fir	L e N	Beautiful bluish or silver-green foliage
<i>Acer grandidentatum</i>	Bigtooth maple	M d	Small tree with 5-lobed dark green leaves turning yellow, orange or red in the fall; tolerant of dry and alkaline soils; very slow to reestablish when transplanted
<i>Acer x freemanii</i> "Jeffersred"	Autumn Blaze maple	L d	A fast-growing hybrid of silver and red maples; will become chlorotic if planted in alkaline soils.
<i>Acer ginnala</i>	Ginnala (amur) maple	S d ♦	Small tree or large shrub, red to orange fall color; chlorosis may be a problem
<i>Acer ginnala</i> "Flame"	Flame amur maple	S d ♦	Fiery fall color and red fruits
<i>Acer grandidentatum</i>	Bigtooth maple	M d	Native to Utah; similar to sugar maple but smaller; good orange/red fall color
<i>Acer negundo</i>	Boxelder	: (L d ?	Attracts boxelder bugs, weak-wooded
<i>Acer platanoides</i>	Norway maple	M d	Provides dense shade; many cultivars are available; subject to sunscald
<i>Acer platanoides</i> "Deborah"	Deborah Norway maple	L d	New leaves emerge red and mature to bronze-red; broad oval shape
<i>Acer platanoides</i> "Emerald Luster"	Emerald Luster Norway maple	L d	

<i>Scientific Name</i>	<i>Common Name</i>	<i>Characteristics</i>	<i>Comments</i>
<i>Acer platanoides</i> "Emerald Queen"	Emerald Queen Norway maple	L d	Glossy dark green foliage; broadly oval in shape
<i>Acer platanoides</i> "Royal Red"	Royal Red Norway maple	M d	Glossy dark red throughout the growing season; smaller than other Norway maples
<i>Acer rubrum</i>	Red maple	L d	Specimen tree for parks and lawns; chlorosis can be a problem; fall color brilliant, but inconsistent
<i>Acer saccharinum</i>	Silver maple	:(L d	Weak-wooded; chlorosis a problem as tree matures
<i>Acer tataricum</i>	Tatarian maple	S d *	Red fruit color; not chlorotic; tolerates urban soils
<i>Aesculus flava</i>	Yellow buckeye	L d ?	Dark green leaves turn pumpkin yellow in fall; upright-oval to slightly spreading crown
<i>Aesculus glabra</i>	Ohio buckeye	M d ?	Yellow to orange fall color
<i>Aesculus hippocastanum</i>	Common horsechestnut	L d ?	Nice symmetrical shape
<i>Ailanthus altissima</i>	Tree-of-Heaven	:(Tolerates urban conditions but is considered a "weed" tree
<i>Amelanchier grandiflora</i> "Robin Hill"	Robin Hill apple serviceberry	S d *	Attractive, reddish-purple fall color, white flowers
<i>Betula fontinalis</i>	Native river birch	S d N	Multi-stemmed shrub or small tree; bright green leaves turn golden yellow in autumn
<i>Catalpa speciosa</i>	Northern catalpa	L d ? ?	Large flowers; large heart-shaped leaves
<i>Celtis occidentalis</i>	Hackberry	L d :) ♦	Hackberry nipplegall can be an aesthetic problem; a very hardy tree
<i>Cercis canadensis</i>	Eastern rosebud	S d *	Specimen tree; pinkish-purple flowers in early spring
<i>Crataegus ambigua</i>	Russian hawthorn	S d * ♥	Clusters of white flowers are followed by bright red fruit
<i>Crataegus phaenopyrum</i>	Washington hawthorn	S d * ♥	Small red fruit; thorny
<i>Crataegus crus-galli inermis</i>	Thornless cockspur hawthorn	S d * ♥	Showy, white flowers have an unpleasant odor; good fall color
<i>Crataegus ambigua</i>	Russian hawthorn	S d * ♥	Showy, white flowers; yellow fall color

<i>Scientific Name</i>	<i>Common Name</i>	<i>Characteristics</i>	<i>Comments</i>
<i>Elaeagnus angustifolia</i>	Russian olive	M d :(Not recommended for Northern Colorado
<i>Fraxinus pennsylvanica</i> "Patmore"	Patmore ash	L d :)	Upright branching, oval crown; yellow fall color
<i>Fraxinus americana</i> "Autumn Purple"	Autumn purple white ash	L d :) *	Excellent reddish purple fall color
<i>Fraxinus pennsylvanica</i>	Green ash	L d :) ♦	Yellow fall color; problems with ash borer; over-planted; seedless varieties should be used
<i>Fraxinus pennsylvanica</i> "Summit"	Summit ash	L d :)	Upright, pyramidal, usually with a central leader; excellent golden fall color
<i>Fraxinus pennsylvanica</i> "Marshall's Seedless"	Marshall ash	L d :)	Yellow fall color; fewer insect problems than other species
<i>Ginkgo biloba</i>	Ginkgo	L d	Plant male of the species only; fruit has an awful smell; attractive fall color; slow growing
<i>Gleditsia triacanthos inermis</i> "Skyline"	Skyline honey locust	L d	A distinctive upright pyramidal shape; yellow fall color
<i>Gleditsia triacanthos inermis</i>	Thornless honey locust	L d :) ?	Over-planted; yellow fall color
<i>Gleditsia triacanthos inermis</i> "Imperial"	Imperial honey locust	M d	Bright green leaves turn gold in fall; rounded shape
<i>Gleditsia triacanthos inermis</i> "Sunburst"	Sunburst honey locust	M d	Golden leaves on new growth eventually change to green; yellow fall color
<i>Gleditsia triacanthos inermis</i> "Shademaster"	Shademaster honey locust	L d	Ascending branches, dark green leaves; yellow fall color
<i>Gymnocladus dioica</i>	Kentucky coffee tree	L d ?	Tolerates dry, urban conditions; only females produce fruit
<i>Juglans nigra</i>	Black walnut	L d ?	Intolerant of heavy pruning
<i>Juniperus monosperma</i>	One-seed juniper	S e ♦	Grayish-green foliage; reddish-brown bark
<i>Juniperus scopulorum</i>	Rocky Mountain juniper	S e N ♦	A variety of cultivars are available
<i>Juniperus chinensis</i>	Chinese juniper	M e ♦	Numerous cultivars to choose from
<i>Juniperus virginiana</i>	Eastern red cedar	S e ♦	An open pyramidal growth habitat

<i>Scientific Name</i>	<i>Common Name</i>	<i>Characteristics</i>	<i>Comments</i>
<i>Koelreuteria paniculata</i>	Golden raintree	S d ♦	Yellow, late summer flowers
<i>Larix decidua</i>	European larch	L d	A conifer that loses foliage in the fall; good yellow fall color
<i>Malus spp.</i>	Apple, Crabapple	S d * ?	Many colorful cultivars; select cultivars having persistent fruit
<i>Phellodendron amurense</i>	Amur corktree	M d :)	Bark is deeply furrowed and cork-like
<i>Picea pungens</i>	Colorado blue spruce	L e N	Colorado State tree!
<i>Picea abies</i>	Norway spruce	L e	Medium to dark green foliage
<i>Pinus nigra</i>	Austrian pine	L e ♦	Foliage holds green color during the winter better than ponderosa pine
<i>Pinus aristata</i>	Bristlecone pine	M e N ♦	Does not tolerate high pollution levels
<i>Pinus flexilis</i>	Limber pine	M e N ♦	Slow growing
<i>Pinus ponderosa</i>	Ponderosa pine	L e N	Native pine of upper foothills and lower mountain zone
<i>Pinus edulis</i>	Pinon pine	S e N ♦	Should not be planted in irrigated lawns
<i>Pinus strobiformis</i>	Southwestern white pine	L e	Native to southwestern U.S.; slender, soft-textured, blue-green foliage
<i>Pinus sylvestris</i>	Scots pine	L e ♦	Butterscotch color bark is very attractive
<i>Pinus contorta</i>	Lodgepole pine	L e N :(Native pine of Colorado's high country
<i>Platanus occidentalis</i>	Sycamore	L d :(?	Exfoliating bark exposes creamy white inner layers; very large tree
<i>Platanus x acerifolia</i>	London planetree	L d :) ?	Medium to fast growth rate
<i>Populus x acuminata</i>	Lanceleaf cottonwood	L d	Fast growing and hardy to over 7,500'
<i>Populus deltoides</i>	Eastern cottonwood	L d N :(Weak-wooded species
<i>Populus nigra italica</i>	Lombardy poplar	L d :(Fast growing; short-lived (5 to 15 years)
<i>Populus alba</i>	White poplar	L d :(Many root suckers (sprouts) occur around mature trees
<i>Populus tremuloides</i>	Aspen	M d N :(Many insect and disease problems; golden fall color
<i>Prunus cerasifera</i> "Newport"	Newport plum	S d *	Very hardy; purplish-red leaves; pale pink flowers
<i>Prunus padus commutata</i>	Mayday tree	S d *	Does best in full sun and moist, well-drained soil; beautiful, white flowers
<i>Prunus maackii</i>	Amur chokecherry	S d * ♥	Attractive shiny, copper bark
<i>Prunus virginiana</i> "Shubert"	Shubert or Canada red chokecherry	M d * ♥	New foliage is green and matures to a maroon color

<i>Scientific Name</i>	<i>Common Name</i>	<i>Characteristics</i>	<i>Comments</i>
<i>Pseudotsuga menziesii</i>	Douglas fir	L e N :(Native to Colorado; not recommended as a street tree
<i>Pyrus ussuriensis</i>	Ussurian pear	M d * ♥	Not commonly available; reddish-purple fall color
<i>Pyrus calleryana</i> "Autumn Blaze"	Autumn Blaze callery pear	M d *	Scarlet-red fall color; other cultivars are available
<i>Pyrus calleryana</i> "Bradford"	Bradford pear	M d * :)	Over-planted
<i>Quercus macrocarpa</i>	Bur oak	L d :) ♦	Very adaptable; young twigs have corky "wings"
<i>Quercus bicolor</i>	Swamp white oak	L d :)	Chlorosis can be a problem in alkaline soils
<i>Quercus gambelii</i>	Gambel oak	S d N ♦	Large shrub or small tree
<i>Quercus robur</i>	English oak	L d :) ♦	Chlorosis can be a problem in alkaline soils
<i>Quercus robur</i> "Fastigiata"	Fastigate English oak	L d	Leaves will hang on tree into the winter; chlorosis may be a problem in alkaline soil
<i>Quercus rubra</i>	Red oak	L d :) *	Bright red fall color; chlorosis is a problem in alkaline soils
<i>Rhus typhina</i>	Staghorn sumac	S d ♦	Spreads from roots; may quickly overtake a site; reddish fall color
<i>Sophora japonica</i>	Japanese pagoda tree	L d	Yellow-green late summer flowers; prone to dieback
<i>Sorbus americana</i>	Mountain ash	M d * ♥	Susceptible to fire blight; white flowers
<i>Sorbus aucuparia</i>	European mountain ash	M d * ♥	Orange-brown bark; white flowers; orange fruit; susceptible to fire blight
<i>Syringa reticulata</i>	Japanese tree lilac	S d *	Small tree or large shrub; white flowers in June; extremely fragrant
<i>Taxodium distichum</i>	Common bald cypress	L d	Tolerates poorly drained sites; moderate water demand
<i>Thuja plicata</i>	Western arborvitae	L e	Plant in areas protected from winter winds; winter water
<i>Thuja occidentalis</i>	Eastern arborvitae	S e	Plant in areas protected from winter winds
<i>Tilia americana</i>	American linden	L d :)	Many cultivars are available
<i>Tilia cordata</i>	Littleleaf linden	M d :)	Flowers have a nice fragrance and attract bees

<i>Scientific Name</i>	<i>Common Name</i>	<i>Characteristics</i>	<i>Comments</i>
<i>Tilia cordata</i> "Greenspire"	Greenspire linden	M d :)	Does well on difficult sites; dark green leaves
<i>Ulmus americana</i>	American elm	L d :)	Susceptible to Dutch elm disease; not commonly available; plant disease-resistant cultivars

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Kuhn, Michael and David Mooter. Nd. *Trees of Nebraska*. Nebraska Cooperative Extension EC 92-1774-X. University of Nebraska. 75 pp. *Little Valley Wholesale Nursery Catalog*. 1998. Little Valley Nursery, Brighton, Colorado. 192 pp. *Tree Selection Guide for Streets and Landscape Throughout Idaho*. 1995. Boise Parks and Recreation Department, Boise, Idaho. 51 pp.

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(Prepared by Dave Farmer, Colorado State Forest Service - October 1998)

(Ord. No. 2003-2, 1-13-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Chapter 8

Vehicles and Traffic

Article 1 Model Traffic Code

- Sec. 8-1-10. Adoption.
- Sec. 8-1-20. Copy on file.
- Sec. 8-1-30. Amendments.
- Sec. 8-1-40. Automatic point reduction.
- Sec. 8-1-50. Application.
- Sec. 8-1-60. Interpretation.
- Sec. 8-1-70. Violation; penalty.

Article 2 Vehicle Regulations

Division 1 General Provisions

- Sec. 8-2-10. Use of conveyance for storage prohibited.
- Sec. 8-2-20. Penalties.

Division 2 Truck Routes

- Sec. 8-2-110. Restrictions on local streets.
- Sec. 8-2-120. Truck routes established.
- Sec. 8-2-130. Affirmative defense.
- Sec. 8-2-140. Trucks, semi-trailers and oversized vehicles on streets.
- Sec. 8-2-150. Definitions.
- Sec. 8-2-160. Penalties.

ARTICLE 1 MODEL TRAFFIC CODE**Sec. 8-1-10. Adoption.**

Pursuant to Parts 1 and 2 of Article 16 of Title 31, C.R.S., and Part 4 of Article 15 of Title 30, C.R.S., there is hereby adopted by reference Articles I and II, inclusive, of the 2010 edition of the *Model Traffic Code for Colorado*, promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 4201 East Arkansas Avenue, EP 700, Denver, Colorado 80222. The subject matter of the Model Traffic Code for Colorado relates primarily to comprehensive traffic control regulations for the Town. The purpose of this Article and the code adopted herein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the State and Nation.

(Ord. No. 2011-6, § 1, 10-10-2011; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 8-1-20. Copy on file.

At least one copy of the Model Traffic Code for Colorado adopted herein is now on file at the office of the Town Clerk and may be inspected during regular business hours.

(Ord. No. 2011-6, § 1, 10-10-2011; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 8-1-30. Amendments.

The 2010 edition of the adopted code is adopted as if set out at length, save and except the following deletions, modifications and additions. The adopted code is hereby expressly amended as follows:

- (1) Sections 1701 and 1702 are not adopted.
- (2) Section 1701 is adopted to read as follows:

"1701. Municipalities - traffic offenses classified - schedule of fines.

"(1) Except as set forth herein, it is a traffic infraction for any person to violate any of the provisions of this code. Such a traffic infraction shall constitute a civil matter. The Colorado Rules of Municipal Procedure shall apply to traffic infraction proceedings, except that no warrant for arrest shall be issued for the defendant's failure to appear when the only violation charged would constitute a noncriminal traffic infraction and the defendant's driver's license is issued by the State of Colorado or any other state which participates in the Interstate Nonresident Violator Compact, as codified at Section 24-60-2101, C.R.S. Instead, the court may enter a judgment of liability by default against the defendant for failure to appear, assess any penalty and costs established by law and report the judgment to the appropriate state motor vehicle department which may assess points against the defendant's driver's license and may take appropriate action to ensure that the judgment is satisfied. There is no right to a trial by jury for any noncriminal traffic infraction.

"(2) The following violations set forth in this Code are not traffic infractions but violation of the following sections shall constitute a Class 1 traffic offense as defined by Section 42-4-1701, C.R.S.

"(a) A violation of Section 1101(1) involving driving twenty miles per hour or more in excess of the reasonable and prudent speed or in excess of the lawful speed limit is a criminal traffic offense.

"(b) Any person who violates Section 607, 705, 1105, 1401, 1402(2), 1409, 1413, 1703 or 1903 of this code commits a criminal traffic offense.

"(3) Decriminalized traffic infractions as provided in this code shall be subject to the following penalties:

<i>"Minimum Penalty</i>	<i>Maximum Penalty</i>
\$25.00	\$750.00

"(4) Court costs and surcharges as authorized by law or ordinance shall be added to the fine.

"(5) Criminal traffic offenses as provided in this code shall be subject to the following penalties, which are authorized upon conviction:

<i>"Minimum Penalt</i>	<i>Maximum Penalt</i>
\$50.00 or 1 day imprisonment, or both	\$1,000.00 or 90 days imprisonment, or both

"(6) Court costs, surcharges, late payment fees or other fees as authorized by law or ordinance or established by a court shall be added to the fine.

"(7) In accordance with the provisions of Sections 1101 and 1002 and when official signs are erected giving notice thereof, the speed limit shall be as herein specified for the following streets or portions thereof:

<i>"Name of Street or Intersection</i>	<i>Terminal Limits</i>	<i>Speed Limit (mph)</i>
Third Street	Spencer Ave. to North Town boundary	30 (15 on school days when children are present)
Second Street	Spencer Ave. to North Town boundary	30 (15 on school days when children are present)
First Street	From Park Ave. South to South Town boundary	30
Jones Avenue	Fourth Street to Second Street	15
Main Street	Gaylor Ave. to U.S. 85	25
Rowe Avenue	West Town boundary to U.S. 85	30

<i>"Name of Street or Intersection</i>	<i>Terminal Limits</i>	<i>Speed Limit (mph)</i>
Park Avenue	First Street to Third Street	30 (15 on school days when children are present)
U.S. 85 (north-bound)	South Town boundary to 1,080 feet North of South boundary	65
U.S. 85 (north-bound)	From 1,080 feet North of South boundary to 1,926 feet North of South boundary	50
U.S. 85 (north-bound)	From 1,926 feet North of South boundary to North Town boundary	40
U.S. 85 (south-bound)	From North Town boundary to 3,096 feet South of North boundary	40
U.S. 85 (south-bound)	From 3,096 feet South of North boundary to South boundary	65

"(8) Court costs and surcharges as authorized by law or ordinance shall be added to the fine.

"(9) The speed limits set forth above shall be the absolute speed limits and shall not be subject to the provisions of Section 1101(4)."

- (3) Section 1707 is hereby amended to read as follows:

"1707. Penalty assessment notice.

"(1) Payment of a penalty assessment notice by the person to whom the notice is tendered shall constitute an acknowledgment of liability by such person of his or her violation of the offense stated in such notice.

"(2) Payment of the prescribed fine within the time set forth upon the penalty assessment shall be deemed a complete satisfaction of the violation, and the Town, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledg-

ing payment thereof. Checks tendered and accepted and on which payment is received shall be deemed sufficient receipt.

"(3) Should the defendant charged by a penalty assessment notice accept the notice but fail to pay the prescribed penalty thereon within twenty days thereafter, he or she shall be allowed to pay such penalty thereon and up to the maximum court costs permitted for municipal courts under state law to the Clerk of the Pierce Municipal Court prior to the time for appearance as specified in the notice."

(Ord. No. 2011-6, § 2, 10-10-2011; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 8-1-40. Automatic point reduction.

If a person receives a notice of penalty assessment for a violation and such person pays the fine and surcharge for such violation on or before the payment is due as set forth in the penalty assessment, the points assessed for the violation will be reduced as follows:

- (1) For a violation having an assessment of 4 points: points are reduced by 2 points.
- (2) For a violation having an assessment of 3 points: points are reduced by 2 points.

(Ord. No. 2011-6, § 3, 10-10-2011; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 8-1-50. Application.

This Article shall apply to every street, alley, sidewalk area, driveway, park and every other public way, public place or public parking area, either within or outside the corporate limits of the Town, the use of which the Town has jurisdiction and authority to regulate. The provisions of Sections 1401, 1402, 1413 and Part 16 of the adopted code, respectively concerning reckless driving, care-

less driving, eluding a police officer and accidents and accident reports shall apply not only to public places and ways but also throughout the Town.

(Ord. No. 2011-6, § 4, 10-10-2011; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 8-1-60. Interpretation.

This Article shall be so interpreted and construed as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic. Article and section headings of this Article and the adopted code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any article or section thereof.

(Ord. No. 2011-6, § 7, 10-10-2011; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 8-1-70. Violation; penalty.

(a) It is unlawful for any person to violate any of the provisions of this Article or the Model Traffic Code as adopted herein.

(b) Except as otherwise set forth in this Article, every person convicted of a violation of this Article or the Model Traffic Code shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 2 VEHICLE REGULATIONS

DIVISION 1 GENERAL PROVISIONS

Sec. 8-2-10. Use of conveyance for storage prohibited.

(a) No truck, truck box, truck bed, railway coach or car, streetcar, bus, semi-trailer, trailer, motor home, camper, motor coach or other device primarily constructed for the purpose of conveyance shall be placed upon any lot or parcel of land for use as a storage facility for a period of more

than five days, except in an area zoned as an industrial district. This Section shall not apply to a construction trailer being used in conjunction with a construction project if a permit is obtained from the Board of Trustees for the use of such temporary structure and proper provision is made for electrical service, water and sewer service and such other systems as may be required to protect the public health, safety and welfare.

(b) A motorhome, motor coach or camper may be parked in the Town while the owners or users are temporarily visiting the Town for a period not to exceed two weeks during any calendar year and if such parking is in compliance with Chapter 11 of this Code.

(c) This Section shall not apply to a railroad car when it is confined to rails, is located on the right-of-way of the railroad and is used for the temporary housing of railroad employees, nor shall this Section apply to any device described in Subsection (a) above which was located in the Town and used for storage purposes on or before January 1, 1997.

(d) In the event that any device is located on any lot or parcel of land within the Town in violation of this Code, the Town shall provide notice that such device is in violation of this Code and shall advise the owner of the device, lot or parcel of land that a violation exists and that the device must be removed within ten days of the notice of the violation. If such device is not removed and the violation abated within ten days, the Town may abate the violation and charge the owner of the device or the owner of the lot or parcel of land the cost of such abatement. In the event that the owner of the device, lot or parcel of land fails to pay the cost of abatement, the Town may place a lien upon such device, lot or parcel of land and collect such cost, plus an administrative fee of 20 percent, and may certify such cost to the County Assessor for collection as taxes.

(Ord. No. 2-97, § 1, 3-10-1997; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 8-2-20. Penalties.

(a) It is unlawful for any person to violate any of the provisions of this Article.

(b) Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and each such person, upon conviction of any violation of this Article, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(Ord. No. 6-2001, § 7, 10-8-2001; Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 2 TRUCK ROUTES

Sec. 8-2-110. Restrictions on local streets.

It is unlawful to drive any truck or other commercial vehicle having a total empty weight in excess of 10,000 pounds on any public street within the Town, unless the roadway is specifically designated and posted as a "truck route." Those streets which are NOT designated as part of the truck route shall have at least one sign posted at the primary access onto such street, which sign shall state "NO TRUCKS" or "NO TRUCKS OVER 10,000 POUNDS EMPTY WEIGHT," or other reasonable facsimile thereof.

(Ord. No. 2004-12, § 1, 11-8-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 8-2-120. Truck routes established.

The streets which comprise the truck route shall be as follows:

- (1) County Road 31 from County Road 90 to County Road 88.
- (2) County Road 88 3/4 from County Road 31 to a point 675 feet west of the center line of 5th Street.
- (3) County Road 88 from County Road 31 to the east Town boundary.

(4) County Road 90 from County Road 31 to the east Town boundary.

(5) U.S. Hwy 85 from County Road 90 to County Road 88.

(Ord. No. 2004-12, § 1, 11-8-2004; Ord. No. 2014-3, § 1, 7-14-2014; Ord. No. 2015-1, § 1, 1-12-2015; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 8-2-130. Affirmative defense.

It is an affirmative defense to this Article that the driver was in the immediate process of delivering or picking up materials or merchandise or providing services or in the process of reaching the final business destination. Excluded trucks may leave the truck route only at the point nearest the destination and must return to the truck route by the shortest route.

(Ord. No. 2004-12, § 2, 11-8-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 8-2-140. Trucks, semi-trailers and oversized vehicles on streets.

It is unlawful to:

- (1) Leave or park any semi-trailer, truck-tractor or oversized commercial vehicle in or at the side of any residential street or along residential property except during the expeditious loading or unloading of property for a period not to exceed 48 hours.
- (2) Leave any truck, tractor-trailer or oversized commercial vehicle in any nonresidential public street or at the side of any street or on any public property or thoroughfare for a period in excess of 48 hours.

(Ord. No. 2004-12, § 3, 11-8-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 8-2-150. Definitions.

As used in this Division, the following words shall have the meanings indicated:

Oversized commercial vehicle means any vehicle used primarily for commercial purposes which, by

itself or in combination with another vehicle, is 22 feet or longer and has a gross empty weight in excess of 10,000 pounds.

Residential street means a public street whose primary function is to provide access to immediately adjacent land used for single-family or multi-family residential purposes.

Semi-trailer means any wheeled vehicle, without motive power, designed to be used in conjunction with a truck-tractor so that some part of its own weight and that of its cargo load rest upon or are carried by such truck-tractor, and which is commonly used to carry and transport property over the public highways.

Truck means any vehicle with a body designed to carry property and which is generally used to carry and transport property over the public highways.

Truck-tractor means any vehicle which is generally and commonly designed to draw a semi-trailer and its cargo over the public highways.

(Ord. No. 2004-12, § 4, 11-8-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 8-2-160. Penalties.

Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and such person, upon conviction of any violation of this Article, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(Ord. No. 2004-12, § 5, 11-8-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Chapter 10

General Offenses

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- Sec. 10-8-20. Illegal weapons.
- Sec. 10-8-30. Carrying concealed weapon; forfeiture.
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GENERAL OFFENSES

Article 9 Noise

- Sec. 10-9-10. Unlawful noise.
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Article 10 Miscellaneous Provisions

- Sec. 10-10-10. Fireworks.
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ARTICLE 1 GENERAL PROVISIONS**Sec. 10-1-10. Criminal attempt.**

(a) A person commits criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, he or she engages in conduct constituting a substantial step toward the commission of the offense. A *substantial step* is any conduct, whether act, omission or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the crime attempted was actually perpetrated by the accused.

(b) A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish his or her complicity under Section 18-1-603, C.R.S., were the offense committed by the other person, even if the other person is not guilty of committing or attempting the offense.

(c) It is an affirmative defense to a charge under this Section that the defendant abandoned his or her effort to commit the crime or otherwise prevented its commission, under circumstances manifesting the complete and voluntary renunciation of this criminal intent.

(d) Criminal attempt to commit a misdemeanor is a misdemeanor.

(e) Criminal attempt to commit a petty offense is a crime of the same class as the offense itself. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-1-20. Conspiracy.

(a) A person commits conspiracy to commit a crime if, with the intent to promote or facilitate its commission, he or she agrees with another person or persons that they, or one or more of them, will

engage in conduct which constitutes a crime or an attempt to commit a crime, or he or she agrees to aid the other person or persons in the planning or commission of a crime or of an attempt to commit such crime.

(b) No person may be convicted of conspiracy to commit a crime unless an overt act in pursuance of that conspiracy is proved to have been done by him or her or by a person with whom he or she conspired.

(c) If a person knows that one with whom he or she conspires to commit a crime has conspired with another person to commit the same crime, he or she is guilty of conspiring to commit a crime with the other person, whether or not he or she knows the other person's identity.

(d) If a person conspires to commit a number of crimes, he or she is guilty of only one conspiracy so long as such multiple crimes are part of a single criminal episode.

(e) Conspiracy to commit a misdemeanor is a misdemeanor.

(f) Conspiracy to commit a petty offense is a crime of the same class as the offense itself. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-1-30. Complicity.

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he or she aids, abets or advises the other person in planning or committing the offense. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-1-40. Accessory to crime.

(a) A person is an accessory to crime if, with intent to hinder, delay or prevent the discovery, detection, apprehension, prosecution, conviction

or punishment of another for the commission of a crime, he or she renders assistance to such person.

(b) The term *render assistance* means to:

- (1) Harbor or conceal the other;
- (2) Warn such person of impending discovery or apprehension; except that this does not apply to a warning given in an effort to bring such person into compliance with the law;
- (3) Provide such person with money, transportation, weapon, disguise or other thing to be used in avoiding discovery or apprehension;
- (4) By force, intimidation or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution or punishment of such person; or
- (5) Conceal, destroy or alter any physical evidence that might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person.

(c) Being an accessory to crime is a Class 1 petty offense if the offender knows that the person being assisted has committed, has been convicted of or is charged by pending information, indictment or complaint with a crime, or is suspected of or wanted for a crime, and if that crime is designated by this Code as a misdemeanor of any class. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-1-50. Aiding and abetting.

Every person who commits, attempts to commit, conspires to commit, aids or abets in the commission of any act declared herein to be in violation of the ordinances of the Town, whether individually or in connection with one or more persons, as a principal, agent or accessory, shall be guilty of such offense, and every person who fraudulently, forcibly or willfully induces, causes, co-

erces, requires, permits or directs another to violate any ordinance of the Town is likewise guilty of such offense.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 2 GOVERNMENT AND PUBLIC OFFICERS

Sec. 10-2-10. Definitions.

For purposes of this Chapter, the following words shall have the meanings ascribed hereafter:

Government means and includes any branch, subdivision, institution or agency of the government of this Town.

Governmental function means and includes any activity which a public servant is legally authorized to undertake on behalf of a government.

Public servant means any officer or employee of the government, whether elected or appointed, and any person participating as an advisor or consultant, engaged in the service of process or otherwise performing a governmental function, but the term does not include witnesses.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-2-20. Obstructing government operations.

(a) It is unlawful to obstruct government operations.

(b) A person commits obstructing government operations if he or she intentionally obstructs, impairs or hinders the performance of a governmental function by a public official, employee or servant, by using or threatening to use violence, force or physical interference or obstacle.

(c) It is an affirmative defense that:

- (1) The obstruction, impairment or hindrance was of an unlawful action by a public servant;

- (2) The obstruction, impairment or hindrance was of the making of an arrest; or
- (3) The obstruction, impairment or hindrance was by lawful activities in connection with a labor dispute with the government.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-2-30. Obstructing peace officer, firefighter, emergency medical service provider, rescue specialist, volunteer or code enforcement officer.

(a) A person commits obstructing a peace officer, firefighter, emergency medical service provider, rescue specialist, volunteer or Code Enforcement Officer 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 or her official authority; knowingly obstructs, impairs or hinders the prevention, control or abatement of fire by a firefighter, acting under color of his or her 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 or her 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.

(b) To assure 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 or she knowingly obstructs, impairs or hinders any such animal.

(c) It is not a defense to a prosecution under this Section that the peace officer was acting in an illegal manner if he or she was acting under color of his or her official authority. A peace officer acts *under color of his or her official authority* if, in the regular course of assigned duties, he or she makes a judgment in good faith based on surrounding facts and circumstances that he or she must act to enforce the law or preserve the peace.

(d) For purposes of this Section, unless the context otherwise requires:

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.

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.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-2-40. Resisting arrest.

(a) It is unlawful to resist arrest.

(b) A person commits the violation of resisting arrest if he or she intentionally prevents or attempts to prevent a peace officer, acting under color of his or her official authority, from effecting an arrest of the actor or another by:

- (1) Using or threatening to use physical force or violence against the peace officer or another; or
- (2) Using any other means which creates a substantial risk of causing physical injury to the peace officer or another.

(c) It is no defense to a prosecution under this Section that the peace officer was attempting to make an arrest which in fact was unlawful, if the peace officer was acting under color of his or her official authority and, in attempting to make the

arrest, the peace officer was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A peace officer acts under color of his or her official authority when, in the regular course of assigned duties, the peace officer is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by him or her.

(d) The term *peace officer*, as used in this Section and elsewhere in this Article, means a police officer in uniform or, if out of uniform, one who has identified himself or herself by exhibiting his or her credentials as such peace officer to the person whose arrest is attempted.

(Prior Code, § 2-6; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-2-50. False reporting to authorities.

(a) It is unlawful for a person to falsely report to authorities. A person commits false reporting to authorities if he or she:

- (1) Knowingly causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, ambulance service or any other government agency which deals with emergencies involving danger to life or property;
- (2) Makes a report or knowingly causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern when he or she knows that it did not occur;
- (3) Makes a report or knowingly causes the transmission of a report to law enforcement authorities pretending to furnish information relating to an offense or other incident within their official concern when he or she knows that he or she has no such information or knows that the information is false;

(4) Knowingly gives false information to any law enforcement officer with the purpose of implicating another; or

(5) Provides false identifying information to law enforcement authorities.

(b) For purposes of this Section, the term *false identifying information* means a person's name, address, birth date, social security number, driver's license or state identification number.

(Ord. No. 2004-16, § 1; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-2-60. Duty of citizens to aid police officers.

It shall be the duty of all persons, when called upon by any police officer, to promptly aid and assist such officer in the discharge of his or her duties.

(Ord. No. 1-75, § 7, 2-3-1975; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 3 STREETS AND PUBLIC PLACES

Sec. 10-3-10. Unlawful conduct on public property.

(a) It is unlawful for any person to enter or remain in any public building or on any public property or to conduct himself or herself in or on them in violation of any order, rule or regulation concerning any matter prescribed in this Section, limiting or prohibiting the use, activities or conduct in such public building or on such public property, issued by any officer or agency having the power of control, management or supervision of the building or property. In addition to any authority granted by any other law, each such officer or agency may adopt such orders, rules or regulations as are reasonably necessary for the administration, protection and maintenance of

such public buildings and property, specifically, orders, rules and regulations upon the following matters:

- (1) Preservation of property, vegetation, wild-life, signs, markers, statues, buildings, grounds and other structures, and any object of scientific, historical or scenic interest;
- (2) Restriction or limitation of the use of such public buildings or property as to time, manner or permitted activities;
- (3) Prohibition of activities or conduct within public buildings or on public property which may be reasonably expected to substantially interfere with the use and enjoyment of such places by others or which may constitute a general nuisance;
- (4) Camping and picnicking, public meetings and assemblages and other individual or group usages, including the place, time and manner in which such activities may be permitted;
- (5) Use of all vehicles as to place, time and manner of use; and
- (6) Control and limitation of fires and designation of places where fires are permitted.

(b) No conviction may be obtained under this Section unless notice of such limitation or prohibition is prominently posted at all public entrances to such building or property or unless such notice is actually first given to the person by the officer or agency, including any agent thereof, or by any law enforcement officer having jurisdiction or authority to enforce this Section.

(c) Any person who violates this Section is guilty of unlawful conduct on public property.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-3-20. Trespass or interference in public buildings.

(a) No person shall so conduct himself or herself at or in any public building owned, operated or controlled by the Town as to willfully deny to any public official, public employee or invitee on such premises the lawful rights of such official, employee or invitee to enter, to use the facilities of or to leave any such public building.

(b) No person shall, at or in any public building, willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion or intimidation or by force and violence or threat thereof.

(c) No person shall willfully refuse or fail to leave any such public building upon being requested to do so by the Town officer charged with maintaining order in such public building, if the person has committed, is committing, threatens to commit or incites others to commit any act which did, or would if completed, disrupt, impair, interfere with or obstruct the lawful missions, processes, procedures or functions being carried on in the public building.

(d) No person shall, at any meeting or session conducted by any judicial, legislative or administrative body or official at or in any public building, willfully impede, disrupt or hinder the normal proceedings of such meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting the meeting or session or by any act designed to intimidate, coerce or hinder any member of such body or official engaged in the performance of duties at such meeting or session.

(e) No person shall, by any act of intrusion into the chamber or other areas designated for the use of any executive body or official at or in any

public building, willfully impede, disrupt or hinder the normal proceedings of such body or official.

(f) The term *public building*, as used in this Section, includes any premises being temporarily used by a public officer or employee in the discharge of his or her official duties.

(g) Any person who violates any of the provisions of this Section commits an unlawful act. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-3-30. Interfering with use of streets or sidewalks.

It is unlawful for any person, alone or in a group or assemblage of persons, whose standing, remaining or congregating on any public highway, street, alley or sidewalk in the Town obstructs, interferes with or prevents the free, unobstructed and reasonable use of that public highway, street, alley or sidewalk by any other person, to fail or refuse to yield to the reasonable use or passage of any other person on that public highway, street, alley or sidewalk, or to fail or refuse to move on, disperse or cease such obstruction or interference immediately upon being so ordered by any police officer of the Town or other authorized peace officer.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-3-40. Damage or removal of street signs.

It is unlawful for any person without proper authorization to remove, deface, damage or destroy any street sign or sign erected or placed in or adjacent to any street indicating the name of such street.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 4 PUBLIC, PRIVATE AND PERSONAL PROPERTY

Sec. 10-4-10. Criminal mischief.

It is unlawful for any person to knowingly or intentionally damage the real or personal prop-

erty of one or more other persons in the course of a single criminal episode, where the aggregate damage to the real or personal property is less than \$1,000.00.

(Prior Code, § 2-11; Ord. No. 2011-5, § 1, 8-8-2011; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-4-20. Damaging or destroying public property.

(a) Any person who destroys, defaces, removes or damages any historical monument, or who defaces or causes, aids in or permits the defacing of any public property commits the violation of defacing property.

(b) It is unlawful for any person to either willfully, maliciously, wantonly, negligently or in any other manner damage or destroy real property, improvements thereto or moveable or personal property belonging to the Town.

(Prior Code, § 2-18; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-4-30. Damaging or destroying private property.

(a) Any person who defaces or causes, aids in or permits the defacing of any private property without the consent of the owner of such property commits the violation of defacing property.

(b) It is unlawful for any person to either willfully, maliciously or wantonly damage or destroy real property or improvements thereto, or moveable or personal property, belonging to any person.

(Prior Code, § 2-18; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-4-40. Trespassing.

A person commits the crime of second degree criminal trespass if he or she unlawfully and knowingly enters, occupies, uses or remains in or upon

any privately owned property, real or personal, without the permission of the owner or person entitled to the possession thereof.

(Prior Code, § 2-12; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-4-50. Littering.

(a) Any person who deposits, throws or leaves any litter on any street, alley, sidewalk or public or private property or in any water, commits a violation of this Section unless:

- (1) The litter is placed in a receptacle or container installed on such property for such purpose.
- (2) Such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property.

(b) Whenever litter is thrown, deposited or dumped from any motor vehicle in violation of Subsection (a) above, the operator of the motor vehicle is presumed to have caused or permitted such litter to have been so thrown, deposited, dropped or dumped therefrom.

(Prior Code, §§ 3-2, 3-3; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-4-60. Theft.

(a) It is unlawful for a person to commit theft.

(b) A person commits theft when he or she knowingly obtains or exercises control over anything of value of another without authorization or by threat or deception or knowing such thing of value to have been stolen, and the value of the thing involved is less than \$1,000.00, and the person:

- (1) Intends to deprive the other person permanently of the use or benefit of the thing of value;

(2) Knowingly uses, conceals or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;

(3) Uses, conceals or abandons the thing of value, intending that such use, concealment or abandonment will deprive the other person permanently of its use and benefit; or

(4) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person.

(Prior Code, § 2-10; Ord. No. 2011-5, § 1, 8-8-2011; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-4-70. Theft of rental property.

It is unlawful for a person to commit theft of rental property. A person commits theft of rental property if:

(1) He or she obtains the temporary use of personal property of another, which is available only for hire, by means of threat or deception or knowing that such use is without the consent of the person providing the personal property; or

(2) He or she, having lawfully obtained possession for temporary use of the personal property of another which is available only for hire, knowingly fails to reveal the whereabouts of or to return the property to the owner thereof or his or her representative or to the person from whom he or she has received it within 72 hours after the time at which he or she agreed to return it; and

(3) The value of the property involved is less than \$1,000.00.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-4-80. Theft by receiving.

It is unlawful to commit theft by receiving. A person commits theft by receiving when he or she receives, retains, loans money by pawn or pledge on or disposes of anything of value of another, knowing or believing that the thing of value has been stolen, and when he or she intends to deprive the lawful owner permanently of the use or benefit of the thing of value, where the value of such thing is less than \$1,000.00.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-4-90. Concealment of goods.

If any person willfully conceals unpurchased goods, wares or merchandise valued at less than \$1,000.00 owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment is on his or her own person or otherwise and whether on or off the premises of the store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of theft.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-4-100. Tampering and unauthorized connection.

(a) Any person who connects any pipe, tube, stopcock, wire, cord, socket, motor or other instrument or contrivance with any main, service pipe or other medium conducting or supplying gas, water or electricity to any building without the knowledge and consent of the person supplying such gas, water or electricity commits tampering and unauthorized connection, which is unlawful.

(b) Any person who in any manner alters, obstructs or interferes with any meter pit, meter or metering device provided for measuring or registering the quantity of gas, water or electricity passing through said meter without the knowl-

edge and consent of the person owning said meter commits tampering and unauthorized connection, which is unlawful.

(c) A person who tampers with property of another with intent to cause injury, inconvenience or annoyance to that person or to another, or if he or she knowingly makes unauthorized connection with property of a utility, commits tampering and unauthorized connection, which is unlawful.

(d) Nothing in this Section shall be construed to apply to any licensed electrical or plumbing contractor while performing usual and ordinary services in accordance with recognized customs and standards.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 5 PUBLIC PEACE, ORDER AND DECENCY

Sec. 10-5-10. Disorderly conduct.

(a) A person commits disorderly conduct if he or she intentionally, knowingly or recklessly:

- (1) Abuses or threatens a person in a public place in an obviously offensive manner;
- (2) Makes unreasonable noise in a public place or near a private residence that he or she has no right to occupy;
- (3) Makes a coarse and obviously offensive utterance, gesture or display in a public place and the utterance, gesture or display tends to incite an immediate breach of the peace;
- (4) Fights with another in a public place, except in an amateur or professional contest of athletic skill;
- (5) Not being a peace officer, discharges a deadly weapon in a public place, except when engaged in lawful target practice or hunting; or

- (6) Not being a peace officer, displays a deadly weapon, displays any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or represents verbally or otherwise that he or she is armed with a deadly weapon in a public place in a manner calculated to alarm.

(b) It is an affirmative defense to prosecution under Paragraph (a)(1) above that the actor had significant provocation for his or her abusive or threatening conduct.

(Prior Code, § 2-4; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-5-20. Disrupting lawful assembly.

A person commits disrupting lawful assembly if, intending to prevent or disrupt any lawful meeting, procession or gathering, he or she significantly obstructs or interferes with the meeting, procession or gathering by physical action, verbal utterance or any other means.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-5-30. Harassment.

(a) A person commits harassment if, with intent to harass, annoy or alarm another person, he or she:

- (1) Strikes, shoves, kicks or otherwise touches a person, or subjects him or her to physical contact;
- (2) In a public place, directs obscene language or makes an obscene gesture to or at another person;
- (3) Follows a person in or about a public place;
- (4) Initiates communication with a person, anonymously or otherwise, by telephone, telephone network, data network, text message, instant message, computer, com-

puter network or computer system in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion or proposal by telephone, computer, computer network or computer system that is obscene;

- (5) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation;
- (6) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home, private residence or other private property; or
- (7) Repeatedly insults, taunts, challenges or makes communications in offensively coarse language to another in a manner likely to provoke a violent or disorderly response.

(b) As used in this Section, unless the context otherwise requires, the term *obscene* means a patently offensive description of ultimate sexual acts, or solicitation to commit ultimate sexual acts, whether or not such ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

(c) Any act prohibited by Paragraph (a)(4) above may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail or other electronic communication was either made or received.

(Prior Code, § 2-5; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-5-40. Loitering.

(a) The word *loiter* means to be dilatory, to stand idly around, to linger, delay or wander about, or to remain, abide or tarry in a public place.

(b) A person commits a violation of this Section if he or she:

- (1) Loiters for the purpose of begging;
- (2) Loiters for the purpose of unlawful gambling with cards, dice or other gambling paraphernalia;
- (3) Loiters for the purpose of engaging in or soliciting another person to engage in prostitution or deviate sexual intercourse;
- (4) With intent to interfere with or disrupt the school program or with intent to interfere with or endanger schoolchildren, loiters in a school building or on school grounds or within 100 feet of school grounds when persons under the age of 18 are present in the building or on the grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil, or any other specific legitimate reason for being there, and having been asked to leave by a school administrator or his or her representative or by a peace officer; or
- (5) Loiters with one or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in Section 10-7-110 of this Chapter.

(c) It is an affirmative defense that the defendant's acts were lawful and he or she was exercising his or her rights of lawful assembly as part of a peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-5-50. Assault.

A person commits the crime of assault if he or she intentionally, knowingly or recklessly causes

bodily injury to another person or, with criminal negligence, causes bodily injury to another person by means of a weapon.

(Prior Code, § 2-1; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-5-60. Menacing.

A person commits the crime of menacing if, by any threat or physical action, he or she intentionally places or attempts to place another person in fear of imminent serious bodily harm.

(Prior Code, § 2-2; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-5-70. Reckless endangerment.

A person commits the violation of reckless endangerment if he or she recklessly engages in conduct which creates a substantial risk of serious bodily injury to another person.

(Prior Code, § 2-3; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-5-80. False reporting.

(a) A person commits false reporting to authorities if:

- (1) He or she knowingly causes a false alarm of fire or other emergency to be transmitted to or within an official or volunteer fire department, ambulance service or any other government agency which deals with emergencies involving danger to life or property;
- (2) He or she makes a report or intentionally causes the transmission of a report to law enforcement authorities of a crime or other incident within their official concern, when he or she knows that it did not occur; or
- (3) He or she makes a report or purposely causes the transmission of a report to law enforcement authorities, pretending to furnish information relating to an offense or

other incident within their official concern when he or she knows that he or she has no such information, or knows that the information is false.

(b) Any person who shall intentionally make or give a false alarm of fire shall be deemed guilty of a misdemeanor.

(Prior Code, § 2-9; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-5-90. Storage of flammable liquids.

It is unlawful to store or cause to be stored or parked, except for delivery, any tank vehicle carrying flammable liquids or gases upon any streets, ways or avenues of the Town or in any other part of the Town, except those areas zoned for such uses.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-5-100. Explosives.

It is unlawful for any person to store within the Town limits or within one mile thereof any amount of gunpowder, blasting powder, nitroglycerine, dynamite or other high explosive in excess of one 50-pound box or in excess of 500 caps or other devices used for the detonation of such high explosives.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-5-110. Abandoned containers and appliances.

It is unlawful for any person to abandon or discard in any public or private place accessible to children any chest, closet, piece of furniture, refrigerator, icebox, other appliance, motor vehicle or other article having a compartment of a capacity of one and one-half cubic feet or more and having a door or lid which, when closed, cannot be opened easily from the inside or who, being the

owner, lessee or manager of such place, knowingly permits such abandoned or discarded article to remain in such condition.

(Prior Code, § 3-6; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-5-120. Throwing stones or missiles.

It is unlawful for any person to throw or shoot any stone, snowball or other missile upon or at any animal, vehicle, building, structure, tree or other public or private property, or upon or at any person in any public way or place or on enclosed or unenclosed ground.

(Prior Code, § 2-13; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-5-130. Fraud by check.

(a) As used in this Section, unless the context otherwise requires:

Check means a written, unconditional order to pay a certain sum in money, drawn on a bank, payable on demand and signed by the drawer. *Check*, for the purposes of this Section only, also includes a negotiable order of withdrawal and a share draft.

Drawee means the bank upon which a check is drawn or a bank, savings and loan association, industrial bank or credit union on which a negotiable order of withdrawal or a share draft is drawn.

Drawer means a person, either real or fictitious, whose name appears on a check as the primary obligor, whether the actual signature is that of himself or herself or of a person authorized to draw the check on himself or herself.

Insufficient funds means a drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account, negotiable order of withdrawal account or share draft account with the drawee, or has funds in such an account with the drawee in an amount less than

the amount of the check plus the amount of all other checks outstanding at the time of issuance; and a check dishonored for "no account" shall also be deemed to be dishonored for insufficient funds.

Issue. A person issues a check when he or she makes, draws, delivers or passes it or causes it to be made, drawn, delivered or passed.

Negotiable order of withdrawal and share draft mean negotiable or transferable instruments drawn on a negotiable order of withdrawal account or a share draft account, as the case may be, for the purpose of making payments to third persons or otherwise.

Negotiable order of withdrawal account means an account in a bank, savings and loan association or industrial bank, and *share draft account* means an account in a credit union, on which payment of interest or dividends may be made on a deposit with respect to which the bank, savings and loan association, industrial bank or credit union, as the case may be, may require the depositor to give notice of an intended withdrawal not less than 30 days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable order of withdrawal or share draft.

(b) Any person, knowing he or she has insufficient funds with the drawee who, with intent to defraud, issues a check for a sum less than \$500.00 for the payment of services, wages, salary, commissions, labor, rent, money, property or other thing of value, commits fraud by check, which is unlawful.

(c) Any person, having acquired rights with respect to a check which is not paid because the drawer has insufficient funds, shall have standing to file a complaint under this Section, whether or not he or she is the payee, holder or bearer of the check.

(d) Any person who opens a checking account, negotiable order of withdrawal account or share draft account using false identification or an assumed name for the purpose of issuing fraudulent checks commits fraud by check, which is unlawful.

(e) If deferred prosecution is ordered, the court as a condition of supervision may require the defendant to make restitution on all checks issued by the defendant which are unpaid as of the date of commencement of the supervision in addition to other terms and conditions appropriate for the treatment or rehabilitation of the defendant.

(f) A bank, savings and loan association, industrial bank or credit union shall not be civilly or criminally liable for releasing information relating to the drawer's account to a sheriff, deputy sheriff, undersheriff, police officer, district attorney, assistant district attorney, deputy district attorney or authorized investigator for a district attorney investigating or prosecuting a charge under this Section.

(g) This Section does not relieve the prosecution from the necessity of establishing the required culpable mental state. However, for purposes of this Section, the issuer's knowledge of insufficient funds is presumed, except in the case of a postdated check or order, if:

- (1) He or she has no account upon which the check or order is drawn with the bank or other drawee at the time he or she issues the check or order; or
- (2) He or she has insufficient funds on deposit with the bank or other drawee to pay the check or order, on presentation within 30 days after issue.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-5-140. Public indecency.

It is unlawful to commit public indecency. Any person who performs any of the following in a

public place or where the conduct may reasonably be expected to be viewed by members of the public commits public indecency:

- (1) An act of sexual intercourse or deviate sexual intercourse;
 - (2) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person; or
 - (3) A lewd fondling or caress of the body of another person.
- (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-5-150. Indecent exposure.

It is unlawful for a person to knowingly expose his or her genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person.
(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 6 MINORS

Sec. 10-6-10. Parent or guardian aiding, abetting.

It is unlawful for any person to knowingly permit any minor child, or to aid, abet, approve, encourage, allow, permit, tolerate or consent to the violation by any minor child of any provision of this Article or any ordinances of the Town.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-6-20. Encouraging delinquency.

It is unlawful for any person, by any act or neglect, to encourage, aid or cause a child to come within the purview of the juvenile authorities, and it shall likewise be unlawful for any person, after notice that a driver's license of any child has been suspended or revoked, to permit such child to operate a motor vehicle during the period that such driver's license is suspended.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-6-30. False statement; false credentials.

It is unlawful for any person under 21 years of age to make false statements, to furnish, present or exhibit any fictitious or false registration card, identification card, note or other document for any unlawful purpose, or to furnish, present or exhibit such document issued to a person other than the one presenting the same for the purpose of gaining admission to prohibited places for the purpose of procuring the sale, gift or delivery of prohibited articles, including beer, liquor, wine or fermented malt beverages as defined in this Chapter.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-6-40. Services of others.

It is unlawful for any person under the age of 21 years to engage or utilize the services of any other person, whether for remuneration or not, to procure any article which any person under the age of 21 years is forbidden by law to purchase.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-6-50. Curfew.

(a) It is unlawful for any minor who has not reached his or her sixteenth birthday to be or remain upon any streets, alleys or other public places within the Town or to remain in any establishment open to the public generally within the Town between the hours of 11:00 p.m. and 5:00 a.m., except:

- (1) When accompanied by a parent, guardian or other person having legal care or custody of such minor;
- (2) For lawful employment; or
- (3) When such minor is in the custody of and accompanied by a person who has reached his or her eighteen birthday and who has in his or her possession the written con-

sent of such parent, guardian or other person having legal care or custody of such minor.

(b) It is unlawful for any parent, guardian or other person having legal care or custody of a minor falling under the terms of Subsection (a) above to allow or permit such minor to violate any of the terms or provisions of this Section.

(Prior Code, § 7-1; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-6-60. Loitering and other acts around schools.

It is unlawful for any person to loiter, idle, wander, stroll or play in, about or on any public, private or parochial school, college or seminary grounds or buildings, either on foot or in or on any vehicle, without having some lawful business therein or thereabout or in connection with such school or the employees thereof, or for any person to:

- (1) Annoy, disturb or otherwise prevent the orderly conduct of classes and activities of any such school;
- (2) Annoy, disturb, assault or molest any student or employee of any such school, college or seminary while in any such school building or on any school grounds;
- (3) Conduct himself or herself in a lewd, wanton or lascivious manner in speech or behavior in or about any school building or school grounds; or
- (4) Park or move a vehicle in the immediate vicinity of or on the grounds of any such school, college or seminary for the purpose of annoying or molesting the students or employees thereof or in an effort to induce, entice or invite students into such vehicles for immoral purposes.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-6-70. Tobacco product use and possession.

(a) *Definitions.* As used in this Section, the following words or phrases are defined as follows:

Minor means any natural person younger than 18 years of age.

Retailer means any person who sells cigarettes or smokeless tobacco to individuals for personal consumption or who operates a facility where vending machines or self-service displays are permitted under this Section.

Smoking means the holding or carrying of a lighted pipe, lighted cigar or lighted cigarette of any kind and includes the lighting of a pipe, cigar or cigarette of any kind.

Tobacco product means:

- (1) Any product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested, inhaled, smoked, placed in the oral or nasal cavities or applied to the skin of an individual, including but not limited to cigarettes, cigars, cigarillos, kreteks, bidis, hookah and pipes; granulated, plug-cut, crimp-cut, ready-rubbed and other smoking tobacco; snuff and snuff flour, snus, plug and twist, fine-cut and other chewing or dipping tobacco; shorts, refuse scraps, clippings, cuttings and seepings of tobacco; and any other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe or otherwise, or both for chewing and smoking. *Tobacco product* also includes cloves and any other plant matter or product that is packaged for smoking.
- (2) Any electronic device or any component thereof that can be used to deliver nicotine to the person inhaling from the device, including but not limited to an electronic cigarette, cigar, cigarillo, hookah,

pipe or nicotine vaporizer; and nicotine or other chemical liquids, extracts and oils intended to be used therein.

Notwithstanding any provision of this definition to the contrary, the term *tobacco product* does not mean any product that the Food and Drug Administration of the United States Department of Health and Human Services has approved as a tobacco use cessation product.

(b) *Unlawful purchase of tobacco products by minors.* It is unlawful and a municipal offense for any minor to purchase, obtain or attempt to purchase or obtain any tobacco product by misrepresentation of age or by any other method.

(c) *Unlawful possession, consumption or use.* It is unlawful and a municipal offense for any minor to possess, consume or use any tobacco product.

(d) *Unlawful furnishing of tobacco products to minors.* It is unlawful for any person to knowingly furnish to any minor by gift, sale or any other means any tobacco product.

(e) *Retail sale of tobacco products.*

- (1) It is unlawful for any business proprietor, manager or other person in charge or control of a retail business of any kind to engage, employ or permit any minor to sell tobacco products from such retail business.
- (2) It is unlawful for any business proprietor, manager or other person in charge or control of a retail business of any kind to stock or display a tobacco product in any way which allows a customer to access such tobacco product without first securing the physical assistance of an adult business employee for each transaction. The provisions of this Article shall not apply to stores possessing a valid retail liquor license as defined by the Colorado Liquor Code. The provisions of this Arti-

cle shall not apply to vending machines meeting the requirements of Subsection (f) below.

- (3) Each retailer shall verify by means of photographic identification containing the bearer's date of birth that a person purchasing a tobacco product is 18 years of age or older. No such verification is required for any person over the age of 26 years. It shall be an affirmative defense to a prosecution under this Section that the person furnishing the tobacco product was presented with and reasonably relied upon photographic identification containing the bearer's date of birth which identified the minor receiving the tobacco product as being 18 years of age or older.

(f) *Vending machines.*

- (1) It is unlawful for any person to sell or offer to sell any tobacco product by use of a vending machine or other coin- or currency-operated machine, except that tobacco products may be sold at retail through vending machines only in places to which minors are not permitted access and only if such vending machine is under the direct supervision of the owner of the establishment or an adult employee of the owner.
- (2) It is unlawful for any person to possess or allow upon premises controlled by such person an operable vending machine containing any tobacco product unless such vending machine is located in a place where minors are not permitted access and such vending machine is under the direct supervision of the owner of the establishment or an adult employee of the owner.
- (3) As used in this Section, *under direct supervision* means the vending machine shall be in plain vision of the adult employee or owner during regular business hours.

(g) The Municipal Court may, in its discretion and as part of the sentence to be imposed, require a person convicted of violating any portion of this Section to complete court-approved public service in an amount up to 24 hours. Additionally, upon the first conviction of any person, the Municipal Court shall emphasize education as a component of any sentence.

Sec. 10-6-80. Possession and consumption of marijuana.

(a) *Definitions.* As used in this Section, the following words or phrases are defined as follows:

Colorado Medical Marijuana Code means Article 43.3 of Title 12, C.R.S.

Marijuana means all parts of the plant of the genus *Cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including marijuana concentrate. The term *marijuana* includes marijuana products, as defined below. *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 administration, food, drink or other product.

Marijuana accessories means any equipment, products or materials of any kind which are used, intended for use or designed for use in planning, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing or containing marijuana, or for ingesting, inhaling or otherwise introducing marijuana into the human body,

Marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments and tinctures.

Medical marijuana card means a card properly and duly issued under the Colorado Medical Marijuana Code.

(b) *Possession of marijuana and marijuana accessories.*

- (1) Any person under 21 years of age who possesses one ounce or less of marijuana or consumes marijuana commits illegal possession or consumption of marijuana by an underage person unless such person has been issued a medical marijuana card. If such person has been issued a medical marijuana card, such person shall not possess more than two ounces of marijuana unless otherwise authorized to do so by the Colorado Medical Marijuana Code.
- (2) A person under 21 years of age who possesses marijuana paraphernalia anywhere in the State and knows or reasonably should know that the drug paraphernalia could be used in circumstances in violation of state laws commits illegal possession of marijuana paraphernalia by an underage person.

(Ord. No. 2014-6, §§ 1, 2, 9-8-2014; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-6-90. Penalties.

(a) It is unlawful for any person to violate any of the provisions of this Article.

(b) Any person violating any of the provisions of Section 10-6-80 above shall be deemed guilty of a misdemeanor, and such person, upon conviction

of any violation of Section 10-6-80, shall be punished by a fine of \$100.00 for the first offense and \$200.00 for the second offense.

(c) Any person who is under the age of 18 years shall be punished by a fine as set forth in Subsection (b) above, but in no event shall the fine be more than \$2,650.00, nor shall imprisonment be a penalty for any person under the age of 18 years. Notwithstanding the provisions of this Section, the application of imprisonment penalties which may otherwise be applicable to such offenses and as are allowed by state law may be imposed at the discretion of the Municipal Judge.

(Ord. No. 7-2001, § 3; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 7 ALCOHOLIC BEVERAGES AND DRUGS

DIVISION 1 ALCOHOLIC BEVERAGES

Sec. 10-7-10. Definitions.

For purposes of this Chapter, the following words shall have the meanings ascribed hereafter:

Alcoholic beverage or *alcoholic liquor* means fermented malt beverage or malt, vinous or spirituous liquors.

Establishment means a business, firm, enterprise, service or fraternal organization, club, institution, entity, group or residence, and any real property, including buildings and improvements connected therewith, and shall also include any members, employees and occupants associated therewith.

Ethyl alcohol means any substance which is or contains ethyl alcohol (C₂H₅OH).

Fermented malt beverage means any beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any similar

product or any combination thereof in water containing not less than 0.5% and not more than 3.2% alcohol by weight.

Malt liquor means and includes beer and shall be construed to mean any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination thereof, in water containing more than 3.2% of alcohol by weight.

Possession of ethyl alcohol means that a person has or holds any amount of ethyl alcohol anywhere on his or her person, or that a person owns or has custody of ethyl alcohol or has ethyl alcohol within his or her immediate presence and control.

Private property means any dwelling and its curtilage which is being used by a natural person for habitation and which is not open to the public, and privately owned real property which is not open to the public. *Private property* shall not include:

- (1) Any establishment which has or is required to have a license pursuant to Article 46, 47 or 48 of Title 12, C.R.S.;
- (2) Any establishment which sells alcoholic beverages or upon which alcoholic beverages are sold; or
- (3) Any establishment which leases, rents or provides accommodations to members of the public generally.

Public place means any place commonly or usually open to the general public or to which members of the general public may resort, or accessible to members of the general public. By way of illustration, such public places include but are not limited to public ways, streets, buildings, sidewalks, alleys, parking lots, shopping centers, shopping center malls, places of business usually open to the general public, and automobiles or other vehicles in or upon any such place, but shall not

include the interior or enclosed yard area of private homes, residences, condominiums or apartments.

Spirituos liquor means any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, and includes, among other things, brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing at least 0.5% alcohol and which is fit for use for beverage purposes. Any liquid or solid containing beer or wine in combination with any other liquor except malt liquors and vinous liquors shall be construed to be spirituous liquor.

Vinous liquor means wine and fortified wines which contain not less than 0.5% and not more than 21% of alcohol by volume and shall be construed to mean alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar. (Ord. No. 2014-5, § 1, 9-8-2014; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-7-20. Alcohol-related violations.

(a) It is unlawful for any person under the age of 21 years to represent himself or herself to be over the age of 21 years for the purpose of purchasing within the Town any fermented malt beverage or malt, vinous or spirituous liquors.

(b) It is unlawful for any person under the age of 21 years to attempt to purchase, purchase or obtain, either directly or through an intermediary, any fermented malt beverage or malt, vinous or spirituous liquors by misrepresentation or any other means.

(c) It is unlawful for any person under the age of 21 years to possess or consume, whether actual or constructive, fermented malt beverage or malt, vinous or spirituous liquors.

(d) It is unlawful to sell fermented malt beverage or malt, vinous or spirituous liquors to any person under the age of 21 years, or to permit any fermented malt beverage, malt or vinous liquors to be sold or dispensed by a person under 18 years of age, or spirituous liquors to be sold or dispensed by a person under 21 years of age, or to permit any such person to participate in the sale or dispensing thereof.

(e) It is unlawful for any person, whether for remuneration or not, to procure for any person under 21 years of age any fermented malt beverage or malt, vinous or spirituous liquors.

(f) It is unlawful in any place of business where alcoholic beverages are sold and consumed upon the premises, for any person to beg or to solicit any patron or customer of or visitor in such premises to purchase any alcoholic beverage for the one begging or soliciting.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-7-30. Illegal possession or consumption of alcoholic beverages by an underage person.

(a) Any person under 21 years of age who possesses or consumes ethyl alcohol anywhere in the Town commits the offense of illegal possession or consumption of ethyl alcohol by an underage person. Illegal possession or consumption of ethyl alcohol by an underage person is a strict liability offense.

(b) It is an affirmative defense to a violation of this Section that the ethyl alcohol was possessed or consumed by a person under 21 years of age under the following circumstances:

- (1) While such person was legally upon private property with the knowledge and consent of the owner or legal possessor of such private property and the alcoholic beverages were possessed or consumed with

the consent of his or her parent or legal guardian who was present during such possession or consumption; or

- (2) When the existence of ethyl alcohol in the person's body was due solely to the ingestion of a confectionery which contained ethyl alcohol within the limits prescribed by Section 25-5-410(1)(i)(II), C.R.S., or the ingestion of any substance which was manufactured, designed or intended primarily for a purpose other than oral human ingestion, or the ingestion of any substance which was manufactured, designed or intended solely for medicinal or hygienic purposes or solely from the ingestion of a beverage which contained less than 0.5% of ethyl alcohol by weight.
- (3) When such person possessed or consumed ethyl alcohol for religious purposes.

(c) The possession or consumption of alcoholic beverages shall not constitute a violation of this Section if such possession or consumption takes place for religious purposes protected by the First Amendment to the United States Constitution.

(d) Prima facie evidence of a violation of Subsection (a) of this Section shall consist of:

- (1) Evidence that the defendant was under the age of 21 years and possessed or consumed alcoholic beverages anywhere in the State; or
- (2) Evidence that the defendant was under the age of 21 years and manifested any of the characteristics commonly associated with alcoholic beverage intoxication or impairment while present anywhere in the State.

(e) *Municipal Court.*

- (1) During any trial for a violation of Subsection (a) above, any bottle, can or other

container with labeling indicating the contents of such bottle, can or container shall be admissible into evidence, and the information contained on any label on such bottle, can or other container shall be admissible into evidence and shall not constitute hearsay. A jury or a judge, whichever is appropriate, may consider the information upon such label in determining whether the contents of the bottle, can or other container were composed in whole or in part of ethyl alcohol. A label which identifies the contents of any bottle, can or other container as "beer," "ale," "malt beverage," "fermented malt beverage," "malt liquor," "wine," "champagne," "whiskey" or "whisky," "gin," "vodka," "tequila," "schnapps," "brandy," "cognac," "liqueur," "cordial," "alcohol," "liquor" or any other product generally recognized as being an alcoholic beverage shall constitute prima facie evidence that the contents of the bottle, can or other container were composed in whole or in part of ethyl alcohol.

- (2) The qualitative result of an alcohol test shall be admissible at the trial of any person charged with a violation of this Section upon a showing that the device used to conduct such test has been approved as accurate in detecting alcohol by the Executive Director of the Colorado Department of Public Health and Environment.
- (3) Official records of the Colorado Department of Public Health and Environment relating to the certification of breath test instruments, certification of operators and operator instructors of breath test instruments, certification of standard solutions and certification of laboratories shall be official records of the State. Copies of such records, attested by the Executive Director of the Department of Public

Health and Environment or his or her deputy and accompanied by a certificate bearing the official seal of said Department, which state that the Executive Director has custody of such records, shall be admissible into the Municipal Court and shall constitute prima facie evidence of the information contained in such records. The official seal of the Department described in this Paragraph may consist of a rubber stamp producing a facsimile of the seal stamped upon the document.

- (4) In any proceeding in the Municipal Court concerning a charge under this Section, the Municipal Court shall take judicial notice of methods of testing a person's blood, breath, saliva or urine for the presence of alcohol and of the design and operation of devices certified by the Department of Public Health and Environment for testing a person's blood, breath, saliva or urine for the presence of alcohol. This Paragraph shall not prevent the necessity of establishing during a trial that the testing devices were working properly and that such testing devices were properly operated. Nothing in this Paragraph shall preclude a defendant from offering evidence concerning the accuracy of testing devices.

(f) A parent or legal guardian of a person under 21 years of age, or any natural person who has the permission of such parent or legal guardian, may give, or permit the possession and consumption of, alcoholic beverages to or by a person under the age of 21 years under the conditions described in Paragraph (b)(1) above. This Subsection shall not be construed to permit any establishment which is or is required to be licensed pursuant to Article 46, 47 or 48 of Title 12, C.R.S., or any members, employees or occupants of any

such establishment to give, provide, make available or sell alcoholic beverages to a person under 21 years of age.

(Ord. No. 2014-5, §§ 2—4, 9-8-2014; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-7-40. Sales near schools.

It is unlawful for any person to sell, offer or expose for sale or gift any fermented malt beverage or any vinous, spirituous or malt liquors within a distance of 500 feet from any private, public or parochial school, said distance to be computed by direct measurement from the nearest property lines. However, this prohibition shall not affect the rights of any person holding a lawful permit or license to conduct such business within the restricted area hereby established; nor shall this prohibition prevent the renewal, upon the expiration thereof, of any license in effect at such time authorizing such business within the restricted area hereby established.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-7-50. Alcoholic beverages in certain places.

(a) No person shall carry or have any open containers of alcoholic beverages on any street, sidewalk, alley, any automobile or on the grounds or in the facilities of any public or private school, except where authorized by the governing authority of such institution.

(b) No person shall drink any alcoholic beverages in or on any of the above enumerated places.

(c) The foregoing prohibitions shall not apply to any place duly licensed or permitted for the sale of alcoholic beverages.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-7-60. Open container.

It is unlawful for any person to consume or to possess any opened container containing an alcoholic beverage or fermented malt beverage, whether

such possession is actual or constructive, upon property owned, operated, leased or maintained by the State or any political subdivision or agency thereof, upon any public street, sidewalk, parking lot, alley or other property owned, operated, leased or maintained by the Town or in or upon any motor vehicle, either parked or moving on any street, parking lot or alley within the Town. However, it shall not be a violation of this provision to store or consume any alcoholic beverage in conformance with, and pursuant to the terms of, any validly issued permit or license. For the purpose of this Section, an unsealed or open container shall not include a container of vinous liquor that has been resealed pursuant to the provisions of Section 12-47-411(3.5), C.R.S., and is clearly recognizable to a police officer as a container that has been resealed by the hotel or restaurant license holder.

(Prior Code, § 2-21; Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 2 DRUGS

Sec. 10-7-110. Definitions.

For purposes of this Chapter, the following words shall have the meanings ascribed hereafter:

Controlled substance means a drug or other substance or an immediate precursor which is declared to be a controlled substance under this Article, and also includes marijuana, marijuana concentrate and cocaine.

Drug paraphernalia means any machine, instrument, tool, equipment or device which is primarily designed and intended for one or more of the following:

- (1) To introduce into the human body any controlled substance under circumstances in violation of state law;

- (2) To enhance the effect on the human body of any controlled substance under circumstances in violation of state law;
- (3) To conceal any quantity of any controlled substance under circumstances in violation of state law; or
- (4) To test the strength, effectiveness or purity of any controlled substance under circumstances in violation of state law.

Enclosed means a permanent or semi-permanent area covered and surrounded on all sides. Temporary opening of windows or doors or the temporary removal of wall or ceiling panels does not convert the area into an unenclosed space.

Locked space means the area where marijuana is cultivated and is secured at all points of ingress or egress with a locking mechanism, such as a key or combination lock designed to limit access.

Marijuana or *marihuana* 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. *Marijuana* or *marihuana* does not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana accessories means any equipment, products or materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vapor-

izing or containing marijuana, or for ingesting, inhaling or otherwise introducing marijuana into the human body.

Marijuana club means any place of private assembly for the purpose of inviting members and their guests to use or consume marijuana or marijuana products on the premises of any non-residentially zoned area, including commercial or industrial zoned property.

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

Marijuana enterprise means any commercial operation, facility, machine or business which does not require for lawful operation any Town application or Town-approved permit, and which sells or dispenses marijuana and/or marijuana products, including but not limited to vending machines selling marijuana and/or marijuana products.

Marijuana establishment means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility or a retail marijuana store.

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

Marijuana products means marijuana products and concentrated marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments and tinctures.

Marijuana testing facility means an entity licensed to analyze and certify the safety and potency of marijuana.

Motor vehicle means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets and highways, but does not include a vehicle operated exclusively on rails.

Open and public means a place open to the general public, which includes a place to which the public or a substantial number of the public has access without restriction, including but not limited to highways, transportation facilities, places of amusement, parks, playgrounds and the common areas of public buildings and facilities that are generally open or accessible to members of the public without restriction.

Open marijuana container means a receptacle or marijuana accessory that contains any amount of marijuana and:

- (1) That is open or has a broken seal;
- (2) The contents of which are partially removed; or
- (3) There is evidence that marijuana has been consumed within the motor vehicle.

Openly means not protected from unaided observation lawfully made from outside its perimeter not involving physical intrusion.

Passenger area means the area designed to seat the driver and passengers, including seating behind the driver, while a motor vehicle is in operation, and any area that is readily accessible to the driver or a passenger while in his or her seating position, including but not limited to the glove compartment.

Publicly means an area that is open to general access without restriction.

Retail marijuana store means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana prod-

ucts from marijuana product manufacturing facilities, and to sell marijuana and marijuana products to consumers.

Town-owned or Town-leased property means those buildings, parking lots, facilities, trails, open space and public parks, and all walkways and sidewalks within and adjacent to buildings, parking lots, facilities, trails, open spaces and public parks, which are owned or leased by the Town. *Town-owned or Town-leased property* shall not include public highways, streets, roads or rights-of-way and those sidewalks within public rights-of-way.

Transfer means to deliver or convey in any manner.

(Ord. No. 2013-7, § 1, 9-9-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-7-120. Marijuana establishments.

(a) Marijuana retail stores, marijuana cultivation facilities, marijuana product manufacturing facilities and marijuana testing facilities are prohibited, including as a home occupation, in the Town.

(b) An application for a license to operate a marijuana establishment in the Town shall be considered denied on the date of submission.

(Ord. No. 2013-7, § 1, 9-9-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-7-130. Indoor marijuana cultivation and consumption.

(a) It is unlawful for any person of any age and any state residency to possess, grow, process, store or transport marijuana plants in any commercial or industrial zoned district in the Town unless the structure in which such marijuana plants are grown contains a single-family or multi-family residence.

(b) It is unlawful for any more than two in-state residents age 21 and over to each possess, grow, process, store or transport up to six mari-

juana plants; provided that three or less of the plants are mature, flowering plants in a single-family residence; and provided further that the growing takes place in an enclosed, locked space, is not conducted openly or publicly and is not available for sale in any common grow area in the Town. In no event shall the maximum number of marijuana plants in any single-family residence or multi-family residence exceed 12 marijuana plants, regardless of the number of individuals lawfully allowed to possess, use, display, grow or transport marijuana for personal use.

(c) It is unlawful to cultivate marijuana inside a single-family residence in an area exceeding 100 square feet or exceeding a height of ten feet. This limit applies regardless of the number of qualified patients or caregivers or persons otherwise allowed to possess and grow marijuana for personal use residing in the residence. The cultivation area shall be a single, locked area and shall not be accessible to anyone under the age of 21 years.

(d) It is unlawful to cultivate marijuana anywhere outdoors or in any accessory structure.

(e) It is unlawful to use any lighting for the indoor cultivation of marijuana other than light-emitting diodes (LED), compact fluorescent lamps (CFL) or fluorescent lighting. All high-intensity discharge (HID) lighting, including but not limited to mercury-vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium (HPS) lamps and Xenon short-arc lamps, are prohibited.

(f) It is unlawful to use gas products (e.g., CO₂, butane) for indoor marijuana cultivation or processing.

(g) It is unlawful to use a kitchen, bathroom or primary bedroom for the indoor cultivation of marijuana.

(h) It is unlawful to cultivate marijuana in any structure without complying with applicable building and fire codes, including plumbing and electrical, and all applicable zoning codes, including but not limited to lot coverage, setback and height requirements.

(i) Any indoor marijuana cultivation area shall include a ventilation and filtration system designed to ensure that odors from the cultivation are not detectable beyond the property line for a single-family residence, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence. This shall include, at a minimum, a system meeting the requirements of the current, adopted edition of the International Residential Building Code.

(j) It is unlawful to store chemicals used for marijuana cultivation inside of the habitable areas of the residence or within public view from neighboring properties and public rights-of-way.

(k) It is unlawful for any marijuana cultivation activity to adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration or other impacts; or be hazardous due to the use or storage of materials, processes, products or wastes, or from other actions related to the cultivation.

(l) The use of property as a marijuana club or any activity involving three or more persons gathering to consume marijuana is prohibited in any zoning district in Town.

(m) No individual of any age or state residency shall consume marijuana openly or publicly or in an open and public area or place in the Town.

(n) It is unlawful to possess, consume, use, display, transfer, distribute, sell, transport or grow marijuana on or in Town-owned or Town-leased property.

(Ord. No. 2013-7, § 1, 9-9-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-7-140. Marijuana and marijuana containers.

(a) It is unlawful to consume marijuana or have open marijuana containers in motor vehicles. Except as otherwise permitted in Subsection (b) below, a person, while in the passenger area of a motor vehicle that is on a public street, highway or the right-of-way of a public street or highway within the Town, shall not knowingly use or consume marijuana or have in his or her possession an open marijuana container.

(b) Provided that there is no one under the age of 21 years in the vehicle, the provisions of this Section shall not apply to:

- (1) Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained or used primarily for the transportation of persons for compensation;
- (2) The possession by a passenger, other than the driver or a front seat passenger, of an open marijuana container in the living quarters of a house coach, house trailer, camper, motor home as defined in Section 42-1-102(57), C.R.S., or trailer coach, as defined in Section 42-1-102(106)(a), C.R.S.;
- (3) The possession of an open marijuana container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or
- (4) The possession of an open marijuana container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

(Ord. No. 2013-7, § 1, 9-9-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-7-150. Abusing toxic vapors.

(a) Abusing toxic vapors is prohibited in the Town.

(b) No person shall knowingly smell or inhale the fumes of toxic vapors for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulled senses of the nervous system. No person shall knowingly possess, buy or use any such substance for the purposes described in this Subsection, nor shall any person knowingly aid any other person to use any such substance for the purposes described in this Subsection. This Subsection shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.

(c) For the purposes of this Section, the term *toxic vapors* means the following substances or products containing such substances:

- (1) Alcohols, including methyl, isopropyl, propyl or butyl;
- (2) Aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate;
- (3) Acetone;
- (4) Benzene;
- (5) Carbon tetrachloride;
- (6) Cyclohexane;
- (7) Freons, including Freon 11 and Freon 12;
- (8) Hexane;
- (9) Methyl ethyl ketone;
- (10) Methyl isobutyl ketone;
- (11) Naphtha;
- (12) Perchlorethylene;
- (13) Toluene;
- (14) Trichloroethane; or
- (15) Xylene.

(d) In a prosecution for a violation of this Section, evidence that a container lists one or more of the substances described in Subsection (b) above as one of its ingredients shall be prima

facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof. (Ord. No. 2013-7, § 1, 9-9-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-7-160. Penalties.

(a) Any person violating any of the provisions of this Division, upon conviction thereof, shall be punished as follows:

- (1) Any person who openly and publicly displays or uses more than one ounce but not more than two ounces of marijuana or marijuana concentrate, upon conviction thereof, shall be punished by a fine of \$500.00.
- (2) A person who is 21 years of age or older who transfers any amount of marijuana to a person who is less than 21 years of age, upon conviction thereof, shall be punished by a fine not to exceed \$2,650.00 or by imprisonment not to exceed 30 days, or both such fine and imprisonment.
- (3) A person who unlawfully cultivates, grows or possesses more than six marijuana plants and fewer than 12 marijuana plants shall, upon conviction thereof, be punished by a fine not to exceed \$2,650.00 or by imprisonment not to exceed 30 days, or both such fine and imprisonment.
- (4) A person 21 years or older who possesses more than one ounce of marijuana but not more than two ounces shall, upon conviction thereof, be punished by a fine of not more than \$100.00.
- (5) Upon conviction of any other violation of this Division, a person shall be sentenced by a fine not to exceed \$2,650.00 or by imprisonment not to exceed 30 days, or both such fine and imprisonment.

(b) In appropriate circumstances, the Court is authorized to require treatment or impose probation, useful public service or other alternative sentencing measures as the Court may deem just.

(c) For any violation of this Article which continues for more than one day, each day such violation occurs or continues shall constitute a separate offense.

(Ord. No. 2013-7, § 1, 9-9-2013; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 8 WEAPONS

Sec. 10-8-10. Definitions.

(a) As used in this Article, unless the context otherwise requires, the following definitions shall apply:

Ballistic knife means any knife that has a blade which is forcefully projected from the handle by means of a spring-loaded device or explosive charge.

Blackjack means and includes any billy, sand club, sandbag or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact.

Bomb means any explosive or incendiary device or Molotov cocktail as defined in Section 9-7-103, C.R.S., or any chemical device which causes or can cause an explosion, which is not specifically designed for lawful and legitimate use in the hands of its possessor.

Firearm silencer means any instrument, attachment, weapon or appliance used for causing the firing of any gun, revolver, pistol or other firearm to be silent or intended to lessen or muffle the noise of the firing of any such weapon.

Gas gun means a device designed for projecting gas-filled projectiles which release their contents after having been projected from the device and includes projectiles designed for use in such device.

Gravity knife means any knife that has a blade released from the handle or sheath thereof by the force of gravity or the application of centrifugal force that, when released, is locked in place by means of a button, spring, lever or other device.

Handgun means a pistol, revolver or other firearm of any description, loaded or unloaded, from which any shot, bullet or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable or magazine breech, does not exceed 12 inches.

Knife means any dagger, dirk, knife or stiletto with a blade over three and one-half inches in length, or any other dangerous instrument capable of inflicting cutting, stabbing or tearing wounds; but does not include a hunting or fishing knife carried for sports use. The issue that a knife is a hunting or fishing knife must be raised as an affirmative defense.

Machine gun means any firearm, whatever its size and usual designation, that shoots automatically more than one shot, without manual reloading, by a single function of the trigger.

Nunchaku means an instrument consisting of two sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, which is in the design of a weapon used in connection with the practice of a system of self-defense.

Short rifle means a rifle having a barrel less than 16 inches long or an overall length of less than 26 inches.

Short shotgun means a shotgun having a barrel or barrels less than 18 inches long or an overall length of less than 26 inches.

Stun gun means a device capable of temporarily immobilizing a person by the infliction of an electrical charge.

Switchblade knife means any knife the blade of which opens automatically by hand pressure applied to a button, spring or other device in its handle.

Throwing star means a disk having sharp radiating points or any disk-shaped bladed object which is handheld and thrown and which is in the design of a weapon used in connection with the practice of a system of self-defense.

(b) It is an affirmative defense to any provision of this Article that the act was committed by a peace officer in the lawful discharge of his or her duties.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-8-20. Illegal weapons.

It is unlawful for any person to carry or have in his or her possession in a public place, a blackjack, bomb, firearm silencer, gas gun, machine gun, short shotgun, short rifle, metallic knuckles, switchblade, Bowie knife, gravity knife or knife with a blade of three and a half inches or longer. It is a defense to this Section that a knife was a hunting knife or fishing knife carried for sports use or in the performance of a lawful occupation.

(Prior Code, § 2-16; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-8-30. Carrying concealed weapon; forfeiture.

(a) It is unlawful for any person to, without a proper permit, carry or wear under his or her clothes or concealed about his or her person, to display in a threatening manner, to have in his or her possession in a public place or to display in a threatening manner any dangerous or deadly weapon, including but not limited to any pistol, revolver, blackjack, bomb, firearm silencer, gas

gun, machine gun, short shotgun, short rifle, metallic knuckles, switchblade, knife or gravity knife or any other dangerous or deadly weapon. It is a defense to this Section that a knife was a hunting knife or fishing knife carried for sports use or in the performance of a lawful occupation.

(b) It is unlawful for any person to sell, offer to sell, display, use, possess or carry any knife having the appearance of a pocket knife the blade of which can be opened by a flick of a button, pressure on the handle or other mechanical contrivance. Any such knife is hereby declared to be a dangerous or deadly weapon within the meaning of Subsection (a) above, and shall be subject to forfeiture to the Town as provided in Subsection (c) below.

(c) Every person convicted of any violation of this Section or Section 10-8-50 below shall forfeit to the Town such dangerous or deadly weapon so used.

(d) Nothing in this Section shall be construed to forbid United States Marshals, sheriffs, constables and their deputies and any regular, special or ex officio police officer or other law enforcement officer from carrying or wearing, while on duty, such weapons as shall be necessary in the proper discharge of their duties.

(Prior Code, § 2-16, 2-17; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-8-40. Disposition of confiscated concealed weapons.

It is the duty of every police officer, upon making any arrest and taking such a concealed weapon from the person of the offender, to deliver the weapon to the Municipal Judge, to be held by him or her until the final determination of the prosecution for said offense. Upon the finding of guilt, it shall then be the duty of the Municipal Judge, who shall make a proper disposition of the weapon. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-8-50. Prohibited use of weapons.

(a) A person commits a misdemeanor if he or she:

- (1) Intentionally or unlawfully aims a firearm at another person.
- (2) Recklessly or with criminal negligence discharges a firearm or shoots a bow and arrow.
- (3) Knowingly sets a loaded gun, trap or device designed to cause an explosion upon being tripped or approached, and leaves it unattended by a competent person immediately present.
- (4) Has in his or her possession a firearm while he or she is under the influence of an intoxicating liquor or of a narcotic drug or dangerous drug. Possession of a permit issued under Section 18-12-105(2)(c), C.R.S., is no defense to a violation of this Section.
- (5) Knowingly aims, swings or throws a throwing star or nunchaku at another person, or knowingly possesses a throwing star or nunchaku in a public place except for the purpose of presenting an authorized public demonstration or exhibition or pursuant to instruction in conjunction with an organized school or class. When transporting throwing stars or nunchaku for a public demonstration or exhibition or for a school or class, they shall be transported in a closed, nonaccessible container.

(b) It is unlawful to discharge a firearm, BB gun, pellet gun, bow and arrow or crossbow anywhere within the Town unless the person discharging the weapon is a peace officer or is participating in a sports event involving firearms and appropriate circumstances are in defense of himself, herself or others as provided by state law.

(c) Nothing contained in this Section shall prevent the use of any such instruments in shooting galleries or in any private grounds or residences under circumstances when such instruments can be fired, discharged or operated in such a manner as not to endanger persons or property and also in such manner as to prevent the projectile from traversing any grounds or space outside the limits of such gallery, grounds or residence. In addition, nothing contained herein shall be construed to prevent the carrying of any type of gun whatsoever, when unloaded and properly cased, to or from any range or gallery.

(d) Nothing contained in this Section shall prevent the use of any such instruments by any peace officer as shall be necessary in the proper discharge of his or her duties.

(Prior Code, §§ 2-14, 2-15; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-8-60. Selling weapons to intoxicated person or minor.

(a) It is unlawful for any person to purchase, sell, loan or furnish any gun, pistol or other firearm in which any explosive substance can be used, to any person under the influence of alcohol or any narcotic drug, stimulant or depressant, to any person in a condition of agitation and excitability, or to any minor under the age of 18 years.

(b) Such unlawful purchase, sale, loan or furnishing shall be grounds for revocation of any license issued by the Town to such person.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 9 NOISE

Sec. 10-9-10. Unlawful noise.

(a) It is unlawful for any person to use any sound-amplifying device, radio, stereo or other instrument in such a manner and with such volume so that the noise can be heard beyond 25 feet

from the property line of the parcel of property from which such noise is emitted after the hour of 12:00 midnight and before the hour of 9:00 a.m. on Friday and Saturday.

(b) No person shall make, continue or cause to be made or continued any unreasonable noise; and no person shall knowingly permit such noise upon any premises owned or possessed by such person or under such person's control. For purposes of this Section, members of the Police Department are empowered to make a prima facie determination as to whether a noise is unreasonable.

(Prior Code, § 3-1; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-9-20. Animals.

It is unlawful for any person to use, keep, have in his or her possession or harbor any domesticated animals which, by frequent or habitual howling, barking, meowing, squawking or otherwise, shall cause annoyance or disturbance to persons in the neighborhood; provided, however, that the provisions of this Section shall not apply to hospitals licensed for the treatment of small animals or to premises occupied or used by the Town animal shelter.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-9-30. Sirens, whistles, gongs and red lights.

It is unlawful for any person to carry or use upon a vehicle, other than Police or Fire Department vehicles or emergency vehicles for public use, any gong, siren, whistle or red light similar to that used on ambulances or vehicles of the Police and Fire Departments.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 10 MISCELLANEOUS PROVISIONS

Sec. 10-10-10. Fireworks.

(a) *Fireworks prohibited.* It is unlawful for any person to manufacture, sell, use or discharge any device prepared for the purpose of producing a visible or audible effect by combustion, explosion or detonation, which shall include sky rockets, Roman candles, Day-Glo bombs, sparklers, firecrackers or any other explosive or flammable compound, anywhere within the Town without having previously obtained a permit therefor. Fireworks shall not include auto flares, paper caps containing less than 0.25 of a grain of explosive content per cap and toy pistols or guns for use of such caps.

(b) *Fireworks permit.* Any person desiring a permit for fireworks shall post a bond in the amount of at least \$500.00 and in such other amounts as the Chief of Police, Fire Chief or other administrative authority may determine is appropriate for the payment of damages which may be caused by a permittee. Applications for permits shall be made in writing at least ten days in advance of the fireworks display date. The permit is valid only for the date set forth in the permit and such permit is not transferable.

(Prior Code, §§ 2-19, 2-20; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 10-10-20. Burning prohibited.

It is unlawful for any person to burn weeds, leaves, limbs, trees, lawns, gardens, rubber tires or any other refuse or discarded or unused material, or to start any fires of any kind, except as follows:

- (1) When a permit has been issued by the Fire Chief, Chief of Police or other administrative authority.
- (2) When such fire is in a fireplace, stove or grill being used for heating or cooking.

- (3) On a designated burn day as established by the Town, and then the only items allowed to be burned are weeds, unpainted and/or unvarnished wood or other items as may be designated by the Town.

(Prior Code, § 3-5; Ord. No. 2016-4, § 1, 8-29-2016)

Chapter 11

Streets, Sidewalks and Public Places

Article 1 Streets and Sidewalks

- Sec. 11-1-10. Obstructing public ways.
- Sec. 11-1-20. Obstructing view of traffic.
- Sec. 11-1-30. Parking of campers, motor homes and trucks.
- Sec. 11-1-40. Repair and maintenance.
- Sec. 11-1-50. Snow and ice removal from sidewalks.

Article 2 Excavations

- Sec. 11-2-10. Permit required.
- Sec. 11-2-20. Permit application.
- Sec. 11-2-30. Deposit requirements.
- Sec. 11-2-40. Fees.
- Sec. 11-2-50. Return of bond or deposit.
- Sec. 11-2-60. Barricades and lights.
- Sec. 11-2-70. Penalties.

Article 3 Parks and Special Events

- Sec. 11-3-10. Intent.
- Sec. 11-3-20. Park hours.
- Sec. 11-3-30. Park regulations.
- Sec. 11-3-40. Special events.
- Sec. 11-3-50. Permit required.
- Sec. 11-3-60. Fees.
- Sec. 11-3-70. Insurance required; waiver.
- Sec. 11-3-80. Miscellaneous requirements.

Article 4 Miscellaneous Provisions

- Sec. 11-4-10. Construction in public rights-of-way.
- Sec. 11-4-20. Temporary use of public places.

ARTICLE 1 STREETS AND SIDEWALKS**Sec. 11-1-10. Obstructing public ways.**

A person commits a violation of this Article if, without legal privilege, he or she intentionally, knowingly or recklessly:

- (1) Obstructs a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway or hallway to which the public or a substantial group of the public has access or any other place used for the passage of persons, vehicles or conveyance, whether the obstruction arises from his or her acts alone or from his or her acts and the acts of others;
- (2) Disobeys a reasonable request or order to move an obstruction issued by a person he or she knows to be a peace officer, fire-

fighter or other person with authority to prevent such obstruction of the passage-way; or

- (3) Places any nails, glass or other dangerous items into the roadway for the purpose of causing injury to persons or vehicles traveling upon the public way.

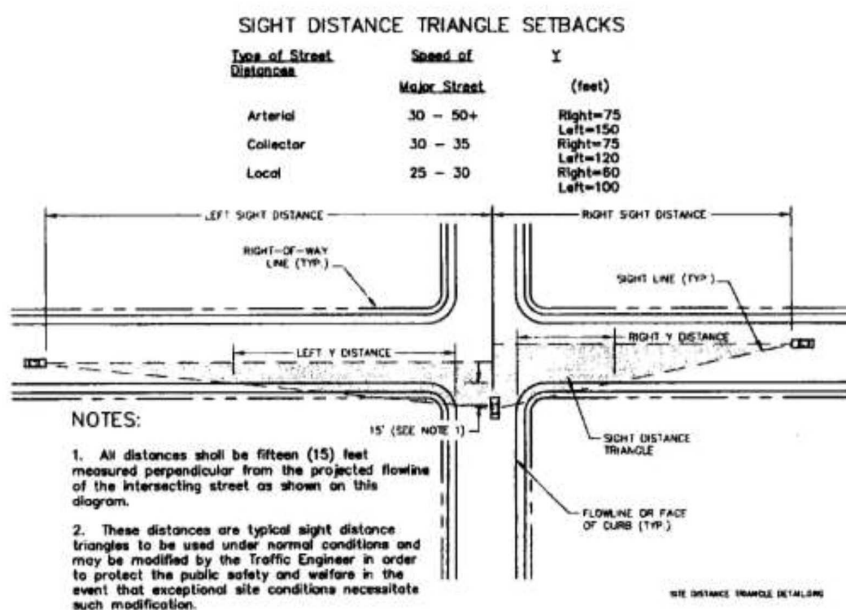
(Prior Code, § 5-7; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-1-20. Obstructing view of traffic.

(a) The planting of shrubs, trees or flowers, the erection or construction of any solid fence, structure or the placement of any other solid material which is over 30 inches in height above the level of the roadway and which obstructs the view of traffic shall not be allowed on any corner lot when such obstruction is located within 25 feet, measured along the property line, from the corner.

(b) The minimum sight distance triangle shall be as set forth in the diagram below:

FIGURE 1.07.1 (Revised Jan., 2007)



(Prior Code, § 5-8; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-1-30. Parking of campers, motor homes and trucks.

Parking of trailers, campers, camper trailers, trucks over 28 feet in length, motor homes or any other large vehicle other than cars or pickup trucks is prohibited on streets except in industrial zones and other areas designated for truck parking and except for a period of 48 hours for loading and unloading. Parking of trailers, campers, camper trailers or trucks on private property is permitted only if the parking of such vehicle does not block a motorist's view of approaching traffic either on a public street, alley or right-of-way and such vehicle is properly licensed, is not used as a dwelling and is designed, used and intended for personal use, as opposed to business or commercial use.

(Prior Code, § 5-9; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-1-40. Repair and maintenance.

The owner, occupant, lessee or person in possession or control of any premises or property shall maintain the sidewalks adjoining such premises or property in good repair and in a safe, unobstructed condition, free of snow, weeds and debris.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-1-50. Snow and ice removal from sidewalks.

The owner, occupant, lessee or person in possession or control of any premises or property shall maintain the sidewalks adjoining such premises or property, and shall remove and clear away, or cause to be removed or cleared away, snow and ice from sidewalks in all business districts within the Town within four business hours after the cessation of any fall of snow, sleet or freezing rain or by the beginning hours of the next business day following such fall, whichever period is shorter,

and from all other sidewalks in the Town within 24 hours of the cessation of any fall of snow, sleet or freezing rain.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 2 EXCAVATIONS

Sec. 11-2-10. Permit required.

Unless acting under a contract with the Town, it is unlawful for any person, other than a duly authorized employee of the Town in the course of his or her employment, to make, cause to permit to be made any excavation or opening in or under the surface or pavement of any street, alley, sidewalk or other public place in the limits of this Town without first having obtained and having in force a permit therefor.

(Prior Code, § 5-1; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-2-20. Permit application.

Any person desiring to procure a permit required by Section 11-2-10 above shall file with the Town Clerk, at least 24 hours before the time for beginning the proposed work, a written application upon a form prepared and provided by the Town.

(Prior Code, § 5-2; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-2-30. Deposit requirements.

No permit to excavate in any street or alley shall be issued unless the applicant therefor has first deposited with the Town Clerk a performance or cash bond in an amount sufficient to cover the entire expense of replacing the surface and sub-surface material in the event it is not replaced or is replaced improperly by the applicant. Nothing in this Section shall relieve the applicant from any

duty to replace, repair or repave any excavation to its original condition or as close thereto as possible.

(Prior Code, § 5-3; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-2-40. Fees.

(a) A fee as set forth in the Town Fee Schedule shall be charged for a permit issued under the provisions of this Article for any excavation of in any public right-of-way or public place.

(b) The excavation fee set forth in this Section shall not apply to any utility company having a valid franchise agreement with the Town.

(Prior Code, § 5-4; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-2-50. Return of bond or deposit.

After completion to the satisfaction of the administration authority of the work covered by the permit issued under this Article, such permittee shall be entitled to a return of the bond or deposit made pursuant to Section 11-2-30 above.

(Prior Code, § 5-5; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-2-60. Barricades and lights.

Any person making or causing to be made any excavation or opening in any street or alley, or within five feet of a line of the public right-of-way, shall keep the excavation barricaded at all times and, between sunset and sunrise on every night that the same remains open or danger exists therefrom, he or she shall keep such excavation or opening properly lighted so as to warn persons of such excavation. Failure to provide such barriers is unlawful.

(Prior Code, § 5-6; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-2-70. Penalties.

Any person convicted of violating the provisions of this Article shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 3 PARKS AND SPECIAL EVENTS

Sec. 11-3-10. Intent.

The purpose of this Article is to regulate the temporary use or occupation of public parks, streets, sidewalks and other public places. It is not the intent of the Board of Trustees to regulate or establish prior conditions or restraint on the free exercise of personal rights of individuals embraced by the First Amendment to the Constitution of the United States, or Article II, Section 10 of the Constitution of Colorado, in the use and enjoyment of public places to the fullest extent otherwise permitted by law. Nothing in this Article shall vest, or be deemed to vest, any property right, estate or interest in persons using the public domain under the terms of this Article, the temporary uses and occupations permitted herein being authorized only in order to enhance the public welfare.

(Ord. No. 2004-10, § 1, 9-13-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-3-20. Park hours.

(a) The hours of public use in the Town parks shall be from 6:00 a.m. to 10:00 p.m. each day.

(b) Changes in the above-listed hours for particular parks may be made at the discretion of the Board of Trustees, and such changes shall be clearly posted at least 48 hours in advance of enforcement.

(Ord. No. 2004-10, § 2, 9-13-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-3-30. Park regulations.

Within any park under control by the Town, it is unlawful to:

- (1) Enter, remain in or refuse to leave any park during those times when the park is not open for public use as established in Section 11-3-20 above. Such restrictions do not apply to Town personnel performing security or park maintenance services.
- (2) Hunt, shoot, kill, injure, trap or maim any animal or bird. Such restrictions shall not apply to Town personnel removing injured or nuisance animals.
- (3) Camp overnight, except in areas which may be designated for overnight camping.
- (4) Bathe, wade or swim in any waters in any park area.
- (5) Permit any livestock to graze or remain within a park, except by written permission of the Town Clerk or other appropriate authority.
- (6) Destroy or damage any fence, gate, lock, picnic table, playground equipment, shrubbery, trees, sprinkler system or turf; or mutilate, deface, disfigure or injure by other than normal use rocks, trees, wildflowers or other features in the park.
- (7) Destroy, leave or bury refuse, trash or litter, except by depositing such refuse, trash or litter in designated trash receptacles. If the receptacles are full, park users shall take the litter out of the park with them when they leave the park. No person shall dispose of trash in the park that is not specifically generated by park activities.
- (8) Build a fire at any location other than in Town-installed pits or grills, leave any fire unattended or fail to completely extinguish any fire.
- (9) Discharge explosives or fireworks, except by permit granted by the Town Clerk or proper authority.
- (10) Play or practice golf.
- (11) Use the area for any private enterprise or to sell or offer for sale any tangible or intangible goods or services, except with a permit for such activity authorized or granted by the Town pursuant to Section 11-3-50 below.
- (12) Operate any motor vehicle, except on designated roadways open to public use, or park vehicles anywhere except in designated parking areas unless authorized by the Town Clerk or proper authority.
- (13) Knowingly possess a firearm of any description, or air rifle, spring-gun, bow and arrow, sling, paintball gun or other weapon potentially harmful to wildlife or dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, except in any ceremony specifically authorized by the proper authority.
- (14) Leave on any park property or in any waters within park property the fecal matter of any animal that one owns, possesses or keeps.
- (15) Bring any animal other than dogs into a park. All dogs must be on a leash except in areas posted as authorizing dogs to be off leash.
- (16) Bring into, possess or have any glass bottle or container.
- (17) Knowingly deface or vandalize any park facility structure, sign or equipment.
- (18) Permit any animal to deposit feces and the owner or person in charge of the animal fails to appropriately clean up and dispose of the feces.

(Ord. No. 2004-10, § 3, 9-13-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-3-40. Special events.

(a) Special events as set forth in Section 11-3-50 below require a park permit issued by the Town Clerk or Board of Trustees and payment of the required park fees.

(b) The Town Clerk or Board of Trustees shall review the use of a park permit application and will consider the following in evaluating applications:

- (1) Whether activities will damage public property or resources.
- (2) Whether the activities will, in general, result in exclusion of or inconvenience to the public use of the park.
- (3) Whether activities will be significantly different from the normal intended uses of the park.
- (4) Whether all application requirements have been met.
- (5) Whether prior events by the sponsor have resulted in destruction or misuse of the park.

(Ord. No. 2004-10, § 4, 9-13-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-3-50. Permit required.

(a) Before any person may use any park or other public place for the purpose of engaging as a mobile vendor, placing a business extension or kiosk or scheduling any special event which is reasonably expected to attract more than 25 persons, such person shall apply for a permit for such use from the Town Clerk.

(b) The Town Clerk may be authorized by the Board of Trustees to issue certain permits at the Town Clerk's discretion. Other permits shall be referred to the Board of Trustees to be granted or denied based upon the criteria established in Section 11-3-40 above.

(c) To foster and maintain competitive viability of merchants having fixed costs of doing business, no permit holder shall sell or offer for sale any goods or services within 500 feet of any business facility or for a period of greater than 48 hours.

(d) The following uses shall NOT require a permit:

- (1) Entertainment not presenting a hazard to public safety and which is not anticipated to attract more than 25 persons.
- (2) Traditional park activities.
- (3) Organized gatherings, parties, picnics, reunions or similar events not expected to attract more than 25 persons.
- (4) Any event wherein the prime sponsor is any department of the Town.

(e) A permit shall be required for use of Bickling Field by any organized team for team sports or team practice, except when such use is an organized activity sponsored by the Town or the Highland Recreation District.

(f) Except for a permit for use of the streets, which only the Board of Trustees may issue, the Town Clerk shall issue the permit no later than ten business days after submission of a complete application and prepayment of requisite fees or deposits, or in writing mail to the address of the applicant a statement of denial setting forth the reason for such denial.

(g) Any party aggrieved by any administrative official may appeal a denial of a permit to the Board of Trustees by filing a request that the Board of Trustees review the denial. Such appeal shall be heard by the Board of Trustees within 30 days of filing of the appeal. A decision of the

Board of Trustees may be appealed pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(Ord. No. 2004-10, § 5, 9-13-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-3-60. Fees.

(a) The Board of Trustees may establish a reasonable fee to the sponsors and require a deposit of each permitted activity to cover the actual and reasonably estimated costs incurred by the Town in providing maintenance, security and cleanup services, as well as any other services required by the sponsor for the activity or event.

(b) In determining the fee or deposit, the Town Clerk or Board of Trustees shall consider the following:

- (1) Scope of activity. The greater the number of participants, the duration of the activity or event and the larger the area in which the activity or event occurs, the greater the fee.
- (2) Inconvenience to the public. The larger the area of the park affected, the greater the fee.
- (3) Effect on the Town.
 - a. The greater the cost to the Town as a result of the activity or event, the greater the fee.
 - b. The greater any responsibility of the Town as a result of the activity or event, the greater the fee.
 - c. The greater any inconvenience to the Town as a result of the activity or event, the greater the fee.

(c) The Board of Trustees may establish a reasonable fee for the use of any personal property owned by the Town and shall establish a reasonable deposit for the safe return of each item of personal property used by the public.

(Ord. No. 2004-10, § 6, 9-13-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-3-70. Insurance required; waiver.

(a) No person shall be granted a permit for the use of any park or public facility unless such person maintains at all times liability insurance naming the Town as an additional insured in an amount not less than set forth in the Colorado Governmental Immunity Act and evidenced by a certificate signed by an agent of an insurance carrier authorized to conduct business in Colorado. Such certificate shall verify the Town's insured status and set forth the limits of each policy, the policy number, the name of the insurer, the effective and expiration dates of each policy and a copy of an endorsement placed on the submitted policy requiring ten days' notice by mail to the Town prior to a policy cancellation for any reason.

(b) The applicant for any permit may petition the Board of Trustees for a full or partial waiver of the insurance requirement. The Board of Trustees may grant or deny the relief requested in consideration of the following standards:

- (1) That the use or activity proposed does not expose the public or Town property to any significant or unusual hazard or risk.
- (2) That the applicant has sufficient resources and financial accountability to demonstrate financial security to satisfy any potential claims.

(Ord. No. 2004-10, § 7, 9-13-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-3-80. Miscellaneous requirements.

This Section shall apply to parks and other public facilities, including streets, sidewalks and public meeting facilities. No organized recreational activities by any league or recreational group conducting regular practice and games shall occur in any park facilities without a permit as required by this Article.

(Ord. No. 2004-10, § 8, 9-13-2004; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 4 MISCELLANEOUS PROVISIONS

Sec. 11-4-10. Construction in public rights-of-way.

(a) All streets, alleys, sidewalks, curbs, gutters, water mains, sewer mains, manholes and stormwater mains, stopcocks, corporation stops and other appliances and appurtenances installed by contractors, developers or individuals for subsequent dedication to the Town for public use shall be inspected by a representative of the Town at each phase of construction to ensure compliance with appropriate published standards.

(b) Construction and installation of all streets, alleys, sidewalks, curbs, gutters, water mains, sewer mains, manholes and stormwater mains, stopcocks, corporation stops and other appliances and appurtenances installed by contractors or developers shall require a permit and an inspection fee, payable prior to the commencement of such work.

(c) The Town Fee Schedule shall specify charges for specific installation and construction. The Town Fee Schedule shall be available for public inspection at the Town Hall. The Town Fee Schedule shall be adopted by resolution and may from time to time be amended by resolution of the Board of Trustees.

(Ord. No. 2003-4, §§ 1—3, 5-12-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 11-4-20. Temporary use of public places.

(a) *Issuance.* The Board of Trustees is authorized to issue a revocable permit to an applicant for use of a portion of the public right-of-way of any street, alley or public place. Such permit may be issued only when the following criteria have been met:

- (1) The public property which is sought to be used by a private person or entity for private purposes is not being fully used by the Town and the proposed use will not inter-

fere with or diminish the Town's ability to use the property and to use and maintain adjoining property for the appropriate public purpose.

- (2) The private person desiring to use the public right-of-way, street, alley or public place shall provide insurance as may be required by the Board of Trustees, naming the Town as an additional insured on such insurance policy.
- (3) The permittee files an application upon forms provided by the Town and understands that such permit is revocable by the Town without cause.

No permit shall be required for the otherwise lawful parking of motor vehicles in the public right-of-way.

(b) *Revocation.* The revocable permit may be revoked at any time by the Board of Trustees whenever it has been determined that the permitted use is no longer in the best interest of the Town.

(c) *Application.* A revocable permit shall only be granted upon application by a person or entity, upon payment of such fee as may be determined to be appropriate by the Board of Trustees and upon proof that the applicant has public liability insurance in an amount determined appropriate by the Town which names the Town as an additional insured. The insurance requirement may be waived by the affirmative vote of a majority of the Board of Trustees.

(d) *Damage to public property.* Any damage to public property shall be promptly repaired by the permit holder. If such damage is not promptly repaired, it may be repaired by the Town and the cost charged to the permit holder plus 15 percent for administration. If such costs are not paid, the Town may certify such costs to the County Assessor for collection as taxes pursuant to law.

(Ord. No. 2005-3, §§ 1—4, 6-13-2005; Ord. No. 2016-4, § 1, 8-29-2016)

Chapter 13

Municipal Utilities

Article 1 Water Service

- Sec. 13-1-10. Creation of Water Enterprise.
- Sec. 13-1-20. Administration.
- Sec. 13-1-30. Receipts and deposits.
- Sec. 13-1-40. Water permit required.
- Sec. 13-1-50. Application for water.
- Sec. 13-1-60. Inspections.
- Sec. 13-1-70. Tapping charge.
- Sec. 13-1-80. Size of service tap.
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Article 2 Wastewater Enterprise

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- Sec. 13-2-130. Disposition and use of funds.
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- Sec. 13-2-160. Discharge of nonacceptable wastes into sewer prohibited.
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- Sec. 13-2-180. Use of grease, oil and sand traps required.
- Sec. 13-2-190. Preliminary treatment.
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- Sec. 13-2-230. Reimbursement for damage.
- Sec. 13-2-240. Existing sewer service line.
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Article 3 Nonpotable Water Enterprise

- Sec. 13-3-10. Establishment of Nonpotable Water Enterprise.
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- Sec. 13-3-80. Annexation or development of property.

Article 4 Cross-Connection Control

- Sec. 13-4-10. Applicability.
- Sec. 13-4-20. Definitions.
- Sec. 13-4-30. Requirements.
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- Sec. 13-4-70. Compliance.
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Article 5 Extension of Infrastructure

- Sec. 13-5-10. Extension of utilities.
- Sec. 13-5-20. Computation of reimbursement amount.
- Sec. 13-5-30. Notice to property owners.

ARTICLE 1 WATER SERVICE**Sec. 13-1-10. Creation of Water Enterprise.**

The Water Department of the Town is an enterprise established for the purpose of the management, maintenance, care and operation of the water works of the Town. Every residence and business establishment of whatsoever nature and wherever located in the Town shall be required to purchase a water tap and to pay the minimum water user fee. If a purchased tap is not put into service within 90 days after purchase, the purchaser shall nevertheless thereafter pay to the Town the minimum water user fee.

(Ord. No. 1-70, § 1-1, 1-5-1970; Ord. No. 2-85, § 2, 7-8-1985; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-20. Administration.

(a) One member of the Board of Trustees shall be designated as the Water Liaison. The Water Liaison, together with the Mayor, shall have the day-to-day control and management of all things pertaining to the Town water works system and shall ensure that public works employees provide for the prudent, efficient and economical operation of the Town water works. The Water Liaison shall report no less frequently than monthly to the Board of Trustees and shall have the consent of the Board of Trustees to conduct any action other than supervision of the day-to-day operation of the water works.

(b) The Board of Trustees shall have the power to establish water rates, rules, water conservation policies and all other matters related to the operation of the Town water works system.

(Ord. No. 1-70, § 1-2, 1-5-1970; Ord. No. 2-76, § 1, 7-6-1976; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-30. Receipts and deposits.

The Town Clerk shall keep a correct account of all receipts, make out all bills for water rents and materials furnished to consumers, collect the same

and deposit the proceeds so collected with the Town Treasurer, to the credit of the water works fund of the Town and in accordance with the direction of the Board of Trustees.

(Ord. No. 1-70, § 1-3, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-40. Water permit required.

(a) It is unlawful for any owner, lessee or user of water to turn on or cause to be turned on water for his or her premises or to take and use water on his or her premises without having obtained a permit therefor. Such person shall make application in writing to the Town Clerk for such permit, furnishing the necessary information for the determination of the proper water rate. Upon receipt of such information and payment of the required fees, the permit shall be issued by the Town Clerk, except as otherwise provided for herein.

(b) The permit shall be signed by the Town Clerk and shall set forth the name of the person for whose benefit it is granted, the date thereof, the point of the water main at which tapping is to be done, the size of the tap and stopcock, the premises to which water is to be conducted, the use to be made of water, and the number and character of appliances through which the same is to be used. The Town Clerk shall issue the permit in triplicate; the duplicate copy shall be delivered with directions to the Director of Public Works, who shall make or cause to be made the connections therein provided; and the triplicate copy shall be delivered to the permittee.

(c) Any person desiring a three-quarter-inch water tap within the boundaries of the Town shall provide to the Town one acre-foot of raw water deliverable to the Town by the North Weld County Water District. Before issuance of any permit or connection of any property to the Town water works system, the applicant shall deliver to the Town one unit of Colorado-Big Thompson Project ("CBT") water or other raw water acceptable to

the Town by separate agreement in fulfillment of the requirements of this Subsection. Any person desiring a one-inch water tap shall convey to the Town such units and type of raw water as may be established by the Board of Trustees.

(d) In addition to the raw water requirement, a person desiring a water tap within the Town shall pay a tap fee, a plant investment fee, appropriate sewer fees and such other fees as may be set forth on the Town Fee Schedule.

(e) Any person desiring a water tap from the Town, which tap will not be located within the boundaries of the Town, shall be required to comply with the raw water requirements of this Section and, in addition thereto, shall pay a tap fee and plant investment fee in the amount of twice the amount of the fees set forth on the Town Fee Schedule or the fee set forth on the Town Fee Schedule, or as otherwise negotiated between the Town and the prospective customer.

(f) In addition to paying the fees set forth in this Section, each owner, lessee or user of water shall pay for the labor, meters, meter pit and other materials required in tapping the water main, installing the service pipes, trenching and repair of streets, pavement, curb and gutter, and all other related expenses, all as determined by the Director of Public Works. All such costs shall be paid in advance. The Town may require a cash deposit for the amount due to the Town under this Subsection prior to construction. No water meter shall be installed in any residence or structure.

(g) If any owner, lessee or other user of water applies to the Town for permission to increase the size of his or her tap, he or she shall be obligated to pay the costs referred to in Subsection (d) above and, in addition, shall be obligated to pay a new tap fee and raw water fee calculated in accordance with the requirements of this Section. However, the applicant may be entitled to a credit for any tap or plant investment fee paid by him or her, or

by his or her predecessor in interest or title, on account of the tap which the applicant desires to increase.

(h) A water tap owner shall have 60 days to put the tap into use. On the 61st day after the tap is issued and tap fee paid, the minimum monthly water service charge will begin to accrue and shall be due and payable on the next regular water billing date, regardless of whether or not the water tap is actually in use.

(i) Every occupied structure within the Town shall be connected to the Town water system and the Town sanitary sewer. Every person who desires to purchase a water tap shall also be required to purchase a sewer tap; every person who desires a sewer tap shall also be required to purchase a water tap; and 90 days after the purchase of such taps, the purchaser shall pay the required water and sewer user fees.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-50. Application for water.

Application for the use of water shall be made to the Town Clerk by the owner or agent of the property to be benefited, designating the location of the property and stating the purpose for which the water may be required.
(Ord. No. 1-70, § 1-5, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-60. Inspections.

Whenever, in his or her judgment, the Director of Public Works deems it necessary, he or she may inspect the premises or buildings of any water consumer for the purpose of examining the condition of all pipes, motors, meters and water fixtures or the manner in which the water is used. The Director of Public Works shall be vigilant to protect and remedy all abuses, whether from waste or other improper use of water.
(Ord. No. 1-70, § 1-4, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-70. Tapping charge.

Upon the application for a new tap and service connection by a consumer within the corporate limits of the Town, the applicant shall pay to the Town Clerk the sum set forth in the Town Fee Schedule to cover the cost of the corporation cock, fittings and installation of the tap and the necessary pipe from the main to the curb box. The tap shall be installed by the Town. All necessary trenching and backfilling shall be under the supervision of the designated representative of the Town. The Town shall own and maintain the water line from the main to the curb box or meter pit, and the property owner shall own and maintain the service line and be responsible for leaks from the curb box or meter pit to the premises served.

(Ord. No. 1-70, § 1-6, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-80. Size of service tap.

No service tap shall be more than three-fourths inch in diameter, provided that the Board of Trustees may grant special permission for larger taps where the water supply and service facilities are sufficient to permit such taps. Where a larger tap is permitted, the Board of Trustees shall fix the tapping charge therefor.

(Ord. No. 1-70, § 1-7, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-90. Meter pits; metering of water.

(a) *Meter pit required.* All customers of the Town water utility shall have the water meter serving the property installed in a uniform meter pit located as close to the property line as is practical for each individual property. The initial installation of the water meter and meter pit shall be paid by the consumer. The Town shall service and replace worn out meters. The consumer shall be responsible for maintenance and proper care of the meter pit, including the installation of frost

covers or other necessary equipment and, when required, the meter pit shall be equipped with automated read-out technology.

(b) *Homeowner responsibility.* The homeowner shall be responsible for relocating the water service line to the meter pit if such relocation is necessary, together with any interior plumbing required to redirect the previous water flow and any expenses related to the change, except those costs specifically set forth herein as expenses of the Town. The Town will accept responsibility for excavating the meter pit site, installation of the curb stop and installation of the meter pit.

(c) *Surcharge.* Any water user failing to comply with the requirements of this Section shall have a surcharge added to the customary water usage charge, as set forth in the Town Fee Schedule. The Board of Trustees may modify such surcharge from time to time as it deems necessary to recover the costs to the water system and to ensure that residents comply with this Section. The Board of Trustees further reserves the right to terminate water service to any customer who willfully fails to comply with the requirements of this Section.

(d) *Reading devices.* The Town shall have authority to attach remote reading devices to water meters now or hereafter installed for any and all classes of water users. The owner of premises where such reading device is placed shall be obligated to pay the full cost to the Town for the acquisition of such device.

(Ord. No. 1-70, § 1-8, 1-5-1970; Ord. No. 2006-1, §§ 1—3, 2-13-2006; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-100. Service line regulations.

(a) *Definitions.* For purposes of this Section, the following terms are defined as follows:

Lot means one platted lot, except in that section of the Town where more than one lot is required to create a building lot, then up to three 25-foot lots may be considered a lot.

Water service means that apparatus owned and controlled by the Town and necessary for providing potable water service to any lot in the Town. *Water service* includes the tap into the main line, the pipeline to the meter, the meter, the meter pit and equipment within the meter pit.

(b) *Use permitted.* Each water service to a particular lot shall be used only for the purpose of providing water to the primary residential structure on the lot and shall be permitted to additionally serve one accessory structure located on the same lot as the primary structure, which accessory structure shall not be used for any residential purpose. On commercial lots, the water service may serve the primary commercial structure and one additional accessory structure located on the same lot.

(c) *Pipe installation.* Only approved pipe shall be used for the installation of a service line, and all service lines shall be installed at a depth of at least 60 inches below the surface of the ground. Each service line shall contain a stop and waste cock where the water may be turned off.
(Ord. No. 1-70, § 1-9, 1-5-1970; Ord. No. 2013-4, §§ 1—3, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-110. Waste of water prohibited.

Consumers shall prevent unnecessary waste of water and keep all water outlets closed when not in actual use. Hydrants, urinals, water closets, bathtubs and other fixtures must not be left running for any purpose other than the use for which they were intended. In addition to the penalty provided herein for Code violations, the water supply may be turned off when any such waste occurs.
(Ord. No. 1-70, § 1-10, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-120. No use during fire alarm.

During all alarms of fire, the use of hose and all outlets where a constant flow of water is maintained is positively forbidden.
(Ord. No. 1-70, § 1-11, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-130. Water rates.

All water sold by the Town shall be sold at the rates set forth in the Town Fee Schedule, which shall be annually reviewed by the Board of Trustees and amended from time to time as may be appropriate.
(Ord. No. 1-70, § 1-12, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-140. Surcharge imposed; purchase of potable water.

(a) *Surcharge imposed.* There is hereby imposed upon all residential, commercial and industrial customers of the Town water utility a surcharge for water used in excess of the water available to any such customer as a result of the raw water provided by the customer or the customer's predecessors.

(b) *Purchase of potable water.* Customers of the Town water utility shall, in each calendar year, be entitled to purchase water in the following amounts:

- (1) All residential, commercial and industrial customers of the Town water utility who have provided one-half unit of CBT water to the Town shall be entitled to purchase 114,000 gallons of water in each calendar year. Any customer who purchases more than 114,000 gallons of water per calendar year shall pay a raw water surcharge as set forth in the Town Fee Schedule.
- (2) All residential, commercial and industrial customers of the Town water utility who have provided one full unit of CBT water

to the Town shall be entitled to purchase 228,000 gallons of water in each calendar year. Any customer who purchases more than 228,000 gallons of water per calendar year shall pay a raw water surcharges as set forth in the Town Fee Schedule.

(c) *Other rates unaffected.* Nothing in this Section shall be construed to modify any other existing fee schedule. The charge imposed by this Section shall be construed as a surcharge and shall be charged in addition to all fees, rates, late fees or impact fees imposed by any other provision of this Code or any ordinance or resolution of the Board of Trustees. This Section shall not affect any other provision of this Chapter authorizing termination of service or regarding collection of water service fees. The fees set forth herein may be collected as any other delinquent water fees and may be collected by certification to the County Treasurer for collection as taxes pursuant to state law. The surcharge set forth herein may be modified by the Board of Trustees from time to time in the Town Fee Schedule.

(d) *Modification of surcharge.* The raw water surcharge set forth in the Town Fee Schedule is based upon the cost of one unit of CBT water and an annual long-term average allotment of 70 percent. In years when the allotment is less than 70 percent, the Board of Trustees may by resolution modify the fee set forth in the Town Fee Schedule for the year in which such lower allotment is provided by the Northern Colorado Water Conservancy District.
(Ord. No. 2009-1, §§ 1—4, 2-9-2009; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-150. Delinquent rent must be paid.

In case there is any water rent delinquent and the supply has been turned off, the water shall not be turned on again until all such delinquent water rents have been paid. When water service has been terminated for nonpayment, water service shall

not be reinstated until the consumer has paid a deposit to the Town in an amount set forth in the Town Fee Schedule.

(Ord. No. 1-70, § 1-14, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-160. Property charged with rent.

All water rents shall be charged against the property served and against the owner thereof. If for any cause any sums owing therefor become delinquent, the water shall be shut off. In no case shall it be turned on to the same property until such delinquencies have been paid in full. Change of ownership or occupation shall not affect the application of this Section.

(Ord. No. 1-70, § 1-15, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-170. Unpaid water rents a lien.

All water rents shall be charged against the owner of the property served and shall be a lien upon the respective lot or parcel of land where said water is used from the time when due and shall be a perpetual charge against said lot or parcel of land until paid. In the event said rents are not paid when due for water service to property within the corporate limits, the Town Clerk shall certify such delinquent rents to the County Treasurer and said rents shall be collected in the same manner as though they were a part of the taxes.

(Ord. No. 1-70, § 1-16, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-180. Turning water on.

(a) If the water supply to any premises is terminated for any reason, such water service shall not be turned on until such fees, late fees and other charges as are set forth in the Town Fee Schedule have been paid.

(b) When a water tap has been activated to any property, the minimum monthly rate shall be due each month thereafter for the privilege of having water service, whether or not water is taken from the tap.
(Ord. No. 1-70, § 1-17, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-190. Unlawful acts.

It is unlawful for any person to use or take water from the Town water works without a permit therefor, to make any fraudulent representation for the purpose of obtaining water, to take or use water from the water works for a different purpose than provided in the customer's permit, to willfully or unreasonably waste water or to violate any of the regulations set forth in this Chapter. Each and every such unlawful act shall constitute a violation of this Code and shall be punishable as provided in Section 1-4-20 of this Code.
(Ord. No. 1-70, § 1-18, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-200. Mandatory water use restrictions.

The following water restrictions shall apply to all persons or properties within the Town, whether using water supplied by the Town through a water tap or by means of a water well drilled into the subsurface water supply. These restrictions also apply to persons and properties using water supplied by the Town but located outside the Town boundary.

- (1) Irrigation of landscaped areas with hose-end sprinklers and/or automatic sprinkler systems shall be limited as set forth in this Section. Irrigation in any manner shall be limited to odd-numbered and even-numbered days.
 - a. Addresses ending in an odd number shall be authorized to irrigate only

on odd-numbered days, except that no irrigation shall take place on the 31st day of any month.

- b. Addresses ending in an even number shall be authorized to irrigate only on even-numbered days.

- (2) There shall be an exemption to the requirements in this Section for new sod to allow watering daily for a period of 30 days from installation of the new sod.

(Ord. No. 2003-3, § 1, 4-14-2003; Ord. No. 2006-2, § 1, 6-12-2006; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-210. Limitations and prohibited water uses.

The following uses shall be limited or prohibited as herein set forth when the Board of Trustees has by resolution declared a drought or water supply emergency and has given public notice of the need to conserve water:

- (1) Use of water from fire hydrants shall be limited to firefighting-related activities or other activities necessary to maintain the public health, safety and welfare.
- (2) Use of water from fire hydrants for construction purposes is prohibited except upon request to and approval by a majority of the Board of Trustees at a regular or special meeting.
- (3) Use of water to wash down sidewalks, driveways, parking lots or other hard-surfaced areas is prohibited.
- (4) Use of water to wash buildings or structures or to flush gutters, other than for fire protection, is prohibited.
- (5) Failure to repair a controllable leak within a reasonable period after having received notice of such leak is prohibited.

- (6) Overwatering and causing water to run off of any irrigated surface onto a non-irrigated surface is prohibited.
- (7) Wasting of water by allowing a sprinkler, whether automatic, hose-end or hand-held, to run water upon any non-irrigated surface is prohibited.
- (8) Use of water to wash any vehicle, boat, trailer or other motorized equipment is prohibited except on designated watering days, and shall be done only with a hand-held bucket or hand-held hose equipped with a positive shutoff nozzle. This Section shall not apply to vehicles used for transporting food or when such vehicles are required to be kept clean for the health, safety and welfare of the public.
- (9) The regulations set forth in this Article shall not apply to the use of water in public places or for public uses by any governmental authority.

(Ord. No. 2003-3, § 2, 4-14-2003; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-220. Penalty for violation of water restrictions.

(a) The penalty for violation of Section 13-1-200 or 13-1-210 of this Article shall be as set forth in Section 1-4-20 of this Code. If a water user persists in violations, the Board of Trustees may authorize the placement of a flow restrictor upon the property on which the violations have occurred, or may terminate or restrict water service to the property.

(b) Nothing in this Article shall prohibit or limit the Town from imposing additional water restrictions, including elimination of lawn irrigating or sprinkling entirely, or such other measures as the Board of Trustees deems appropriate if drought, emergency or other conditions warrant such additional restrictions.

(Ord. No. 2-76, § 1-3, 7-6-1976; Ord. No. 2003-3, §§ 3, 4, 4-14-2003; Ord. No. 2006-2, § 2, 6-12-2006; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-1-230. Water leaks.

Water leaks in a service line, meter pit or device located on the property and on the property owner's side of the meter shall be the responsibility of the property owner. Leaks which occur between the meter pit and the main line shall be the responsibility of the Town.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 2 WASTEWATER ENTERPRISE

Sec. 13-2-10. Creation of Wastewater Enterprise.

The sewer works of the Town is operated as an enterprise established for the purpose of the management, maintenance, care and operation of the sewer lines and wastewater treatment plant.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-20. Definitions.

The defined words and phrases in this Section shall have the meanings ascribed to them for the purpose of this Article unless the context in which they appear clearly indicates otherwise:

Facility, in the singular or plural, means and refers to both food service facilities and transportation service establishments unless a modifying work indicates that a different meaning is intended,

FOG means fats, oil and grease, a term which generally refers to animal and vegetable glycerides discharged from food processing and service industries. These substances are detectable and can be measured using standard analytical techniques. They are generally referred to as *grease*.

Food service facility means a facility that prepares and/or packages food for sale or consumption. This includes, but is not limited to, restaurants, food processing facilities, food manufacturers, bakeries, lounges, hospitals, ho-

tels, nursing homes, churches, schools, dairies, slaughterhouses, meat packers, food courts, caterers and theme parks.

Gray water means all of the liquid and particles suspended in the liquid in a trap after lighter-than-water materials have risen to the top and heavier-than-water materials have sunk to the bottom.

Grease means animal and vegetable glycerides discharged from food processing and serving industries.

Grease trap means a device to which grease and food wastes are directed from the food service facility operations. It functions to separate and retain waterborne grease and solid food particles prior to the wastewater exiting the trap and entering the sanitary sewer system. It also collects solids and grease from kitchen floor drains.

Nonacceptable wastes means the following:

- (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit.
- (2) Any water or waste having a five-day biological oxygen demand which may contain more than 1,000 parts per million by weight as averaged during any 12-hour period.
- (3) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- (4) Any garbage that has not been properly shredded.
- (5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, grit, brick, cement, onyx, carbide or any other solid or viscous substance capable of obstructing the flow of the sewers or causing other interference with the proper operation of the sewage works.

- (6) Any water or waste having a pH lower than 5.5 or higher than 9 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the sewage works.
- (7) Any water or waste containing a toxic or poisonous substance in sufficient quantities to injure or interfere with the sewage process, constituting a hazard to humans or animals or creating any hazard in the receiving waters of the sewage treatment plant.
- (8) Any water or waste containing suspended solids of such character or quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
- (9) Any noxious or malodorous gas or substance capable of creating a public nuisance.

Owner means the owner and, if the owner does not operate the facility, the operator of a food service facility or transportation service establishment.

Sampling port means an opening allowing access to a location where samples can be collected and analyzed. The sampling port shall be between the trap and the point of discharge to the Town sewer system.

Sand and oil trap means a device to which sand and oil wastes are directed from the transportation service establishment operations. It functions to separate and retain waterborne sand and oil particles prior to the wastewater exiting the trap or interceptor and entering the sanitary sewer system.

Sanitary sewage means the waste from water closets, urinals, lavatories, sinks, bathtubs, showers, household laundries, cellar floor drains, bars,

soda fountains, cuspidors, refrigeration drips, drinking fountains and any other waterborne waste not constituting an industrial waste.

Sanitary sewer overflow means the backing up and overflowing of the sewer system as a result of clogging or the obstruction of flow in the Town's sewer system due to the discharge of wastewater with excessive fats, oil, grease and sand or other foreign material.

Sewage system means the publicly owned wastewater treatment plants or sewer systems of the Town, including but not limited to all the collector system piping, lines, manholes, lift stations and treatment plants.

Town means the Town of Pierce or any Town employee designated by the Town or Board of Trustees to enforce the provisions of this Chapter.

Transportation service establishment means an automotive, truck or heavy machinery repair and/or maintenance shop, car or truck wash, truck terminal, commercial or industrial transportation equipment, or manufacturing or maintenance facility that has tanks, wash racks or any other sand and oily liquid waste.

(Ord. No. 1-70, § 2-1, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-30. Connection with sanitary sewer required.

Except where otherwise provided, no person shall maintain within the Town any privy, privy vault, septic tank, cesspool or other facility intended for use for the disposal of sewage. Where a public sanitary sewer is more than 400 feet from the building, sewer may, upon application to the Board of Trustees, be connected to a private sewage disposal system complying with the provisions and recommendation of the Colorado Department of Public Health and Environment. Such private sewage disposal system shall be constructed, maintained and operated at all times in a sanitary

manner. At such time as a public sanitary sewer becomes available to property served by a private sewage disposal system, a direct connection shall be made to the public sanitary sewer in accordance with the provisions of this Chapter and any septic tank, cesspool or similar sewage disposal facilities shall be abandoned and filled with suitable material.

(Ord. No. 1-70, § 2-2, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-40. Permit required.

It is unlawful for any person to open, uncover or in any manner make connection with any sewer main or line of the Town, or to lay drain or sewer pipes on any premises or in any street or alley in the Town, without first obtaining a written permit therefor from the Town Clerk.

(Ord. No. 1-70, § 2-3, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-50. Authority for sewer rates.

(a) The Board of Trustees is authorized to establish sewer rates for inside the Town limits and outside the Town limits, and such rates shall be set forth in the Town Fee Schedule.

(b) The Board of Trustees is authorized to establish sewer system plant investment fees as are necessary for the extension, enlargement and modernization of the sewer system.

(c) The Board of Trustees is authorized to levy additional charges or surcharges on any wastewater treatment plant customer who violates the provisions of Section 13-2-170 through Section 13-2-190 of this Article. To the extent possible, such surcharges should reflect the additional cost of treating wastewater which does not comply with the requirements of such Sections.

(d) The Town is authorized to require any user of the sewer system to acquire, install or provide to the Town any specialized equipment necessary for the treatment of the user's wastewater, including measuring or testing devices.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-60. Method of collection.

(a) All sewer use charges shall be billed monthly along with monthly water charges and shall be paid in the same manner as monthly water charges are paid. The fee for connection charges to the Town sewerage system shall be paid to the Town prior to connection to said sewerage system. Any unpaid charges shall constitute a lien upon said property so served and, in the event said charges are not paid when due, the Town may shut off the water for any premises on which the sewer use or connection charges are past due.

(b) If any sewer bill has been sent to the owner or resident of a property served by sewer service and the charges set forth in the bill are more than 90 days delinquent, the Town is authorized to cause a shut-off notice to be delivered to the property advising the property owner or resident that water service may be terminated ten days after delivery of the notice. The notice shall set forth the date of delivery.

(c) If service is disconnected, service shall not be restored until a deposit in the amount set forth in the Town Fee Schedule has been paid, in addition to the payment of the full delinquent amount.

(d) Owners or residents who are delinquent on their sewer charges may request an extension of time in which to pay the charge by making an application to the Town or the Board of Trustees.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-70. Sewer fund.

The funds received from the sewerage use charges or sewerage connection charges authorized by this

Article shall be deposited, kept, paid out, used and applied only in the manner and form provided by state statutes, and for the purpose of collecting and treating wastewater. The fund herein established is an enterprise, as defined in Article X, Section 20 of the Colorado Constitution and shall be known as the "Wastewater Enterprise." Funds collected by the Wastewater Enterprise shall be available for the payment of costs and expenses of the management, maintenance, repair, renewing, improving and extending of the sewerage system of the Town and for no other purpose. The Board of Trustees hereby designates itself as the governing body of the Wastewater Enterprise and shall exercise all legal authority over the Wastewater Enterprise.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-80. Issuance of permit.

If the proposed connection does not violate any provision herein and does not violate any other laws of the Town, the Town Clerk shall issue a permit for such connection. Such permit shall contain all information contained in said application and shall specify the type and kind of grease and sand traps to be used.

(Ord. No. 1-70, § 2-5, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-90. Tapping fee.

At the time of filing the application, the applicant shall pay a tapping fee as set forth in the Town Fee Schedule for the connection to the sewer of any property within the Town limits, together with the fee set forth in the Town Fee Schedule for the connection to the sewer of any property located outside of the Town limits.

(Ord. No. 1-70, § 2-6, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-100. Rates and charges for use of sewers.

(a) There is hereby levied and charged on each lot, parcel of land and premises served by or having sewer connection with the sanitary sewer

system of the Town, or otherwise discharging sanitary sewage, industrial wastes, water or other liquids either directly or indirectly into the Town sanitary sewer system, a sewer service charge or rental which shall be payable in an amount as set forth on the Town Fee Schedule.

(b) Over and above the rates and charges established by this Section, there may be established, in special instances and by special agreement between the Town and the owner of any premises served by the Town sewer system, such additional charges for commercial or industrial wastes of unusual strength or composition that are accepted by the Town for treatment as may be determined to be fair and equitable. Each such special agreement and charges established therefor shall not become effective until ratified by resolution passed by the Board of Trustees.

(c) Nothing in this Section shall be construed to prevent any special agreement or arrangement between the Town and other municipalities, quasi-municipalities, sanitation districts, additions and development areas outside the Town concerning sewerage facilities, which shall not become effective until ratified by resolution passed by the Board of Trustees; provided that the rates established by such agreement or arrangement shall not be less than one and three-tenths times the rate for the same class of users within the Town.

(Ord. No. 1-70, § 2-16, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-110. Billings; payment.

The sewer charges levied pursuant to this Article shall be payable monthly and shall be added to and made a part of the monthly water bill of the various properties in the Town. Properties outside the Town shall pay monthly and in advance, or as provided by agreement, and if the same are not paid within ten days thereafter, a penalty of ten percent of such charge shall be added to such bill. (Ord. No. 1-70, § 2-17, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-120. Collection of unpaid and overdue charges.

Each sewer charge levied pursuant to this Article shall be a lien therewith, and, if the same is not paid within 60 days after it becomes due and payable, the Town Clerk shall certify such unpaid rates or charges to the County Treasurer, to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a ten-percent penalty thereon to defray the cost of collection. The same shall be collected and paid over by the County Treasurer to the Town in the same manner as taxes are authorized to be paid by state statute. All laws of the State for the assessment of general taxes, including the laws for the sale of property taxes and redemption of the same, shall apply thereto. Such rates and charges may also be certified to the Board of County Commissioners and shall become a lien upon the real property served by such sewer connections and collected in the same manner as though they were part of the taxes.

(Ord. No. 1-70, § 2-18, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-130. Disposition and use of funds.

The funds received from the collection of charges and rentals authorized by this Article shall be deposited, paid out and applied only in the manner and form provided for the issuance of joint water and sewer revenue bonds for the Town, for the purpose of refunding and paying outstanding sanitary sewer revenue bonds of the Town, and for extending and improving the Town's sanitary sewer system and treatment plant, such funds to be known and established as the Sanitary Sewer Refunding and Improvement Bond Fund. Nothing contained in this Article shall be construed in any way to prevent the Board of Trustees from applying and crediting to such fund available money derived from any other sources.

(Ord. No. 1-70, § 2-19, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-140. Discontinuance of sewer service.

In addition to the remedies provided in this Article, the Town may, without notice, discontinue sanitary sewer service to any premises for which the sanitary sewer system charges are delinquent for a period of ten days. The Town may, without notice, discontinue the sanitary sewer service to any premises discharging nonacceptable wastes into the sanitary sewer system.

(Ord. No. 1-70, § 2-20, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-150. Construction of sewers.

Any user of the sewer system, either inside or outside of the Town limits, must build his or her own sewer line if there is no line available for him or her to connect with. All connections to the Town's sewer system must be made by a licensed plumber, subject to the supervision and inspection of the Town and in compliance with the state plumbing code. All connecting lines to the Town sewer shall be on a uniform grade of one-eighth-inch to one-fourth-inch drop per one foot of pipe line. It shall be the property owner's responsibility to ascertain the depth of the sewer line and install the new line in such a manner as to be able to drop into the existing line.

(Ord. No. 1-70, § 2-7, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-160. Discharge of nonacceptable wastes into sewer prohibited.

The discharge of nonacceptable wastes into the Town sewer system, whether directly or indirectly, is prohibited, and, where investigation reveals the presence in the system of nonacceptable wastes emanating from any lot, land, building or premises, the owner, lessor, renter or occupant of such lot, land, building or premises shall be required, at his or her own expense, to treat, neutralize or in

other ways prepare the noxious substance therein to the satisfaction of the Town in order to convert the same into acceptable wastes.

(Ord. No. 1-70, § 2-8, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-170. Prohibited waters.

It is unlawful to discharge into the sanitary sewer system of the Town any water or wastewater as hereinafter described:

- (1) Waters specifically prohibited are stormwater drainage from ground, surface, roof leaders, catch basins, subsurface drainage and unpolluted industrial process waters, or any drainage associated with construction.
- (2) Water which has been used for cooling or heat transfer purposes without recirculation, discharged from any system of condensation, air conditioning, refrigeration or similar use.
- (3) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit.
- (4) Any waters or wastes having a pH lower than 5.5 or greater than 9.0.
- (5) Any waters which may contain more than 100 parts per million by weight of fat, oil or grease.
- (6) Any waters containing sand or any other inorganic particulate matter which will result in a settleable solids concentration greater than 25.0 milliliters per liter in the discharge.
- (7) Turbid water waste which will have a turbidity level in excess of 60 Jackson turbidity units.
- (8) Any gasoline, benzene, naphtha, fuel oil, lubricating oil or any other explosive or flammable liquid, solid or gas.

- (9) Any wastes from septic tank pumpage or vaults unless pretreated at an approved facility or delivered to an approved discharge site and after payment of applicable fees.
- (10) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, bones, feathers, tar, plastics, wood, manure, paunch manure, hair, blood, intestinal contents from horses, cattle, sheep, swine or poultry, animal hoofs or toenails, animal intestines or stomach casings, animal fat or flesh in particles larger than will pass through a one-quarter-inch screen, wax, paraffin, chemical residues, alkali residues, plating solution residues, food processing bulk solids and the concentrated contents of chemical tanks containing acids, alkalis or heavy metals.
- (11) Any water or wastes containing grease, oil, fats or any other substances that will solidify or become discernibly viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit.
- (12) Any water or wastes containing emulsified oils, fats or grease exceeding 75 parts per million of hexane soluble matter.
- (13) Any wastes containing concentrated dye wastes or other wastes that are either highly colored or could become highly colored by reacting with any other wastes.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-180. Use of grease, oil and sand traps required.

(a) *General requirements.*

- (1) Grease traps are required at all commercial food service facilities directly or indirectly connected to the Town's sewage system. All fixtures within such a food service facility, including but not limited to kitchen sinks, dishwashers, automatic hood wash

units, floor drains in food preparation and storage areas or any other source deemed by the Town to be a source of FOG or which may introduce FOG into the sewer system, must be connected to a grease trap. In no case shall FOG be directly introduced into the sewage system. A grease trap shall function to provide a quiescent, broad surface area that provides sufficient retention time for natural buoyancy of the FOG particles to separate from effluent and to retain FOG particles within the structure. Grease traps may be located underground and outside of a food service facility and shall have at least one inspection hatch on the top surface to facilitate inspection, cleaning and maintenance. Grease traps shall be designed to collect, contain or remove food wastes and grease from the waste stream while allowing the balance of the liquid waste to discharge to the sewage system. All grease traps shall be designed and installed in accordance with sound engineering principles and according to the Town specifications and shall fulfill all requirements of the Town's adopted codes.

- (2) Sand and oil traps are required at all transportation service establishments directly or indirectly connected to the Town's sewage system. All fixtures within such a transportation service establishment deemed by the Town to be a source of sand and/or oil that may be introduced into the sewer system shall be connected to a sand and oil trap. In no case shall sand or oil be directly introduced into the sewage system. The sand and oil trap shall function to provide a quiescent, broad surface area that provides sufficient retention time for natural settling of the sand particles to separate from effluent and to retain sand and oil

particles within the structure. Sand and oil traps may be located underground and outside of a transportation service establishment and shall have at least one inspection hatch on the top surface to facilitate inspection, cleaning and maintenance. Sand and oil traps shall be designed to collect, contain or remove sand and oil from the waste stream while allowing the balance of the liquid waste to discharge to the sewage system. All sand and oil traps shall be designed and installed in accordance with sound engineering principles and according to the Town specifications and must fulfill all requirements of the Town's adopted codes.

- (3) Facilities which have traps on January 1, 2016, shall be immediately subject to the provisions of this Article.
- (4) Facilities coming into existence after the effective date of the ordinance codified herein or renovated after said effective date shall be immediately subject to the provisions of this Article.
- (5) Any modifications of an existing facility requiring a building permit from the Town shall be immediately subject to the provisions of this Article.
- (6) Existing facilities which do not have traps shall install the required traps on or before June 1, 2016. Any facility described in this Article which is required to have a trap, but does not have a trap installed and operating on or before June 1, 2016, shall be subject to a sewer user fee surcharge in an amount as set forth in the Town Fee Schedule. The Board of Trustees may grant a waiver of such surcharge only upon the showing of a hardship beyond the owner's control or the inability to install a trap due

to lot size or a physical condition on the lot which prohibits the installation of a trap.

(b) *Requirements for traps.*

- (1) All traps shall be located as to be readily and easily accessible for cleaning by the user and for inspection by the Town.
- (2) All traps shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.
- (3) The owner shall ensure that all traps work properly and effectively.
- (4) All traps shall fully comply with all applicable provisions of this Code and any other applicable Town regulations or state requirements.
- (5) The owner shall be solely responsible for the cost of construction and installation of the trap and shall be responsible for cleaning, inspection, maintenance and repairs of any trap installed on the owner's property or for the benefit of the owner's business.
- (6) All traps shall be pumped, emptied and cleaned as necessary and, in the case of a grease trap, when the total volume of captured FOG and food sludge displaces 20 percent or more of the volume of the trap or, in the case of a sand and oil trap, when the total volume of captured sand and oil displaces 20 percent of the volume of the trap. In any event, each trap shall be pumped and cleaned no less frequently than every 30 days. The term *pumping and*

cleaning the traps means emptying the trap and cleaning the sidewalls, cross-pipes and inlet and outlet pipes.

- (7) All traps shall be opened, inspected and maintained at a minimum of once per month.
- (8) The Town may inspect each trap in the Town as often as deemed necessary to assure compliance with this Article. Such inspections may be without notice. The Town may review the facility's records of pumping, cleaning, maintenance and disposal activities and may order the owner of the facility to make such changes or repairs as necessary to comply with the provisions of this Article.
- (9) When inspection of a trap by the Town reveals that repairs are required, the Town shall give the owner notice of such required repairs or maintenance. Required repairs or maintenance shall be performed within 21 calendar days of receipt or delivery of written notice to the owner at the address where the trap is located. If the owner fails to make such repairs or perform the required maintenance within 21 days, the Town may make the repairs and charge the cost of such repairs plus 15 percent to the owner.
- (10) The owner shall be responsible for the lawful disposition of all grease, sand, oil and materials removed from traps.
- (11) The owner shall maintain records of all trap cleaning, maintenance, disposal and repair and shall make all records available to the Town on request. Such records shall include the date and time of the event recorded, as well as the date the record was created, and shall include the amount of material pumped, the repair conducted or a description of the repair, maintenance, pumping or cleaning conducted. All records shall be signed by the authorized owner or operator of the trap or by the authorized contractor conducting the repair, maintenance, pumping or cleaning. If cleaning and maintenance are done by facility owners, written maintenance and cleaning procedures, as well as the above records, are required and shall be made available to the Town upon request. All required written records shall be maintained for three years from the date the record was created and shall be maintained on the premises upon which the trap is located.
- (12) No chemicals, enzymes, emulsions, grease cutters, additives or live bacteria shall be used without first obtaining approval from the Town. If any owner desires to obtain approval for use of any of the above-described matter, a material safety data sheet shall be supplied for the substance to be used, together with any other information necessary for the Town to evaluate the use of such material. The Town shall not permit the use of any foreign material described in this Paragraph unless use of such material will not interfere with the collection system, any collection or plant facilities or the maintenance and operation of the treatment plant.
- (13) No FOG, sand or oil sources shall be connected directly to any sewer line or be allowed in any manner to bypass the trap on a lot or parcel of property located within the Town after the owner of such lot or parcel has been notified that a trap is required.
- (14) In no event shall sewage be allowed to pass through a trap.

(15) Access covers or manhole covers shall be clearly identifiable and provided for each trap. The access shall be accessible during normal business hours and shall be kept clear of debris or materials blocking the access. If access to the trap is locked, the key shall at all times be available and accessible upon one hour's notice. The owner of any facility required to have a trap shall, upon request by the Town, provide access to the trap as soon as practical and within one hour.

(16) All traps shall be designed and maintained so as to prevent surface water, groundwater or tap water from entering the trap.

(17) In those instances where under-the-sink grease traps are allowed, such traps shall be cleaned each week to prevent pass-through of grease and other solids into the sewage system. Facilities with under-the-sink grease traps are subject to the same recordkeeping requirements as indicated above.

(18) A sampling port shall be installed between the trap and the discharge point into the Town sewer system and shall be easily accessible for hand sampling or installation of a 24-hour sampling device.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-190. Preliminary treatment.

(a) The Town or its administrative authority may require pretreatment of any waste or wastewater which may be hazardous to the sewage treatment facilities, or which may contain corrosive, noxious or malodorous material or substance which, either singly or by reaction with other wastes, is capable of causing damage to the system or any part thereof, creating a public nuisance or hazard or preventing entry into the sewers for maintenance and repair of substances which may control the quantities and rates of discharge of water or wastes into the treatment facilities.

nance and repair of substances which may control the quantities and rates of discharge of water or wastes into the treatment facilities.

(b) Specifically, the admission into the public sewers of any of the following waters or wastes shall be subject to review and approval by the administrative authority of the Town:

- (1) Waters or wastes having a five-day biochemical oxygen demand greater than 300 parts per million by weight;
- (2) Waters or wastes containing more than 350 parts per million by weight of suspended solids;
- (3) Waters or wastes containing any quantity of substances having the characteristics described in Section 13-2-180 above; or
- (4) Waters or wastes having an average daily flow greater than two percent of the average daily sewer flow of the Town;

When necessary, in the opinion of the administrative authority of the Town, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to bring the wastewater into compliance with the standards set forth in Paragraphs (1) through (4) above.

(c) Plans, specifications and other pertinent information relating to the proposed preliminary treatment facility shall be submitted for the approval of the administrative authority of the Town, and no construction of such facilities shall be commenced until approval of the submitted plans is obtained in writing.

(d) It is unlawful for any person to discharge into the Town sewage system any material, water or wastewater having a five-day biochemical oxygen demand greater than 300 parts per million or containing more than 300 parts per million by weight of suspended solids.

(e) It is unlawful for any person to discharge any quantity or volume of effluent to the sewage system by means of a pump or release from a holding tank or any other device with a capacity greater than 50 gallons, which causes or may cause a sudden inflow or surge into the sewage system. This Section shall not apply to the Public Works Department while flushing or cleaning sewage collection lines.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-200. Additional requirements.

Whenever the Town or the appropriate administrative authority requires testing of the effluent for the purpose of determining the contents of the effluent, the amount of effluent or the strength or volume of any prohibited substance within the effluent, for the purpose of determining whether any section of this Article has been violated or for any other purpose deemed necessary by the appropriate authority, the cost of such tests shall be paid by the person causing the effluent to be discharged into the sewage system. Failure to pay such costs shall be cause for the discontinuance of water service to such person or any other action the Town may deem appropriate to enforce collection of such costs.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-210. Control manholes.

(a) When required by the administrative authority of the Town, the owner of any property served by a the Town sewer system carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate the observation, sampling and measurement of wastes. Such manhole, when required, shall be installed and maintained by the owner at his or her expense.

(b) When specialized equipment is required for testing, metering or sampling of wastewater or any other purpose, the cost of such equipment shall be paid by the user of the wastewater services.

(Ord. No. 1-70, § 2-10, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-220. Inspectors; right of entry.

The administrative authority and the duly authorized employees of the Town shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and treating in accordance with the provisions of this Article.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-230. Reimbursement for damage.

The Town shall not reimburse any person or user of the sanitary sewer system for any damage caused to such person's or user's real or personal property, unless it is established by a preponderance of the evidence that the damage was caused by the negligence of the Town or the improper construction or design of a main sewer line located in a street or alley.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-240. Existing sewer service line.

No existing or previously used sewer service line may be used in connection with any new building unless the existing sewer service line has been subject to examination as required by the Director of Public Works and has been found to be adequate for the transmission of sewage by the Director of Public Works.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-250. Unlawful interference.

It is unlawful to interfere with, break, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the sewer system.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-260. Abandonment of connection.

No person shall abandon any building connection without first obtaining a written permit therefor. Such building connection shall be effectively sealed with a vitrified clay stopper inserted in the bell of the sewer extending to the property line, which stopper shall be jointed as directed by the Town.

(Ord. No. 1-70, § 2-11, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-270. Interference with Town employees; digging up streets for purposes of sewer connections.

No person shall in any way interfere with employees of the Town in any discharge of their duties in the tapping of any sewer pipe, main or lateral. No person shall dig up or cause to be dug up any street or alley in the Town for the purpose of connecting with the sewer system of the Town without first obtaining a permit. No person having a permit shall dig up any portion of any street or alley of the Town for the purpose of connecting with the sewer system of the Town and fail or neglect to place the street or alley in its original condition.

(Ord. No. 1-70, § 2-12, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-280. Deposit of unsanitary wastes on property prohibited.

No person shall deposit or permit to be deposited in any unsanitary manner upon public or

private property within the Town or within any area within the jurisdiction of the Town any human or animal excrement wastes.

(Ord. No. 1-70, § 2-13, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-290. Deposit of untreated industrial waste into natural outlets prohibited.

No person shall discharge into any natural outlet within the Town or any area within the jurisdiction of the Town any sanitary sewer industrial waste or other polluted waste, except where suitable treatment has been provided.

(Ord. No. 1-70, § 2-14, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-300. Damaging, tampering with sewers prohibited.

No person shall maliciously, willfully or negligently break, damage or destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the Town sanitary sewer system.

(Ord. No. 1-70, § 2-15, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-310. Removal and assessment.

(a) If any person fails to comply with the provisions of this Article, in addition to the penalty provided therefor, a written notice may be served upon the owner or agent in charge of such property, such notice to be served personally or by mail, requiring the cleaning or maintenance of any grease trap or sand and oil trap. Such notice shall require cleaning or maintenance of the trap within seven days after the mailing or delivery of such notice. If such cleaning or maintenance is not performed within the stated time and maintained in a proper manner, the Town may cause such cleaning and/or maintenance to be done and assess the whole cost thereof, including 15 percent of

the cost for inspection and other incidental costs in connection therewith. The costs and any charges assessed by the Town pursuant to the this Article associated with the cleaning and maintenance of a trap shall be paid by the owner of the property or agent for such owner within 30 days after mailing of the bill or assessment of such cost by the Town to said owner or agent. The Town shall have the right to proceed for the collection of any unpaid charges for cleaning and/or maintenance of a trap in the manner provided by law for collection of debts and claims on behalf of the Town, including, without limitation, collection and lien procedures provided in this Section and as provided by law.

(b) In addition to any other means provided by law for collection, if any such assessment is not paid within 30 days after it is made and notice thereof is mailed, the same may be certified by the Town Clerk to the County Treasurer and placed upon the tax list for the current year, and thereby collected in the same manner as other taxes are collected, with a 15-percent penalty thereon to defray the cost of collection, as provided by state law.

(c) Failure to pay, within ten days after the mailing or delivery to the owner of the property, the amount assessed for cleaning or maintenance of the trap as described in this Article shall cause such assessment to become a lien against such lot, block or parcel of land associated with and benefiting from said services. Said lien shall have priority over all liens, except general taxes and prior special assessments, and the same may be effected at any time after such failure to so pay by recordation with County Clerk and Recorder of a certification by the Town, setting forth the costs to be charged against the property, the dates of service and descriptions of services giving rise to such charges. The lien and collection procedure are

supplementary and additional to any collection procedures described elsewhere within this Section or this Code.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-320. Appeal of assessment.

(a) Any owner or occupant who disputes the amount of such assessment made against the property may, within 30 days of receipt of the notice of assessment, appeal the assessment and request a revision or modification of the assessment.

(b) The appeal shall be made in writing and delivered to the Town Clerk and shall set forth such information as the applicant believes appropriate. Such appeal shall be heard by the Board of Trustees within 30 days after the appeal is filed with the Town Clerk. Notice of such hearing and proceedings shall be given to the applicant at least ten days prior to the hearing date. The applicant shall have the burden of proof that revision or modification is necessary to preserve substantial justice.

(c) Within ten days after the hearing, the Board of Trustees shall make findings of fact based upon information presented, shall make a decision based upon such findings and may revise or modify such assessment, confirm the assessment or reject the assessment to promote substantial justice. The decision of the Board of Trustees shall be in writing, shall be final and shall be served upon the applicant within ten days after the date of such decision, personally or by certified mail, return receipt requested.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-330. Adoption of rules and regulations governing sewers.

The Board of Trustees shall make and enforce such rules and regulations as it may deem necessary for the safe, efficient and economical management of the Town sewer system. Such rules and

regulations, when not repugnant to this Code or any other ordinances of the Town and laws of the State, shall have the same force and effect as ordinances of the Town.

(Ord. No. 1-70, § 2-21, 1-5-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-2-340. Penalty.

Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and each such person, upon conviction of any violation of this Article, shall be punished in accordance with the provisions of Section 1-4-20 of this Code. The Court may impose such other penalty as may be authorized by Sections 13-10-113 and 25-8-103(8), C.R.S., and the Federal Water Pollution Control Act, which includes civil penalties of up to \$10,000.00 per day, and, for criminal pollution, a fine of up to \$25,000.00, as described in Sections 25-8-608 and 25-8-609, C.R.S. The penalties herein set forth may be in addition to any administrative charge imposed.
(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 3 NONPOTABLE WATER ENTERPRISE

Sec. 13-3-10. Establishment of Nonpotable Water Enterprise.

There is hereby established in the Town a Nonpotable Water Enterprise which shall be responsible for the operation and maintenance of any nonpotable water service system in the Town.

- (1) The Board of Trustees is designated as the governing body of the Enterprise and shall exercise the Town's legal authority relating to such Enterprise.
- (2) Funds collected by the Nonpotable Water Enterprise to the extent allowed by law may be commingled for purposes of investment and financial management with

the Water and Sewer Utility Enterprises or other funds of the Town if accurate records are kept so as to separately account for all Nonpotable Water Enterprise funds.

- (3) The rules and regulations hereby established shall apply to all nonpotable water service systems located or operated within the Town, including private nonpotable water systems or quasi-public systems.

(Ord. No. 2004-8, § 1, 7-12-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-3-20. Ownership and maintenance of system.

All existing and future wells, reservoirs, pumps, valves, main lines and treatment works shall, immediately after construction and connection to the system, be the property of the Town unless any contract with a developer, homeowners' association or other user specifically provides otherwise, regardless of whether construction and installation are financed or paid for by the Town or by other persons.

- (1) It is unlawful for any owner, lessee, user or any other person or entity to turn on, use or cause to be used any water from a nonpotable water system for any premises without first obtaining authorization from the Town.
 - a. In new development areas, consent may be obtained for the entire development or parts of the development in the development process.
 - b. In all other instances, application shall be made to the Town, and installation of the facilities shall be pursuant to the regulations contained herein.
- (2) Facilities and appurtenances from the main line to the curb stop valve shall be located

in a dedicated right-of-way or easement and shall be the property of and maintained by the Town. That portion of the service line from the curb stop valve to the lot, excluding any meter facilities, shall be the property of and maintained by the property owner.

(Ord. No. 2004-8, § 2, 7-12-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-3-30. Installation and construction.

No nonpotable water works facilities installed by any private party or private contractor shall be connected to the Town nonpotable water works system or put into use until such facilities have been inspected by the proper authority of the Town prior to nonpotable water service being provided.

- (1) No person shall make, install, maintain or permit any cross-connection between the nonpotable water system and any other water, stormwater or sewer system. The proper Town authority may require backflow prevention devices where necessary to prohibit contamination of any Town nonpotable water system or wastewater system.
- (2) All service lines and appurtenances from the main line to the lot served shall be at the expense of the property owner. Service lines and facilities shall be located entirely within a public right-of-way, easement or the licensee's property. All service lines must meet state and local standards and regulations regarding installation as may be described in the plumbing code in effect at the time of installation. Service lines may not cross properties other than the property served without approval of the Board of Trustees in a written perpet-

ual easement granted in favor of the Town and the served property by the servient estate property owner.

- (3) Unless otherwise specified by ordinance or unless otherwise required or approved by the administrative authority, the minimum depth of cover for all nonpotable water lines from the finished grade to the top of the pipe shall be four and one-half feet. Failure to properly bury the pipeline as required in this Section shall cause the responsible party to be liable to the Town for all costs of repair caused by freezing or pressures caused by ice in the pipeline. Failure by any person to construct the pipeline according to this Section on private property shall be liable to the property owner for costs of repair caused by freezing of water or pressure created by ice in the pipeline.
- (4) Nonpotable water distribution shall be installed with purple-colored pipe or a material in combination with markings to consistently and clearly identify the nonpotable water system separately from the potable water works. Fittings shall be designed and labeled so that interconnection with the potable water system or any other system cannot be made inadvertently. All pumps, pipes, outlets and reservoirs of the potable system shall be clearly identified by a consistent color and markings indicating that such equipment is not part of the nonpotable system.
- (5) A pressure-reducing valve may be installed on service lines immediately upstream from the irrigation water meter, ensuring that the irrigation water meter, sprinkler or any other type of irrigation are protected from fluctuating water main delivery pres-

tures. The pressure setting on the pressure-reducing valve shall not exceed 150 psi (pounds per square inch).

- (6) The Board of Trustees shall designate in its sole discretion whether a water use in the nonpotable system shall be monitored through a master meter, through individual meters or through a combination of the two. In all cases, the Town shall own the meters, and the property owner served by such meter shall be responsible for the cost of maintenance, repair and replacement of the meters and meter facilities.
- (7) No person shall connect to or receive or use water from the nonpotable water system for any purpose except where water is used and measured through a meter as provided in this Article. Failure to install and maintain a water meter or otherwise comply with the requirements of this Section shall be grounds to discontinue water service and shall constitute a misdemeanor.
- (8) If authorized by the Board of Trustees, nonpotable irrigation water can be measured at one or more master meters designed to measure water delivered in bulk before distribution to numerous separate taps, service lines and curb stop valves serving individual properties or groups of properties.
- (9) All meters shall be located within a meter pit, equipped with a stopcock and located near the property boundary of the lot being served or as otherwise directed by the public works authority. All meters shall be equipped to allow the remote reading by equipment in use by the Town at the time the meter is installed.
- (10) Upon written application filed with the Town Clerk, the Board of Trustees in its sole discretion may waive the requirement

that meters be installed at or near the boundary whenever the applicant can demonstrate that the desired location would not disproportionately increase operation and maintenance costs.

- (11) The property owner shall be responsible for costs of repair, maintenance and replacement of any meter damaged due to the act or negligence of the property owner or water user. The Town shall be responsible for ordinary maintenance of meters and shall repair and replace a water meter which is defective or inoperable due to no fault of the property owner or water user. Water customers shall promptly notify the Town of a defective or inoperable meter. In the event that water is taken through an inoperable or defective meter, the property owner shall pay for water use calculated by estimating water use based upon previous and/or subsequent water use or use by an adjoining or nearby landowner with similar irrigation needs.
- (12) A dye test shall be performed to ensure the proper functioning of any new nonpotable water system and to ensure that no cross-contamination or cross-connection has occurred.

(Ord. No. 2004-8, § 3, 7-12-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-3-40. Interference with or destruction of facilities.

(a) It is unlawful for any person to alter, obstruct or interfere in any way with any water meter or remote readout installed pursuant to this Section without the consent of the Town. Nothing in this Section shall be construed to apply to a licensed electrician or plumbing contractor while performing usual and ordinary service in accordance with recognized practice.

(b) It is unlawful for any customer or user of the system to use a water meter or remote readout which is not registering water usage or underestimating or overestimating the quantity of water delivered.

(c) It is unlawful for any authorized person to uncover, use, alter, disturb or make any connection or opening onto the nonpotable system without first obtaining the consent of the Town. Unauthorized uses include, but are not limited to, connection to the system, change in service or use, enlargement of the property served by the meter, unauthorized turn-on or turn-off of the nonpotable water system, burying valve boxes and damaging or modifying any nonpotable water meter or any other part of the system.

(d) It is unlawful to install any spigot or other device capable of being connected to a hose unless such spigot or receptacle contains a permanent tag and color code identifying the device as being part of the nonpotable water system.

(e) It is unlawful to draw water from the nonpotable system if the system is being used to prevent or suppress fire.

(f) Water shall not, under any circumstances, be wasted or used for any improper purpose. All irrigation systems, spigots and outlets may be used only for the intended purpose and must be kept in good repair and closed when not in use. The escape of water from the premises upon which the water is being utilized shall be prima facie evidence of wasting water.

(g) Nonpotable water service may be discontinued to any user who wastes water or violates the regulations regarding the use of nonpotable water. Such service shall not be restored until the cause of waste has been corrected or the violation abated and all fines and fees paid. An administra-

tive fine of \$25.00 may be imposed by the Town for each incident of waste or violation of use regulations.

(Ord. No. 2004-8, § 4, 7-12-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-3-50. Water use and restrictions.

(a) In case of water shortage, whether arising from drought, mechanical problems or other causes, the Board of Trustees may, by resolution, place any restrictions which it deems necessary on the use of water in accordance with any water restriction program.

(b) Water usage from the nonpotable system shall be subject to all water and sprinkling restrictions which may be placed on the potable water system, and all nonpotable water users shall be subject to watering, sprinkling or irrigation restrictions imposed by the Town.

(c) Any authorized representative of the Town shall have the right to enter any premises where the nonpotable system is used for the purpose of inspecting, maintaining or repairing pipes, meters, meter pits or appliances and to detect or eliminate any violation of this Article.

(d) Water from the nonpotable water system shall not be used for any activity or purpose related to human consumption.

(e) The Town is authorized to sell nonpotable water in reasonable quantities for construction or other commercial purposes by the truckload at a rate that is at least the rate paid by connected customers on a "per gallon" basis.

(Ord. No. 2004-8, § 5, 7-12-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-3-60. Fees and charges.

(a) The Board of Trustees shall establish the amount of service charges imposed upon individually metered, master metered and unmetered nonpotable water service, which charges are set out in the Town Fee Schedule.

(b) Failure to pay water charges when due will result in water service termination and may result in a lien being placed upon the premises for water charges. If any lien is placed upon property served by the nonpotable water system, the Town may collect such lien by certifying the amount due to the County Treasurer for collection as taxes as authorized by law or use any other remedies available to the Town for collection of the charges, including termination of potable water service.

(c) Nothing in this Article shall be deemed as prohibiting the use of private water wells for irrigation, provided that the private wells shall not be connected to the Town's nonpotable water system and provided that the wells are operating lawfully in compliance with a court-approved augmentation plan and/or other law.

(Ord. No. 2004-8, § 6, 7-12-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-3-70. Master meter service area.

The Board of Trustees hereby finds, determines and declares that the area of the Town known and platted as "Walkabout Acres" is a nonpotable water service area, that usage in Walkabout Acres shall be metered by the Town by means of a master meter and that the water service charge shall be billed to the homeowners' association. The homeowners' association shall bill individual homes based upon water usage from individual property meters.

(Ord. No. 2004-8, § 7, 7-12-2004; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-3-80. Annexation or development of property.

Any property owner annexing property to the Town or developing a currently undeveloped parcel of property in the Town shall be required to dedicate to the Town an adequate supply of water to meet the requirements of the nonpotable water works system and to pay such nonpotable water

works plant investment fee as may be established by resolution of the Board of Trustees, and shall further install such nonpotable equipment as may be required, including wells, storage facilities or other equipment as may be required by the development.

(Ord. No. 2004-8, § 8, 7-12-2004; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 4 CROSS-CONNECTION CONTROL

Sec. 13-4-10. Applicability.

This Article applies to all commercial, industrial and multi-family residential service connections within the public water system and to any persons outside the Town who are, by contract or agreement with the Town, users of the Town water system. This Article does not apply to single-family residential service connections unless the public water system becomes aware of a cross-connection at the single-family connection.

(Ord. No. 2016-3, § 1, 5-10-2016; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-4-20. Definitions,

The following terms and phrases, as used in this Article, shall have the meanings set forth below:

Active date means the first day that a backflow prevention assembly or backflow prevention method is used to control a cross-connection in each calendar year.

Air gap means a physical separation between the free-flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel installed in accordance with Standard AMSE A112.1.2.

Backflow means the undesirable reversal of flow of water or mixtures of water and other liquids,

gases or other substances into the public water system's distribution system from any source or sources other than its intended source.

Backflow contamination event means backflow into a public water system from an uncontrolled cross-connection such that the water quality no longer meets the Colorado Primary Drinking Water Regulations or presents an immediate health and/or safety risk to the public.

Backflow prevention assembly means any mechanical assembly installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the mechanical assembly is appropriate for the identified contaminant at the cross-connection and is an in-line field-testable assembly.

Backflow prevention method means any method and/or non-testable device installed at a water service line or at a plumbing fixture to prevent a backflow contamination event, provided that the method or non-testable device is appropriate for the identified contaminant at the cross connection.

Certified cross-connection control technician means a person who possesses a valid Backflow Prevention Assembly Tester certification from one of the following approved organizations: American Society of Sanitary Engineering (ASSE) or the American Backflow Prevention Association (ABPA). If a certification has expired, the certification is invalid.

Containment means the installation of a backflow prevention assembly or a backflow prevention method at any connection to the public water system that supplies an auxiliary water system, location, facility or area such that backflow from a cross-connection into the public water system is prevented.

Containment by isolation means the installation of backflow prevention assemblies or backflow

prevention methods at all cross-connections identified within a customer's water system such that backflow from a cross-connection into the public water system is prevented.

Controlled means having a properly installed, maintained and tested or inspected backflow prevention assembly or backflow prevention method that prevents backflow through a cross-connection.

Cross-connection means any connection that could allow any water, fluid or gas such that the water quality could present an unacceptable health and/or safety risk to the public, to flow from any pipe, plumbing fixture or a customer's water system into a public water system's distribution system or any other part of the public water system through backflow.

Multi-family means a single residential connection to the public water system's distribution system from which two or more separate dwelling units are supplied water.

Single-family means:

- (1) A single dwelling which is occupied by a single family and is supplied by a separate service line; or
- (2) A single dwelling comprised of multiple living units where each living unit is supplied by a separate service line.

Uncontrolled means not having a properly installed and maintained and tested or inspected backflow prevention assembly or backflow prevention method, or the backflow prevention assembly or backflow prevention method does not prevent backflow through a cross connection.

Water supply system means a water distribution system, piping, connection fittings, valves and ap-

purtenances within a building, structure or premises. Water supply systems are also referred to commonly as premises plumbing systems.

(Ord. No. 2016-3, § 1, 5-10-2016; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-4-30. Requirements.

(a) All commercial, industrial and multi-family service connections shall be subject to a survey for cross-connections. If a cross-connection has been identified, an appropriate backflow prevention assembly and/or method shall be installed at the customer's water service connection within 120 days of its discovery. The assembly shall be installed downstream of the water meter or as close to that location as deemed practical by the Public Works Director. If the assembly or method cannot be installed within 120 days, the Public Works Director must take action to control or remove the cross-connection, suspend service to the cross-connection or receive an alternative compliance schedule from the Colorado Department of Public Health and Environment.

(b) It shall be unlawful to have connections or tees between the meter and the containment backflow prevention assembly. In instances where a reduced pressure principal backflow preventer cannot be installed, the owner must install approved backflow prevention devices or methods at all cross-connections within the owner's plumbing system.

(c) Backflow prevention assemblies and methods shall be installed in a location which provides access for maintenance, testing and repair.

(d) Reduced pressure principal backflow preventers shall not be installed in manner subject to flooding.

(e) Provisions shall be made to provide adequate drainage from the discharge of water from reduced pressure principal backflow prevention

assemblies. Such discharge shall be conveyed in a matter which does not impact waters of the State.

(f) All assemblies and methods shall be protected to prevent freezing. Those assemblies and methods used for seasonal services may be removed in lieu of being protected from freezing. The assemblies and methods must be reinstalled and then tested by a certified cross-connection control technician upon reinstallation.

(g) Where a backflow prevention assembly or method is installed on a water supply system using storage water heating equipment such that thermal expansion causes an increase in pressure, a device for controlling pressure shall be installed.

(h) All backflow prevention assemblies shall be tested at the time of installation and on an annual schedule thereafter. Such tests must be conducted by a certified cross-connection control technician.

(i) In cases where containment assemblies and/or methods cannot be installed, all backflow prevention assemblies and methods, and all required installations, shall be inspected and tested by a certified cross-connection control technician and shall be maintained as needed.

(j) All costs for design, installation, maintenance, testing and as-needed repair and replacement are to be borne by the system owner.

(k) No property or structure with water service shall be exempt from this Article as a result of being in existence prior to the adoption of this Article, except for fire sprinkler systems where the installation of a backflow prevention assembly or method will compromise the integrity of the fire sprinkler system.

(l) When water service is requested for a new structure, building plans setting forth the following information must be submitted and approved prior to commencement of new service:

- (1) Water service type, size and location.

- (2) Meter size and location.
- (3) Backflow prevention assembly size, type and location.
- (4) Fire sprinkler system service line, size and type of backflow prevention assembly.
 - a. All fire sprinkling lines shall have a minimum protection of an approved double-check valve assembly for containment of the system.
 - b. All glycol (ethylene or propylene), or antifreeze systems shall have an approved reduced pressure principal backflow preventer for containment.
 - c. Dry fire systems shall have an approved double-check valve assembly installed upstream of the air pressure valve.
 - d. In cases where the installation of a backflow prevention assembly or method will compromise the integrity of the fire sprinkler system, the public water system can choose to not require the backflow protection. The public water system will measure chlorine residual at a location representative of the service connection once a month and perform periodic bacteriological testing at the site. If the Public Works Director suspects water quality issues, the Public Works Director will evaluate the practicability of requiring that the fire sprinkler system be flushed periodically.

(Ord. No. 2016-3, § 1, 5-10-2016; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-4-40. Inspection, testing and repair.

(a) The backflow prevention devices shall be inspected, tested and repaired as set forth in this Section. The tests shall be made at the expense of

the customer by a certified cross-connection control technician. Any backflow prevention assemblies or methods that are non-testable shall be inspected at least once annually by a certified cross-connection control technician. The inspections shall be made at the expense of the customer.

(b) Whenever any cross-connection control device is found to be defective or inoperative, such device shall be repaired and retested or replaced and tested at the expense of the customer whenever the assemblies or methods are found to be defective.

(c) Testing gauges shall be tested and calibrated for accuracy at least once annually. (Ord. No. 2016-3, § 1, 5-10-2016; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-4-50. Reporting and recordkeeping.

The following reports and records shall be kept on the premises where the cross-connection device is located, and shall be available for inspection and review at the request of the proper administrative authority.

- (1) All records of test reports, repairs and retests or replacements shall be kept by the customer for a minimum of three years.
- (2) Copies of records of test reports, repairs and retests shall be submitted to the Town Administrator by mail, facsimile, e-mail or delivery to the Town by the testing company or testing technician.
- (3) Information on test reports shall include, but may not be limited to:
 - a. Assembly or method type.
 - b. Assembly or method location.
 - c. Assembly make, model and serial number.
 - d. Assembly size.
 - e. Test date.

- f. Test results, including all results that would justify a pass or fail outcome.
- g. Certified cross-connection control technician certification agency.
- h. Technician's certification number.
- i. Technician's certification expiration date.
- j. Test kit manufacturer, model and serial number.
- k. Test kit calibration date.

(Ord. No. 2016-3, § 1, 5-10-2016; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-4-60. Right of entry.

The Public Works Director shall have the right of entry to any property served by the Town water system to survey any and all buildings and premises for the presence of cross-connections for possible contamination risk to and for determining compliance with this Article. This right of entry shall be a condition of water service in order to protect the health, safety and welfare of customers throughout the public water system's distribution system.

(Ord. No. 2016-3, § 1, 5-10-2016; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-4-70. Compliance.

(a) Customers shall cooperate with the installation, inspection, testing, maintenance and as-needed repair and replacement of backflow prevention assemblies and with the survey process. For any identified uncontrolled cross-connections, the public water system shall complete one of the following actions within 120 days of its discovery:

- (1) Control the cross-connection.
- (2) Remove the cross connection.
- (3) Suspend service to the cross-connection.

(b) The Town shall give notice in writing to any owner whose plumbing system has been found to present a risk to the public waters system's distribution system through an uncontrolled cross-connection. The notice and order shall state that the owner must install a backflow prevention assembly or method at each service connection to the owner's premises to contain the water service. The notice and order will give a date by which the owner must comply. In instances where a backflow prevention assembly or method cannot be installed, the owner must install approved backflow prevention assemblies or methods at all cross-connections within the owner's water supply system. The notice and order will give a date by which the owner must comply.

(Ord. No. 2016-3, § 1, 5-10-2016; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-4-80. Conflicts.

If a dispute or conflict arises between this Article and any plumbing, mechanical, building, electrical, fire or other code adopted by the Town or any state regulation, the most stringent provisions shall apply.

(Ord. No. 2016-3, § 1, 5-10-2016; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-4-90. Violation and penalty.

Violation of any of the provisions of this Article shall, upon conviction, be punished in accordance with the provisions of Section 1-4-20 of this Code. In addition, such person shall pay all costs and expenses of the matter, including attorney's fees. If any violation of any section of this Article occurs or continues for more than one day, each day such violation occurs or continues shall constitute a separate offense.

(Ord. No. 2016-3, § 1, 5-10-2016; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 5 EXTENSION OF INFRASTRUCTURE

Sec. 13-5-10. Extension of utilities.

If any water main line, sewer main line, drainage line or facility or other municipal utility which is constructed, extended, enlarged or oversized by any developer or person to serve certain property or may be required to do so by the Town, and adjoining or nearby properties receive a benefit as a result of such construction, extension, enlargement or oversizing of any main lines, the Board of Trustees may, at its discretion, require properties that receive a benefit from such construction to reimburse the original developer that has installed such infrastructure for an appropriate share of the cost of such utility infrastructure.

- (1) The Board of Trustees shall, in its discretion, determine a uniform and fair method for calculating the benefit conferred on the properties receiving a benefit from the construction.
- (2) During or after initial construction of such municipal utility improvements, the Town may require benefitted properties to reimburse the original constructor of utility improvements. When the Board of Trustees makes a determination that such reimbursement may be appropriate, it may enter into an agreement with the original developer or constructor of the municipal utilities. Such an agreement will set forth that the Town will require subsequent users of the utility infrastructure to reimburse the original builder of the improvements.
- (3) The Town shall determine the term during which such reimbursement agreement shall be effective, but no such agreement shall

be effective for longer than ten years without the affirmative vote of a majority of the entire Board of Trustees.

(Ord. No. 2014-4, § 1, 8-11-2014; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-5-20. Computation of reimbursement amount.

The area subject to the reimbursement procedure described in Section 13-5-10 above shall consist of land tracts that the Town determines benefit from construction described in Section 13-5-10. The Town shall allocate the cost to be reimbursed to the developer on any of the following bases: frontage, flow capacity, drainage area, land area or other equitable basis as determined in the discretion of the Board of Trustees. The Town will calculate the reimbursement amount by prorating the construction cost without additional charges against the property served by the facilities described in Section 13-5-10. The amount calculated is not required to include simple interest in the sound discretion of the Board of Trustees. If interest is to be included in the reimbursement agreement, interest shall be equal to the five-year Treasury Note rate at the time of construction. The reimbursement shall be paid prior to approval of construction of additional municipal utility extensions or when service taps are requested, whichever comes first.

(Ord. No. 2014-4, § 2, 8-11-2014; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 13-5-30. Notice to property owners.

The property owners or successors in interest against whom the reimbursement may be assessed shall be notified by certified mail by the initial developer of their opportunity to share the cost of construction of the utility improvement prior to the time of such construction. If the property owner chooses not to share in the cost of construction at the time of construction, a document shall

be recorded for each property against which the reimbursement is to be assessed and such document shall provide notice of the reimbursement which shall be due if the property receives municipal utility service in the future. Persons or entities who pay to construct municipal utilities and who desire partial reimbursement for such construction shall deliver a written document to the Town setting forth the total cost of construction and the name and address of the individual bank or other individual organization to receive payments from the Town pursuant to this Article. Reimbursement shall only be available for those municipal utilities constructed with the approval of the Town and built in strict accordance with the Town standards and specifications. The Town shall transmit payments received to such authorized individual bank or other organization within 90 days of receipt of such funds. The Town shall not recognize any recipients or claimants or make payments to any entity other than the authorized individual bank or organization set forth in the notice. The Town shall have no responsibility to see that such individual bank or organization properly manages the funds after payment by the Town. The Town may withhold from such payments any amounts due to the Town for permits, fees, licenses, reimbursement expenses or any other matter for which the receiving entity may be indebted to the Town.

(Ord. No. 2014-4, § 3, 8-11-2014; Ord. No. 2016-4, § 1, 8-29-2016)

Chapter 15

Annexation

Article 1 Annexation Procedures

- Sec. 15-1-10. Purpose.
- Sec. 15-1-20. Annexation.
- Sec. 15-1-30. Procedure for annexation.
- Sec. 15-1-40. Final submission.

ARTICLE 1 ANNEXATION PROCEDURES

Sec. 15-1-10. Purpose.

The purpose of this Chapter is to establish a procedure for the purposes of:

- (1) Promoting the orderly and harmonious growth of the Town.
- (2) Providing an orderly system for extending municipal facilities, government, services and utilities.
- (3) Distributing fairly and equitably the costs of municipal facilities, services and utilities among those persons who benefit therefrom.
- (4) Bringing land under the jurisdiction of the Town in compliance with the Colorado Municipal Annexation Act of 1965, as amended.

(Ord. No. 1-76, § I, 7-6-1976; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 15-1-20. Annexation.

(a) Annexation of property into the Town of Pierce shall be conducted pursuant to the requirements of the Municipal Annexation Act of 1965.

(b) Any applicant desiring to annex property into the Town shall schedule a pre-application conference with the Town Clerk to discuss special conditions pertaining to the annexation and to obtain an annexation petition form and annexation instructions prior to presentation of any annexation petition to the Board of Trustees.

(c) In addition to the requirements of the Municipal Annexation Act of 1965, the applicant shall submit two copies of the following to the Town:

- (1) Land use application form.
- (2) Application fee and fee agreement. The application fee includes a nonrefundable

annexation fee as set forth in the Town Fee Schedule, and the fee agreement and deposit provide for payment of the annexation expenses. The applicant is notified that he or she must pay the entire cost of the annexation process.

- (3) Annexation petition and attachments provided in Section 31-12-107, C.R.S., including the annexation map in reproducible medium with outer dimensions of 24 inches by 36 inches. The annexation map shall contain the following information:
 - a. Information required by Section 31-12-107, C.R.S.
 - b. The name of the annexation.
 - c. Names and addresses of the applicant and the firm or person responsible for preparing the map.
 - d. The written legal description of the property on CD or other electronic medium in MSWord or WordPerfect format, as may be directed by the Town.
 - e. A clear distinction of the boundary that is contiguous to the Town and the length of the same.
 - f. If part of the area is already platted, the existing and proposed easements and rights-of-way, and ownership of all parcels within and adjacent to the annexation.
 - g. Appropriate certification blocks as directed by the Town.
- (4) A concept plan showing the intended use of the property and setting forth existing watercourses, floodplain or floodway, oil and gas facilities, and proposed use of the property.
- (5) An ownership report and most recent property tax notice.

- (6) Mailing list and envelopes to provide notice as required by law and to notify surrounding property owners within 300 feet of the property, mineral interest owners and agencies.
 - (7) Information regarding all water associated with the property and proposed water dedications.
 - (8) Proposed zoning of the property to be annexed.
 - (9) A school district impact report (for annexations in excess of ten acres).
 - (10) A drawing showing existing and proposed utilities, streets, roads and waterways.
- (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 15-1-30. Procedure for annexation.

(a) The Planning Commission shall review the petition for annexation, annexation map, master plan and zoning request at a public meeting to determine whether requirements for eligibility for annexation, as defined by the Municipal Annexation Act of 1965, have been met. A finding that the area does not meet requirements pertaining to eligibility for annexation shall automatically terminate the annexation proceedings. The Planning Commission shall also determine the feasibility of extending municipal services to the area proposed to be annexed and shall transmit a written recommendation to the Board of Trustees, including such additional terms and conditions as it deems necessary, within 60 days after receipt of the petition.

(b) Upon receipt of the petition from the Planning Commission and upon compliance with the notice of hearing requirements as set forth in the Colorado Municipal Annexation Act, the Board of Trustees shall, within 60 days after receipt of the petition from the Planning Commission, review the petition at a regular or special Board of Trustees meeting. Upon determination that all

requirements for eligibility for annexation are met, the Board of Trustees shall order the Town Clerk to proceed with legal notice of the time, place and date for a public hearing, if required, in conformance with state statutes. In the event the Board of Trustees considers and disapproves such petition, no similar request may be heard for a period of one year from the date of denial. Within 15 days of completion of the hearing, the Board of Trustees shall notify the petitioner in writing of its findings and conclusions and may deny or approve the annexation under terms and conditions deemed necessary.

(c) In the event the Board of Trustees approves an annexation ordinance and if the applicant and the Board of Trustees have not previously entered into the annexation agreement setting forth the terms of the annexation, the parties shall enter into such an agreement prior to the recording of any annexation ordinance. The annexation agreement shall be recorded, together with the annexation ordinance and two Mylar copies of the annexation map.

(d) Upon approval, the annexation plat shall be filed by the Town Clerk with the County Clerk and Recorder within 30 days, and a certified copy of the annexation ordinance and plat shall be filed with the Division of Local Government of the Department of Local Affairs. The petitioner shall pay all recording fees and any other reasonable expenses incurred by the Town in reviewing the petition.

(Ord. No. 1-76, § IV., 7-6-1976; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 15-1-40. Final submission.

In the event the Board of Trustees approves an annexation ordinance, the applicant shall submit to the Planning Department two Mylars of the final annexation map and two Mylars of the master plan within ten days of the effective date of the annexation ordinance.

(Ord. No. 2016-4, § 1, 8-29-2016)

Chapter 16

Zoning

Article 1 General Provisions

- Sec. 16-1-10. Establishment of districts.
- Sec. 16-1-20. Zoning Map.
- Sec. 16-1-30. Application of regulations.
- Sec. 16-1-40. Definitions.

Article 2 R-1—Single-Family Residential District

- Sec. 16-2-10. Uses permitted.
- Sec. 16-2-20. Minimum lot area.
- Sec. 16-2-30. Minimum lot width.
- Sec. 16-2-40. Minimum front yard.
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- Sec. 16-2-60. Minimum rear yard.
- Sec. 16-2-70. Minimum floor area.
- Sec. 16-2-80. Floor area ratio.
- Sec. 16-2-90. Minimum off-street parking.
- Sec. 16-2-100. Minimum open space.
- Sec. 16-2-110. Maximum building height.
- Sec. 16-2-120. No livestock or poultry.

Article 3 R-2—Multiple-Family Residential District

- Sec. 16-3-10. Uses permitted.
- Sec. 16-3-20. Minimum lot area.
- Sec. 16-3-30. Minimum lot width.
- Sec. 16-3-40. Minimum front yard.
- Sec. 16-3-50. Minimum side yard.
- Sec. 16-3-60. Minimum rear yard.
- Sec. 16-3-70. Minimum floor area.
- Sec. 16-3-80. Floor area ratio.
- Sec. 16-3-90. Minimum off-street parking.
- Sec. 16-3-100. Minimum open space.
- Sec. 16-3-110. Maximum building height.
- Sec. 16-3-120. No livestock or poultry.

Article 4 MH—Mobile Home Park District

- Sec. 16-4-10. Uses permitted.
- Sec. 16-4-20. General requirements.
- Sec. 16-4-30. No livestock or poultry.

Article 5 Commercial Districts

Division 1 General Provisions

- Sec. 16-5-10. General requirements.
- Sec. 16-5-20. Minimum lot area.

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- Sec. 16-5-30. Minimum lot width.
- Sec. 16-5-40. Minimum front yard.
- Sec. 16-5-50. Minimum side yard.
- Sec. 16-5-60. Minimum rear yard.
- Sec. 16-5-70. Minimum floor area.
- Sec. 16-5-80. Maximum building height.
- Sec. 16-5-90. Minimum off-street parking.
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Division 2 C-1—Commercial District Low Intensity

- Sec. 16-5-210. Permitted uses.
- Sec. 16-5-220. Uses permitted by special review.
- Sec. 16-5-230. Criteria for use by special review.

Division 3 C-2—Commercial District Medium Intensity

- Sec. 16-5-310. Permitted uses.
- Sec. 16-5-320. Uses permitted by special review.

Article 6 Industrial Districts

Division 1 General Provisions

- Sec. 16-6-10. General requirements.
- Sec. 16-6-20. Minimum front yard.
- Sec. 16-6-30. Minimum side yard.
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Division 2 I-1—Light Industrial District

- Sec. 16-6-110. Intent.
- Sec. 16-6-120. Permitted uses.
- Sec. 16-6-130. Special uses.

Division 3 I-2—Medium Industrial District

- Sec. 16-6-210. Intent.
- Sec. 16-6-220. Permitted use groups.
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Article 7 A—Agricultural District

- Sec. 16-7-10. Uses permitted.
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- Sec. 16-8-10. Uses permitted.
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Article 9 PUD—Planned Unit Development

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- Sec. 16-10-30. Objectives.
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Division 3 Standards For Permanent Signs

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- Sec. 16-18-100. Mobile homes.
- Sec. 16-18-110. Site distance; clear vision.

Article 19 Miscellaneous Provisions

- Sec. 16-19-10. Amendments.
- Sec. 16-19-20. Special procedure.
- Sec. 16-19-30. Enforcement; building permits.
- Sec. 16-19-40. Modifications of heating, plumbing and electrical systems.
- Sec. 16-19-50. Interpretation; conflict with other laws.
- Sec. 16-19-60. Appeal procedure.
- Sec. 16-19-70. Rezoning background, procedures and fees.
- Sec. 16-19-80. Movable living facilities.

ARTICLE 1 GENERAL PROVISIONS

Sec. 16-1-10. Establishment of districts.

In order to carry out the provisions of this Chapter, the Town is hereby divided into the following zoning districts:

- R-1—Single-Family Residential District.
 - R-2—Multiple-Family Residential District.
 - MH—Mobile Home Park District.
 - C-1—Commercial District Low Intensity.
 - C-2—Commercial District Medium Intensity.
 - I-1—Light Industrial District.
 - I-2—Medium Industrial District.
 - A—Agricultural District.
 - E—Estate District.
 - PUD—Planned Unit Development.
- (Prior Code, § 6-1A; Ord. No. 2006-3, § 1, 11-13-2006; Ord. No. 2007-1, § 2, 1-8-2007; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-1-20. Zoning Map.

The boundaries of these districts are established as shown on a map entitled "Zoning District Map" of the Town, which map, as amended, is available in the office of the Town Clerk.
(Prior Code, § 6-1B; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-1-30. Application of regulations.

(a) *Existing buildings.* The regulations contained herein are not retroactive in their application to existing buildings.

(b) *General application.* Except as otherwise provided, no buildings or other structure shall be used, and no buildings or other structure shall be erected, reconstructed, moved into or within the Town limits or structurally altered, except in con-

formance with the regulations herein specified for the district in which such building or structure is located.

(Prior Code, § 6-2; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-1-40. Definitions.

When not inconsistent with the content, words used in the present tense include the future, words in the singular number include the plural number, words in the plural number include the singular number and the masculine includes the feminine. The word *shall* is mandatory, while the word *may* is permissive. For the purpose of this Chapter, certain words or phrases are defined as follows:

Accessory building means a detached subordinate building, which is located on the same lot with the main building or use, the use of which building is customarily incidental to that of the main building or to the main use of the land.

Accessory use means a use naturally and normally incidental to, subordinate to and devoted exclusively to the main use of the premises.

Alley means a public way permanently reserved as a secondary means of access to abutting property.

Boarding and rooming house means a building or portion thereof which is principally used to accommodate for compensation one or more boarders or roomers, not to exceed five bedrooms for rent, not including members of the occupant's immediate family who might be occupying such building. Compensation shall include compensation in money, services or other things of value.

Building means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind and does not include advertising sign boards or fences.

Building height means the vertical distance measured from the established curb level to the highest

point of the underside of the ceiling beams for a flat roof, to the deck line for a mansard roof and to the mean level of the underside of the rafters between the eaves and the ridge for a gable, hip or gambrel roof. Chimneys, spires, towers, elevators, penthouses, tanks and similar projections other than signs shall not be included in calculating the building height.

Dwelling means a building or portion thereof which is used as the private residence or sleeping place of one or more human beings, but does not include hotels, motels, tourist courts, resort cabins, clubs or hospitals. In addition, all dwellings shall be constructed as permanent buildings, not temporary structures such as tents, railroad cars, trailers, street cars, metal prefabricated sections or similar units.

Dwelling, multiple-family, means a building or portion thereof designed for or occupied by three or more families living independently of each other.

Dwelling, single-family, means a detached building designed exclusively for occupancy by one family, not including manufactured homes.

Dwelling, two-family, means a detached building designed exclusively for occupancy by two families living independently of each other.

Dwelling unit means one or more rooms in a dwelling, designed for occupancy by one family for living or sleeping purposes and having not more than one kitchen.

Family means an individual, two or more persons related by blood or marriage or a group, not to exceed three persons, having an ownership interest in the property and living together as a single housekeeping unit.

Floor area means, for the purposes of determining the floor area ratio, conversions of existing structures, the maximum size of business establishments, the sum of the gross horizontal areas of several floors measured in square feet, including

the basement floor, but not including the cellar floor of the building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The floor area of a building shall also include elevator shafts and stairwells at each floor; floor space used for mechanical equipment, except equipment, open or enclosed, located on the roof; penthouse space; attic space having head room of seven feet ten inches or more; interior balconies and mezzanines; enclosed porches; and floor areas devoted to accessory uses; provided that any space devoted to off-street parking or loading shall not be included in floor area.

Floor area ratio means the numerical value obtained through dividing the gross floor area of a building by the net lot area on which such building is located.

Home occupation means any use conducted principally within a dwelling and carried on by the inhabitants, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

Junk means any manufactured goods, appliances, fixtures, furniture, machinery, motor vehicles or trailers which are abandoned, demolished or dismantled, so worn or deteriorated or in such condition as to be unusable in their existing state. *Junk* also includes salvage materials, scrap metal, scrap material, waste, bottles, tin cans, paper, boxes, crates, rags, used lumber and building material, motor vehicle and machinery parts and used tires.

Kennel means any lot or premises on which four or more animals at least four months of age are harbored.

Livestock means horses, mules, cattle, burros, swine, sheep, goats, rabbits or any domestic animal normally raised for use or pleasure, except dogs and cats or small animals normally kept in cages inside the residence.

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 estate abutting upon at least one public street and held under separate ownership.

Lot line, front, means the property line dividing a lot from a street. On a corner lot, only one street line shall be considered as a front line, and the shorter street frontage shall be considered the front line.

Lot line, rear, means the line opposite the front lot line.

Lot line, side, means any lot line other than front lot lines or rear lot lines.

Manufactured home means a single-family dwelling which is practically or entirely manufactured in a factory; is not less than 24 feet in width and 36 feet in length; is installed on an engineered permanent foundation in compliance with ANSI 225, 1-1987 Manufactured Home Installations, Appendix C; has brick, wood or cosmetically equivalent exterior siding and a pitched roof; and is certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act" of 1974, 42 U.S.C., § 5401, et seq., as amended.

Manufactured home park means an area under single ownership or control designed primarily for the rental of portions of the area as spaces for occupied manufactured homes.

Mobile home means a transportable structure (without its own motor power) which exceeds either eight feet in width or 32 feet in length, is built on a chassis and is designed, when connected to the required utilities, to be used as a dwelling unit with or without a permanent foundation. However, when attached to a permanent foundation,

the structure is no longer a mobile home and shall be subject to the requirements of the current building code and other ordinances of the Town.

Mobile home park means an area under single ownership or control designed primarily for the rental of portions of the area as spaces for occupied mobile homes.

Motel or *hotel* means a building designed for occupancy as the temporary abiding place (30 days or less) of individuals who are lodged with or without meals, and with such building having six or more guest rooms.

Nonconforming building means a building, structure or portion thereof conflicting with the provisions of this Chapter applicable to the zone in which it is situated.

Nonconforming use means the use of a structure or premises conflicting with the provisions of this Chapter.

Occupied means and includes arranged, designed, built, altered, converted, rented or leased, or intended to be occupied.

Open space means open space on a building site, exclusive of space devoted to vehicular streets, drives and parking areas, and including pedestrian ways, space for active and passive recreation and landscaping.

Person means natural person, joint venture, joint stock company, partnership, association, club, company, firm, corporation, business, trust or organization, or the manager, lessee, agent, servant, officer or employee of any of them.

Planned unit development means a unified development in single ownership or control which is subdivided and developed according to a comprehensive plan and where the specific requirements of a given district may be modified.

Poultry means chickens, ducks, geese, pigeons and all other domestic feathered animals and fowl

normally raised for profit or pleasure, except small birds normally kept in cages in private residences.

Roof line means the highest point on any building where an exterior wall encloses usable floor area, including floor area provided for housing mechanical equipment.

Room means an unsubdivided portion of the interior of a dwelling unit, excluding bathrooms, kitchens, closets, hallways and service porches.

Street means a public thoroughfare which affords the principal means of access to abutting property.

Structure means anything constructed or erected which requires location on the ground or anything attached to something having a location on the ground, but does not include fences or walls used as fences less than six feet in height, poles, lines, cables or other transmission or distribution facilities of public utilities.

Use means the purpose for which land or a building is designed, arranged or intended, or for which either is or may be occupied or maintained.

Width of lot means the distance parallel to the front lot line measured between side lot lines through that part of the building or structure where the lot is narrowest.

Yard means an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Chapter.

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, 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, 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 or accessory building attached thereto.

(Prior Code, § 6-18; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 2 R-1—SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 16-2-10. Uses permitted.

The following uses are permitted in the R-1 District:

- (1) Single-family dwellings.
- (2) Public schools, parks, playgrounds and recreational areas.
- (3) Churches and church schools.
- (4) Hospitals.
- (5) Public utilities: mains, transmissions and distribution lines, substations and exchanges only.
- (6) Home occupations. Home occupations may be granted by the Board of Trustees if the following criteria are met, in the discretion of the Board of Trustees:
 - a. Such use shall be conducted entirely within a dwelling and carried on by the inhabitants living therein, or such use shall be conducted entirely within an accessory building located on the premises with the dwelling in which the persons carrying on the occupation live.
 - b. Such use shall be clearly incidental and secondary to the use of the dwelling and shall not change the character thereof.
 - c. If the occupation is located within the dwelling, the total area used for

such purpose shall not exceed 20 percent of the floor area of the dwelling, except where the home occupation is a licensed board and care home or a day care home which meets the applicable state requirements.

- d. There shall be no exterior advertising or use of any signs except for one unlighted sign not larger than two square feet.
 - e. There shall be no exterior storage on the premises of material or equipment used as a part of the home occupation.
 - f. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
 - g. Home occupations shall provide such off-street parking as will accommodate all needs created by the home occupation.
 - h. The home occupation shall not threaten to change the residential character of the neighborhood, considering the nature of the proposed home occupation itself and the presence of pre-existing home occupations in the neighborhood.
 - i. A home occupation shall not be interpreted to include the following:
 - 1. Animal hospitals;
 - 2. Nursing homes;
 - 3. Restaurants;
 - 4. Automotive repair garages;
 - 5. Kennels;
 - 6. Barbershops; or
 - 7. Beauty shops.
 - j. All home occupants shall obtain a Town business license prior to commencing the home occupation. The application fee for a home occupation permit shall be the fee set forth in the Town Fee Schedule.
- (7) Identification signs: one single-face sign per lot, less than three square feet in area and describing the use on the lot upon which it is located; such signs shall be unlighted.
 - (8) Fences, hedges and walls: provided that such uses are less than 30 inches in height when constructed of materials tending to obstruct motorists' vision and when located within 25 feet of the property line on lots with intersecting roadways. No fence, trees, bushes or other structure or materials shall be located at the corner of any intersection which interferes with motorists' vision of traffic on the intersecting street or roadway, in compliance with Section 11-1-20 of this Code.
 - (9) Accessory buildings and uses normally appurtenant to single-family residences.
(Prior Code, § 6-3A; Ord. No. 2006-3, § 2, 11-13-2006; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-2-20. Minimum lot area.

The minimum lot area required per dwelling in the R-1 District is 7,500 square feet. Refer to Sections 16-18-20 and 16-18-30 of this Chapter.
(Prior Code, § 6-3B; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-2-30. Minimum lot width.

The minimum lot width required per dwelling in the R-1 District is 60 feet. Lot width on cul-de-sac lots shall be measured at a distance of 20 feet back from the street.
(Prior Code, § 6-3C; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-2-40. Minimum front yard.

The minimum requirements for front yards in the R-1 District are as follows:

(1) Principal buildings: 25 feet.

(2) Accessory buildings: 25 feet.

(Prior Code, § 6-3D; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-2-50. Minimum side yard.

The minimum requirements for side yards in the R-1 District are as follows:

(1) Principal buildings: ten feet on each side.

(2) Accessory buildings: five feet on each side.

(3) All side yards abutting a street: 20 feet.

(Prior Code, § 6-3E; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-2-60. Minimum rear yard.

The minimum requirements for rear yards in the R-1 District are as follows:

(1) Principal buildings: 30 feet.

(2) Accessory buildings: five feet.

(Prior Code, § 6-3F; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-2-70. Minimum floor area.

The minimum requirement per dwelling for floor area in the R-1 District, not including basement, carport or garage area, is 900 square feet.

(Prior Code, § 6-3G; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-2-80. Floor area ratio.

The floor area ratio in the R-1 District shall not exceed 0.4.

(Prior Code, § 6-3H; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-2-90. Minimum off-street parking.

The minimum requirement for off-street parking in the R-1 District is two spaces per dwelling. (Prior Code, § 6-3I; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-2-100. Minimum open space.

The minimum requirement per dwelling for open space in the R-1 District is 30 percent of the total lot area.

(Prior Code, § 6-3J; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-2-110. Maximum building height.

The maximum building height in the R-1 District shall not exceed 35 feet or two and one-half stories and no less than one story above ground.

(Prior Code, § 6-3K; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-2-120. No livestock or poultry.

No livestock or poultry shall be permitted in the R-1 District, except that chicken hens are allowed, as set forth in Sections 7-5-200 through 7-5-240 of this Code.

(Prior Code, § 6-3L; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 3 R-2—MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 16-3-10. Uses permitted.

The following uses are permitted in the R-2 District: any uses permitted in the R-1 District; single-family dwellings must conform to the requirements set forth in Article 2 of this Chapter.

(Prior Code, § 6-4A; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-3-20. Minimum lot area.

The minimum requirements for lot area in the R-2 District are as follows:

- (1) Two-family dwellings: 5,000 square feet.
- (2) Single-family dwellings:
 - a. Four-bedroom or over: 5,000 square feet.
 - b. Three-bedroom: 3,500 square feet.
 - c. Two-bedroom: 2,600 square feet.
 - d. One-bedroom or efficiency: 2,000 square feet.

(Prior Code, § 6-4A; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-3-30. Minimum lot width.

The minimum requirements for lot width in the R-2 District are as follows:

- (1) Two-family dwellings: 75 feet.
 - (2) Multiple-family dwellings: 100 feet.
- (Prior Code, § 6-4C; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-3-40. Minimum front yard.

The minimum requirement for front yards for all dwellings in the R-2 District is 25 feet.

(Prior Code, § 6-4D; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-3-50. Minimum side yard.

The minimum requirements for side yards in the R-2 District are as follows:

- (1) Two-family dwellings: ten feet on each side.
- (2) Multiple-family dwellings: two side yards having a combined width of 15 feet; and neither side yard shall be less than five feet.

- (3) All side yards abutting a street: 25 feet.
- (Prior Code, § 6-4E; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-3-60. Minimum rear yard.

The minimum requirements for rear yards in the R-2 District are as follows:

- (1) Two-family dwelling: 30 feet.
 - (2) Multiple-family dwelling: 25 feet.
- (Prior Code, § 6-4F; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-3-70. Minimum floor area.

The minimum requirements for ground floor area per dwelling unit, not including basement, garage or carport area, in the R-2 District, are as follows:

- (1) Two-family dwellings: 600 square feet.
 - (2) Multiple-family dwellings: 500 square feet.
- (Prior Code, § 6-4G; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-3-80. Floor area ratio.

Floor area ratio requirements in the R-2 District are as follows:

- (1) Two-family dwellings: not to exceed 0.5.
 - (2) Multiple-family dwellings: not to exceed 0.5.
- (Prior Code, § 6-4H; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-3-90. Minimum off-street parking.

The minimum requirements for off-street parking in the R-2 District are as follows:

- (1) Two-family dwellings: two spaces per dwelling unit.

(2) Multiple-family dwellings: two spaces per dwelling unit.
(Prior Code, § 6-4I; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-3-100. Minimum open space.

The minimum requirements for open space in the R-2 District are as follows:

- (1) Two-family dwellings: not less than 3,000 square feet per dwelling unit.
- (2) Multiple-family dwellings: not less than 900 square feet per dwelling unit.
(Prior Code, § 6-4J; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-3-110. Maximum building height.

The requirements for maximum building height in the R-2 District are the same as for the R-1 District.
(Prior Code, § 6-4K; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-3-120. No livestock or poultry.

No livestock or poultry shall be permitted in the R-2 District, except that chicken hens are allowed as set forth in Sections 7-5-200 through 7-5-240 of this Code.
(Prior Code, § 6-4L; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 4 MH—MOBILE HOME PARK DISTRICT

Sec. 16-4-10. Uses permitted.

(a) Manufactured homes may be located or placed only in established manufactured home parks.

(b) The following are permitted uses in the MH District:

- (1) Manufactured home parks, when approved as planned unit developments.
- (2) Planned unit developments on site and not less than ten acres in area.
- (3) Uses indicated by the planned unit development when approved.
(Prior Code, § 6-5A; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-4-20. General requirements.

Reference should be made to Chapter 17 of this Code and Article 9 of this Chapter for the requirements and procedure for submission of a planned unit development plan.
(Prior Code, § 6-5B; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-4-30. No livestock or poultry.

No livestock or poultry shall be permitted in the MH District.
(Prior Code, § 6-5C; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 5 COMMERCIAL DISTRICTS

DIVISION 1 GENERAL PROVISIONS

Sec. 16-5-10. General requirements.

General requirements for the Commercial Districts are as follows:

- (1) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, noise, vibration, refuse matter or water-carried waste, as determined by the Planning Commission.

- (2) The following uses, which may create unusual traffic hazards, must receive special approval by the Board of Trustees:

- a. Places serving food or beverages outside of an enclosed building;
- b. Places of amusement or recreation;
- c. Advertising sign boards; and
- d. Gasoline stations.

(Prior Code, § 6-6B; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-5-20. Minimum lot area.

The minimum requirement for lot area in the Commercial Districts per motel, hotel, rooming house or resort lodge is 6,000 square feet. Refer to Sections 16-18-20 and 16-18-30 of this Chapter.

(Prior Code, § 6-6C; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-5-30. Minimum lot width.

The minimum requirement for lot width in the Commercial Districts per motel, hotel, rooming house or resort lodge is 50 feet. Refer to Sections 16-18-20 and 16-18-30 of this Chapter.

(Prior Code, § 6-6D; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-5-40. Minimum front yard.

Where all the frontage on one side of the street between two intersecting streets is zoned as a commercial district, no setback shall be required. Where the frontage of one side of a street between two intersecting streets is zoned partly as residential and partly as business, the setback requirements for the R-2 District shall apply to the entire frontage.

(Prior Code, § 6-6E; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-5-50. Minimum side yard.

The minimum requirements for side yards in the Commercial Districts are as follows:

- (1) No side yard shall be required if a building is constructed in compliance with the provisions of the adopted building code regarding fireproof materials, and provided that the wall is located on a property line, except that, if there is no rear access to the property, then a 12-foot setback shall be required on one side.

- (2) For motels, hotels and rooming houses, the side yard requirements for multiple-family dwellings in the R-2 District shall apply.

(Prior Code, § 6-6F; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-5-60. Minimum rear yard.

All buildings and structures in the Commercial Districts shall have a rear yard of not less than 15 feet, which may include one-half of the width of an alley.

(Prior Code, § 6-6G; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-5-70. Minimum floor area.

The minimum requirements for floor area in the Commercial Districts are as follows:

- (1) Per unit for motels and hotels: 300 square feet.
- (2) Per occupant for rooming and boarding houses: 200 square feet.
- (3) All other permitted uses: 300 square feet.

(Prior Code, § 6-6H; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-5-80. Maximum building height.

The maximum building height in the Commercial Districts shall not exceed 40 feet or three stories in height.

(Prior Code, § 6-6I; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-5-90. Minimum off-street parking.

The minimum requirements for off-street parking in the Commercial Districts are as follows:

- (1) For motels and hotels: one space per unit.
- (2) For commercial retail sales and service establishments: two square feet of parking space for every one square foot of sales and service floor area.
- (3) For restaurants and other establishments handling the sale and consumption on the premises of food and/or beverages: one space for each 100 square feet of gross floor area.

(Prior Code, § 6-6J; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-5-100. No livestock or poultry.

No livestock or poultry shall be permitted in the Commercial Districts, except if a single-family residence is located within the Commercial Districts, then chicken hens may be allowed as set forth in Sections 7-5-200 through 7-5-240 of this Code.

(Prior Code, § 6-6K; Ord. No. 2016-4, § 1, 8-29-2016)

**DIVISION 2 C-1—COMMERCIAL
DISTRICT LOW INTENSITY**

Sec. 16-5-210. Permitted uses.

The following permitted use groups shall be allowed in the C-1 District when they conform to the character of the neighborhood:

- (1) Bakeries.

- (2) Banks.
- (3) Laundries.
- (4) Personal service shops.
- (5) Restaurants, bars and taverns.
- (6) Printing and publishing establishments.
- (7) Hotels and motels.
- (8) Medical and dental clinics.
- (9) Professional offices.
- (10) Governmental offices.
- (11) Retail uses.
- (12) Daycare centers.

- (13) Parking lots.

(Ord. No. 2006-3, § 3, 11-13-2006; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-5-220. Uses permitted by special review.

The following uses shall be permitted by special review in the C-1 District:

- (1) Repair shops.
- (2) Recreational facilities.
- (3) Private schools.
- (4) Extensive staff-supervised residential facilities.

(Ord. No. 2006-3, § 3, 11-13-2006; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-5-230. Criteria for use by special review.

A residence may be allowed as a use by special review in the C-1 Districts if all of the following conditions are met:

- (1) The residence portion of the building shall only be occupied by the owner or operator of the business.

- (2) A solid wall shall separate the business area from the residential area in compliance with any building code in effect at the time of establishment of the mixed use.
 - (3) One hundred percent of the street frontage shall be commercial.
 - (4) The residents in the C-1 District shall not be allowed to park on the street and must have off-street parking for each resident.
 - (5) All residences that are not used for a period of one year or more shall revert to commercial use only.
 - (6) The business shall have a legitimate operating business, not a mere storefront.
 - (7) The business area of the building shall consist of at least 50 percent of the entire area of the building.
 - (8) Residents shall have a separate entrance.
 - (9) Residents will not substantially alter the character of the commercial district or neighborhood.
 - (10) The business must have a legitimate business sign of at least six square feet.
- (Ord. No. 2006-3, § 4, 11-13-2006; Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 3 C-2—COMMERCIAL DISTRICT MEDIUM INTENSITY

Sec. 16-5-310. Permitted uses.

The following permitted use groups shall be allowed in the C-2 District when they conform to the character of the neighborhood:

- (1) Recreational facilities.
- (2) Daycare centers.
- (3) Extensive retail uses.
- (4) Intensive personal service establishments.
- (5) Offices.

- (6) Schools.
 - (7) Long-term care facilities.
 - (8) Community facilities.
 - (9) Government offices.
 - (10) Mortuary funeral homes.
 - (11) Night clubs, bars and taverns.
 - (12) Parking lots.
 - (13) Public service facilities.
 - (14) Accessory uses.
 - (15) Repair shops and motor vehicle repair shops.
- (Ord. No. 2006-3, § 3, 11-13-2006; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-5-320. Uses permitted by special review.

The following uses shall be permitted by special review in the C-2 District:

- (1) Mini storage units.
 - (2) Repair shops.
 - (3) Gas stations.
 - (4) Nurseries and greenhouses.
 - (5) Hotels and motels.
 - (6) Bakeries.
 - (7) Banks.
 - (8) Police and fire stations.
 - (9) Industrial equipment repair or storage.
 - (10) Construction offices with warehouses or storage not to exceed 7,500 square feet.
- (Ord. No. 2006-3, § 3, 11-13-2006; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 6 INDUSTRIAL DISTRICTS

DIVISION 1 GENERAL PROVISIONS

Sec. 16-6-10. General requirements.

The following requirements shall apply to all industrial uses:

- (1) Each industrial use shall comply with any subdivision requirements, including proper installation of utilities, streets, curbs and gutters, ingress-egress facilities and proper drainage.
- (2) Applications for an industrial use shall set forth, in significant detail, the actual use, odor and noise generated and waste disposal plans.
- (3) Plans for adequate water supply and water disposal, including wastewater disposal and pretreatment, if required.
- (4) Drainage and drainage facilities.
- (5) Proposed and maximum number of employees and number of shifts to be worked.
- (6) Residential uses will be limited to living quarters for one individual and such individual's spouse and children when the individual is an owner or employee and is residing on the premises for custodial, maintenance or security purposes in connection with the use carried on upon the premises.
- (7) All industrial uses with outside storage shall be required to provide proper screening, which may include berming and landscaping or fencing.
- (8) All industrial uses shall provide for treatment or retention of smoke, odors, noise and hours of operation so as not to cause

any unreasonable interference with commercial or residential zones in the vicinity of the industrial use.

(Ord. No. 2007-1, § 5, 1-8-2007; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-6-20. Minimum front yard.

The minimum requirements for front yards in the Industrial Districts shall be 30 feet. At least 40 percent of the front yard shall be in grass or landscaping.

(Ord. No. 2007-1, § 5, 1-8-2007; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-6-30. Minimum side yard.

The minimum side yard for buildings in the Industrial Districts shall be 20 feet. A side yard may be waived in appropriate circumstances where proper building material separation is provided; however, where there is no access to the rear of the building, a 20-foot side yard shall be required.

(Ord. No. 2007-1, § 5, 1-8-2007; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-6-40. Minimum rear yard.

All buildings and structures in the Industrial Districts shall have a rear yard of not less than 15 feet.

(Prior Code, § 6-7E; Ord. No. 2007-1, § 5, 1-8-2007; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-6-50. Minimum off-street parking.

Off-street parking may be required in the Industrial Districts. Off-street parking shall not be allowed in the front yard.

(Ord. No. 2007-1, § 5, 1-8-2007; Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 2 I-1—LIGHT INDUSTRIAL DISTRICT

Sec. 16-6-110. Intent.

It is the intent of the Town when establishing the I-1 District to provide a district in which light

industrial and similar uses are located. The uses allowed in the I-1 District are to be low impact uses, and any environmental effects generated must be kept within the buildings where they are produced. Light industry consists of scientific research, limited manufacturing, compounding, assembly, processing or treatment of products, food and beverage processing and similar limited industrial uses in which the nominal effects of the operation are confined within the principal buildings.

(Ord. No. 2007-1, § 3, 1-8-2007; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-6-120. Permitted uses.

The following use groups shall be permitted in the I-1 District:

- (1) Recreational facilities, intensive.
- (2) Recreational facilities, outdoor extensive.
- (3) Recreational vehicle storage, truck parking and temporary truck or trailer storage.
- (4) Retail uses, extensive.
- (5) Retail uses, intensive.
- (6) Repair shops.
- (7) Light industrial uses facility.
- (8) Mini storage units.
- (9) Warehouse distribution and wholesale uses.
- (10) Manufacturing and assembly plants.
- (11) Parking lots, off-street.
- (12) Flammable liquids storage.
- (13) Mortuaries or funeral homes.
- (14) Public service facilities.
- (15) Accessory uses.
- (16) Research laboratories.
- (17) Office and financial uses.
- (18) Personal service establishments.

(19) Equipment rental.

(20) Parks and open space.

(21) Plant nurseries and greenhouses.

(22) Plumbing, electrical and carpenter shops.

(23) Public facilities with or without business offices.

(24) Restaurants with or without drive-throughs.

(25) Bars and taverns.

(26) Churches.

(Ord. No. 2007-1, § 3, 1-8-2007; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-6-130. Special uses.

Uses permitted in the I-1 District pursuant to the terms and conditions of a special use permit are as follows:

- (1) Crematoriums.
- (2) Animal hospitals.
- (3) Recreational vehicle (RV) parks and campgrounds.
- (4) Security residences.
- (5) Car wash facilities.
- (6) Intensive agricultural processing facilities.
- (7) Custom small industry uses.
- (8) Workshops.
- (9) Retail and supply yard establishments with outdoor storage.
- (10) Auto, boat and truck storage (no junkyards).
- (11) Oil, gas and hydrocarbon drilling and production facilities.
- (12) Group homes.
- (13) Telecommunications facilities, including towers and antennas.

- (14) Gasoline and diesel fueling stations.
 - (15) Heavy equipment sales and maintenance facilities.
 - (16) Mobile and manufactured home sales.
 - (17) Flea markets.
 - (18) Kennels with noise control.
 - (19) Gasoline stations.
 - (20) Farm equipment sales and service.
- (Ord. No. 2007-1, § 3, 1-8-2007; Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 3 I-2—MEDIUM INDUSTRIAL DISTRICT

Sec. 16-6-210. Intent.

It is the intent of the Town in establishing the I-2 District to provide a district in which light and medium industrial and similar uses are located. Within this District, any environmental impacts must be confined to the property on which they are generated. Medium industry consists of industrial or manufacturing operations subject to acceptable safeguards to control potential nuisances and hazardous effects to the premises or to the public.

(Ord. No. 2007-1, § 4, 1-8-2007; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-6-220. Permitted use groups.

Permitted use groups in the I-2 District shall be as follows:

- (1) Recreational facilities, intensive.
- (2) Recreational facilities, outdoor extensive.
- (3) Recreational vehicle storage, truck parking and temporary truck or trailer storage.
- (4) Motor vehicle service and repair shops.
- (5) Medium industrial use facilities.
- (6) Mini storage units.

- (7) Warehouse distribution and wholesale uses.
 - (8) Manufacturing and assembly plants.
 - (9) Flea markets.
 - (10) Flammable liquids storage.
 - (11) Parking lots, off-street.
 - (12) Public service facilities.
 - (13) Accessory uses.
 - (14) Research laboratories.
 - (15) Retail uses, intensive.
 - (16) Retail uses, extensive.
 - (17) Office and financial uses.
 - (18) Personal service establishments.
 - (19) Metal fabricating facilities.
 - (20) Metal or pipe storage facilities.
 - (21) Equipment rental.
 - (22) Manufacturing and preparing food products.
 - (23) Manufacturing, assembly or packaging of products from previously prepared materials.
 - (24) Parks and open space.
 - (25) Plant nurseries and greenhouses.
 - (26) Plumbing, electrical and carpenter shops.
 - (27) Public facilities with or without business offices.
 - (28) Restaurants with or without drive-throughs.
 - (29) Farm equipment sales and service.
 - (30) Churches.
- (Ord. No. 2007-1, § 4, 1-8-2007; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-6-230. Special uses.

Uses permitted in the I-2 District pursuant to the terms and conditions of a special use permit are as follows:

- (1) Fertilizer and chemical storage facilities.
- (2) Crematoriums.
- (3) Animal hospitals.
- (4) Confined animals in limited numbers.
- (5) Recreational vehicle (RV) parks and campgrounds.
- (6) Security residences.
- (7) Car wash facilities.
- (8) Truck wash facilities with adequate odor control.
- (9) Intensive recycling facilities with significant visual impact.
- (10) Natural resource extraction, treatment and storage with noise and odor control.
- (11) Auto, boat and truck storage (no junkyards).
- (12) Oil, gas and hydrocarbon drilling and production facilities.
- (13) Group homes.
- (14) Telecommunications facilities, including towers and antennas.
- (15) Gasoline and diesel fueling stations.
- (16) Heavy equipment sales and maintenance facilities.
- (17) Mobile and manufactured home sales.
- (18) Kennels with noise control.
- (19) Meat and agricultural product processing facilities with odor control.
- (20) Recycling centers with dust and odor control and minimal visual impact.
- (21) Security or custodial residences.

- (22) Gasoline stations.
(Ord. No. 2007-1, § 4, 1-8-2007; Ord. No. 2010-6, § 1, 8-9-2010; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 7 A—AGRICULTURAL DISTRICT

Sec. 16-7-10. Uses permitted.

The following uses are permitted in the A District:

- (1) Farm dwellings or buildings appurtenant to agricultural use.
- (2) Crop production.
- (3) Greenhouses.
- (4) Nurseries.
- (5) Sod (turf) farms.
- (6) Storage of farm products and private farm equipment.
- (7) Truck farming.
- (8) Single-family dwellings on a minimum lot size of one acre.
- (9) Identification signs as permitted in the R-1 District.
- (10) Parks and open space.

(Prior Code, § 6-8A; Ord. No. 2007-4, § 2, 3-12-2007; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-7-20. Minimum lot area.

The minimum lot area in the A District is one acre.

(Prior Code, § 6-8B; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-7-30. Minimum lot width.

The minimum lot width in the A District is 100 feet.

(Prior Code, § 6-8C; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-7-40. Minimum front yard.

The minimum front yard setback in the A District is 25 feet.
(Prior Code, § 6-8D; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-7-50. Minimum side yard.

The minimum side yard setback in the A District is 20 feet. For the principal building on corner lots, the side yard setback shall be 50 feet.
(Prior Code, § 6-8E; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-7-60. Minimum rear yard.

The minimum requirements for rear yard setbacks in the A District are as follows:

- (1) Principal buildings: 20 feet.
 - (2) Accessory buildings: ten feet.
- (Prior Code, § 6-8F; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-7-70. Minimum floor area.

The minimum requirement per dwelling for floor area in the A District is 1,000 square feet.
(Prior Code, § 6-8G; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-7-80. Prohibited uses.

(a) No poultry is permitted in the A District except by permit, except that chicken hens may be allowed as set forth in Section 7-5-200 through 7-5-240 of this Code.

(b) The keeping of livestock or any animals, other than dogs, cats and indoor animals as described elsewhere in this Code, shall not be allowed in the A District, except on lots of five acres

or more and only after a hearing before the Board of Trustees as provided in Section 7-5-10 of this Code.

(Prior Code, § 6-8H; Ord. No. 2007-4, § 1, 3-12-2007; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 8 E—ESTATE DISTRICT

Sec. 16-8-10. Uses permitted.

Uses permitted in the E District are the same as those permitted in the R-1 District, as set forth in Article 2 of this Chapter.

(Prior Code, § 6-9A; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-8-20. All other requirements.

All other requirements in the E District are the same as in the R-1 District, except that:

- (1) The minimum lot area is 25,000 square feet.
 - (2) The minimum floor area is 1,200 square feet.
 - (3) Livestock or poultry shall be permitted, pursuant to Section 7-5-10 of this Code.
- (Prior Code, § 6-9B; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 9 PUD—PLANNED UNIT DEVELOPMENT

DIVISION 1 GENERAL PROVISIONS

Sec. 16-9-10. Statement of intent.

(a) The Planned Unit Development (hereinafter called "PUD") provisions contained herein are intended to provide for the planning and development of substantial tracts of land, suitable in location and character for the uses proposed, as unified and integrated entities in accordance with detailed development plans.

(b) Such PUDs are to be permitted as amendments to the Zoning District Map upon approval of a specific development proposal which complies with the requirements and standards set forth in this Article.

(c) The regulations contained herein, which are based on sound comprehensive planning principles, are adopted to unify planning and development and are intended to accomplish the purposes of public control to the same extent as zoning and other regulations applicable to conventional lot-by-lot development, while simplifying, integrating and coordinating land development controls and providing the necessary flexibility to encourage design innovation and creative community development.

(d) Specifically, the PUD provisions are intended to further the following objectives:

- (1) To provide flexibility in land planning and development, resulting in amenable relationships between buildings and ancillary uses and permitting more intensive use of land where well-related open space and recreational facilities are integrated into overall design.
- (2) To encourage unity and diversity in land development, resulting in convenient and harmonious groupings of uses, structures and common facilities; varied type, design and layout of housing and other buildings; and appropriate relationships of open spaces to intended uses and structures.
- (3) To encourage unified and planned development of a site without customary subdivision into single lots and without specific application of the district regulations as provided for individual lots, subject to the regulations set forth herein.
- (4) To provide for and encourage the preservation and enhancement of desirable natural landscape and other features unique to a development site.
- (5) To provide reasonable standards and criteria by which the specific proposals for a PUD can be evaluated.
- (6) To provide a procedure which can relate the design and layout of unified residential, commercial or industrial developments to the particular site and demand for such development in a manner consistent with the preservation of property values within established residential areas.

(Prior Code, § 6-10A; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-9-20. General locational and planning requirements.

(a) *Relation to major transportation system.* PUD Districts shall be so located with respect to major streets and highways or other transportation facilities as to be directly accessible without creating traffic on minor streets in residential areas outside such districts.

(b) *Relation to public utilities and community facilities.* PUD Districts shall be so located in relation to public utilities and community facilities and services, either existing or to be available by the time development reaches the stage where they will be required, that such facilities can be provided at reasonable cost and with reasonable efficiency.

(c) *Relation to general pattern of urban development.* PUD Districts shall be planned and located in general compliance with the Comprehensive Plan and shall relate to the major elements of the urban pattern, including housing, commercial facilities and principal places of employment, by physical proximity of major streets so as to provide for the convenience and amenity of residents of the community and reduce general traffic congestion by a close relationship between origins and destinations.

(Prior Code, § 6-10B; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-9-30. Physical character of site.

The site shall be suitable for the development proposed without hazards to structures, occupants or any property from probability of flooding on the site or on adjacent lands, erosion or deposition of eroded material on adjacent lands, subsidence of the soils or other dangerous conditions. Soil, groundwater level, drainage and topography shall be appropriate to both kind and pattern of use intended.

(Prior Code, § 6-10C; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-9-40. Site planning; external relationships.

(a) *Vehicular access.* Entrances and exits for vehicles shall be designed to encourage smooth traffic flow with minimum hazards to passing traffic or to traffic entering or leaving the development. Merging or turnout lanes may be required when anticipated traffic flows from or to the PUD indicate the need for such lanes. In no case shall streets within a PUD District connect to streets outside the district in such a way as to encourage use of any minor streets for through traffic.

(b) *Perimeter setback and screening.* If topographical or other barriers do not provide adequate buffer between the PUD and adjacent uses, structures on the perimeter of the PUD shall be set back a distance equal to the minimum setback requirement of the adjoining district, or shall be permanently screened by fences, walls or plantings as required to sufficiently protect the privacy and amenity of adjacent uses, to protect the PUD from potentially adverse external influences, such as a major street or highway, and as necessary to make transition from adjoining districts.

(Prior Code, § 6-10D; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-9-50. Modification of subdivision regulations.

The improvements required under Chapter 17 of this Code, including streets, storm drainage,

sanitary sewage and potable water systems, shall be provided in each PUD. The requirements and standards for the construction of streets and utilities set forth in Chapter 17 shall be subject to modification where the plan and program for a PUD make adequate provision for vehicular and pedestrian access and circulation, recreation, utility and service needs of the tract when fully developed and occupied, and also provide such covenants, easements or other legal documents and provisions as will assure conformity to and successful implementation of the plan. Such modifications shall be subject to approval by the Board of Trustees.

(Prior Code, § 6-10E; Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 2 PROCEDURE

Sec. 16-9-110. Preapplication procedure.

(a) Prior to the filing of an application for amendment to establish PUD Districts, the developer shall submit to the Planning Commission a sketch plan and report as specified in Chapter 17 of this Code, plus the following information:

- (1) Evidence of unified control of the entire area proposed for development.
- (2) A tentative schedule of development.
- (3) Evidence of financial capability to complete the development as proposed.

This procedure shall not require a fee or formal application for amendment.

(b) The Planning Commission shall study the material received to determine its general acceptability and compliance with the Comprehensive Plan and the objectives of this Chapter.

(c) Following such study, the Planning Commission shall hold a conference with the applicant within 30 days of receipt of all materials to discuss desirable changes in the sketch plan.

(Prior Code, § 6-10F; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-9-120. Consideration of preliminary development plan.

(a) On reaching conclusions informally as recommended in Section 16-9-110 above regarding the acceptability of the plan or program as presented in the sketch plan, the developer may make formal application for amendment to establish a PUD District.

(b) Application for amendment to establish a PUD District shall be filed with the Planning Commission. Application forms are available from the Town. The applicant shall be responsible for payment of all actual costs incurred by the Town for giving public notices and reviewing and processing the application.

(c) Material to be submitted with the application shall include the following:

- (1) A preliminary development plan containing the information specified in Chapter 17 of this Code, with such modifications and additions as required, including identification of building sites when used instead of lots, common open space not dedicated for public use and other matters as appropriate to PUDs generally or to the specific PUD. Specifically, the preliminary development plan shall indicate sub-areas for phased development, if any; major off-street parking and loading areas; location and use of structures in relation to building site lines; open space areas in relation to the use for which they are intended; and other information as required to establish a clear pattern of the relationship between structures, uses, circulation and open space.
- (2) Indication as to order and timing of development and accompanying improvements.
- (3) Proposals for improvement and continuing maintenance and management of any

private streets or ways or common open space not offered or accepted for dedication for general public use.

- (4) A drainage plan indicating how stormwater runoff from existing and proposed developments on upstream properties, as well as for the project itself, will be handled without adversely impacting downstream properties.
- (5) Other written and graphic materials that may be reasonably requested by the Planning Commission.

(d) The Planning Commission shall review the preliminary development plan and consult with other agencies as necessary to determine compliance with the requirements and standards of this Article and with the outline development plan originally submitted by the applicant.

(e) The Planning Commission shall hold a public hearing on the proposal as provided in Section 16-19-20. The public hearing shall be held not less than 15 days nor more than 45 days after receipt of all application materials.

(f) As soon as possible after such public hearing, the Planning Commission shall forward its recommendation to the Board of Trustees, indicating approval, approval with specific conditions or disapproval, and its reasons therefor.

(g) If, after a public hearing as required in Section 16-19-20 held not less than 15 days nor more than 45 days after receipt of the Planning Commission recommendation, the Board of Trustees grants the application for amendment, such amendment shall relate to the preliminary development plan and shall include any conditions or modifications deemed necessary to bring such plan into full accordance with the requirements and intent of this Chapter. Rezoning shall be effective upon approval of the preliminary development plan.

(h) The cost of providing utilities or other facilities of a capacity greater than that needed by the project itself as deemed necessary by the Board of Trustees will be negotiated by the Board of Trustees and the developer.
(Prior Code, § 6-10G; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-9-130. Procedure following amendment.

(a) Before any building permit may be issued in the PUD, a final development plan and report shall be submitted and approved by the Board of Trustees. The final development plan and report shall be submitted to the Town at least 15 days prior to a regularly scheduled Board of Trustees meeting and shall be considered by the Board of Trustees within 45 days of submittal. Such plan shall be in accordance with the preliminary development plans approved by the Board of Trustees, with such modifications as attached by the Board of Trustees in its zoning amendment.

(b) The final development plan and supplementary material shall include the following:

- (1) A map and report containing the information required in Chapter 17 of this Code, with modifications and additions as appropriate to PUDs generally and to the specific PUD proposal.
- (2) Detailed plans for individual buildings or groups of buildings, including the following:
 - a. Site plans for the building sites, indicating relationship to adjoining areas.
 - b. Floor plans of buildings, indicating horizontal dimensions, uses of space and floor areas.
 - c. Elevations of the buildings involved, indicating height and first lowest floor elevation.

d. Site plans indicating the provision of adequate, paved, lighted, off-street parking for the uses proposed.

- (3) Land areas, floor areas and required open space areas as necessary to make a determination as to compliance with requirements for land use intensity.
- (4) All agreements, covenants, contracts and deed restrictions, in a form acceptable to the Town. Specifically, there shall be included a subdivision improvements agreement which provides the mechanism whereby the applicant and his or her successors, heirs and assigns guarantee to make the subdivision improvements required by the Town according to an acceptable time schedule. The subdivision improvements agreement shall further specify the terms of ensuring the quality, performance and maintenance of said subdivision improvements. Said subdivision improvements shall include, but not be limited to, streets, drainage structures and improvements, utilities, landscaping and traffic control devices.
- (5) Dedication statements for any public land not designated on the plat.
- (6) If the use is nonresidential, the number of employees and the type of activity shall be specified.
- (7) If the use is residential, the type of units and number of each unit to be built shall be specified.
- (8) A complete listing of all landscaping materials, including scientific and common names, quantity, size at planting, size at maturity and a symbol or label to identify materials on the landscape plan.
- (9) The location and dimensions of all existing and proposed traffic controls, trash

disposal areas and enclosures, electric transformers, landscaping materials shown at mature sizes and the maintenance system for landscaping.

- (10) Other written and graphic materials as may reasonably be required by the Board of Trustees.

(c) The Board of Trustees may authorize the submittal of the final development plan in phases. Each phase may constitute only that portion of the approved preliminary development plan that the developer proposes to develop at that time.

(d) Following review and approval of the final development plan, the Town shall record the approved PUD plan with the County Clerk and Recorder. Building permits will be issued only after streets with road base suitable for paving, curb and gutter, sewer lines, water lines, storm drainage facilities and grading have been completed according to the time schedule in the subdivision improvements agreement and according to the requirements and standards of this Chapter and Chapter 17 of this Code. Certificates of occupancy shall be issued only after all terms of the subdivision improvements agreement have been met.

(e) The final development plan as approved by the Board of Trustees shall be binding and shall not be changed during the construction of the PUD, except upon application to the appropriate agency under the following procedure:

- (1) Minor changes in location, siting, bulk or size of structures or improvements may be authorized by the Board of Trustees if required by circumstances not foreseen at the time the final plan was approved.
- (2) All other changes in use, arrangements of blocks or streets, or significant changes in the provision of required open spaces, must be made by the Board of Trustees under

the procedure provided in Article 19 of this Chapter for amendment of the Zoning Map.

(Prior Code, § 6-10H; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 10 SIGN CODE

DIVISION 1 GENERAL PROVISIONS

Sec. 16-10-10. Findings of fact.

The Board of Trustees finds as follows:

- (1) This Article advances important and substantial governmental interests.
- (2) The regulations set out in this Article are unrelated to the suppression of constitutionally protected free expression and do not involve the content of protected messages which may be displayed on signs, nor do they involve the viewpoint of individual speakers.
- (3) The incidental restriction on the freedom of speech that may result from the regulation of signs hereunder is no greater than is essential to the furtherance of the important and substantial interests that are advanced by this Article.
- (4) The Town has an important and substantial interest in preventing sign clutter (which is the proliferation of signs of increasing size and dimensions as a result of competition among property owners for the attention of passing motorists), because sign clutter:
 - a. Creates visual distraction and obstructs views, potentially creating a public safety hazard for motorists, bicyclists and pedestrians;

- b. May involve physical obstructions of streets or sidewalks, creating public safety hazards;
 - c. Degrades the aesthetic character of the Town, making the Town a less attractive place for commerce and private investment; and
 - d. Dilutes or obscures messages displayed along the Town's streets through the proliferation of distracting structures and competing messages.
- (5) Sign clutter can be reduced and prevented by reasonable sign regulations that:
- a. Do not relate to the content of the regulated signs; and
 - b. Balance the legitimate needs of individuals, entities and organizations to convey messages with the legitimate objectives of the Town to promote public safety, enhance community character and support and enhance private property values.
- (6) Temporary signs may be degraded, damaged or destroyed by wind, rain, snow, ice and sun, and, after such degradation, damage or destruction, such signs harm the safety and aesthetics of the Town's streets if they are not removed.
- (7) Abandoned permanent signs create visual clutter without serving a corresponding purpose of displaying a message, and, as such, they harm the aesthetics of the Town's streets if they are not removed.
- (8) The Town has an important and substantial interest in protecting the health of its tree canopy, which contributes to the character and value of the community.
- (9) Certain types of speech are not constitutionally protected due to the harm that

they cause to individuals or the community, and speech that is harmful to minors may be prohibited in places that are accessible to minors.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-10-20. Purpose.

The purpose of this Article is to set out reasonable regulations for the erection, installation, operation and maintenance of signs in a manner that preserves and protects the constitutional right to free speech.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-10-30. Objectives.

The objective of the regulations of this Article is to provide a balanced and fair legal framework for design, construction and placement of signs that:

- (1) Promotes the safety of persons and property by ensuring that signs do not create a hazard by:
 - a. Collapsing, catching fire or otherwise decaying;
 - b. Confusing or distracting motorists; or
 - c. Impairing drivers' ability to see pedestrians, obstacles or other vehicles, or to read traffic signs.
- (2) Promotes the efficient communication of messages and ensures that persons exposed to signs:
 - a. Are not overwhelmed by the number of messages presented; and
 - b. Are able to exercise freedom of choice to observe or ignore said messages according to the observer's purpose.

- (3) Protects the public welfare and enhances the appearance and economic value of the landscape by reducing and preventing sign clutter.
 - (4) Ensures that signs are compatible with their surroundings and prevents the construction of signs that are a nuisance to occupants of adjacent and contiguous property or users of the public rights-of-way due to brightness, glare, reflectivity, bulk or height.
 - (5) Provides timely, fair and consistent permitting and enforcement.
- (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-10-40. Authority.

The Town has the authority to regulate signs under the United States Constitution, the Colorado Constitution and the police powers conferred upon statutory cities and towns in Title 31, C.R.S.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-10-50. Applicability and exceptions.

(a) *Applicability of Article.*

- (1) Generally. All construction, relocation, enlargement, alteration and modification of signs within the Town shall conform to the requirements of this Article. This Article applies only to signs that are integrated into, attached to, installed upon or set upon the ground, a structure, landscaping or a building. This Article does not apply to signs that are affixed to or painted on vehicles (except as provided in Subsection 16-10-120(c) below) or to signs that are carried by people.
- (2) Signs permitted before effective date. If a permit for a sign has been issued in accordance with applicable Town ordinances in effect prior to August 6, 2015, the effective

date of this Article, and provided that construction is begun within six months of said effective date and diligently pursued to completion, said sign may be completed in accordance with the approved plans on the basis of which the permit has been issued, subject thereafter, if applicable, to the provisions of this Article regarding nonconforming signs.

(b) *Other regulations.*

- (1) In addition to the regulations set out in this Article, signs may also be subject to applicable state laws and regulations (e.g., Colorado Department of Highways, "Rules and Regulations Pertaining to Outdoor Advertising," effective January 1, 1984, and as may be amended), federal laws and regulations and applicable adopted building codes.
- (2) When any provision of this Article covers the same subject matter as other regulations of the Town, the more restrictive regulation shall apply.
- (3) When any provision of this Article covers the same subject matter as other regulations of the State or the United States, the applicant is advised that nothing in this Article shall be construed as a defense to a violation of applicable state or federal law, except as provided in the state or federal law.

(c) *Sign permit required.* A sign permit is required prior to the erection, installation or substantial modification of any sign that is not an exempt sign as defined in Subsection (d) below.

(d) *Exceptions from permit requirement.* The following exempt signs do not require a sign permit, but may require a building permit or other related permit (if subject to building or electrical codes).

- (1) Required signs. Signs that are required by law or regulation:
 - a. In furtherance of the performance of a public duty or function (e.g., temporary or permanent traffic control and street signs);
 - b. To give legal notice (e.g., notices of pending action pursuant to this Code or Town ordinances);
 - c. To comply with building codes (e.g., address numbers); or
 - d. To comply with other laws or regulations.
- (2) Flags. Flags that are hung from not more than three building-mounted or ground-mounted flagpoles per property, provided that there is at least eight feet of sign clearance and no flag exceeds 32 square feet in area.
- (3) Signs with de minimus area.
 - a. Signs that are affixed to a building or structure and that do not exceed one square foot in sign area, provided that only one such sign is present on each elevation that is visible from public rights-of-way or neighboring property; and
 - b. Signs that are less than three-fourths square foot in area that are affixed to machines, equipment, fences, gates, walls, gasoline pumps, public telephones or utility cabinets.
- (4) Holiday decorations. Decorations and signs that are clearly incidental, customary and commonly associated with a holiday, pro-

vided that such decorations and signs are displayed for a period of not more than 60 consecutive days nor more than 60 total days in any one calendar year.

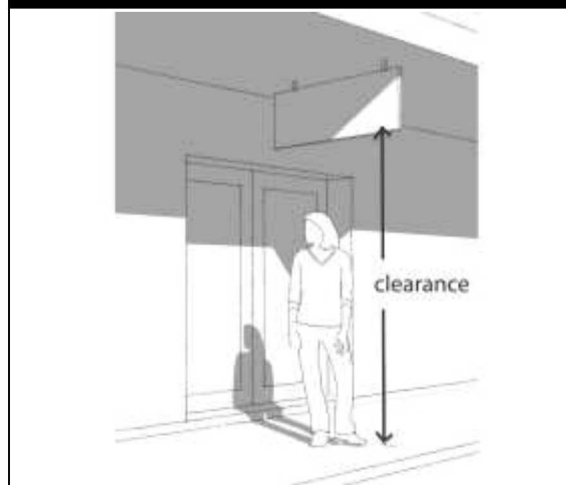
- (5) Interior signs. Signs that are not visible from residential lots, abutting property or public rights-of-way.
- (6) Temporary signs. Temporary signs that are in compliance with the applicable requirements of Division 4, Temporary Signs. (Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 2 STANDARDS AND REGULATIONS

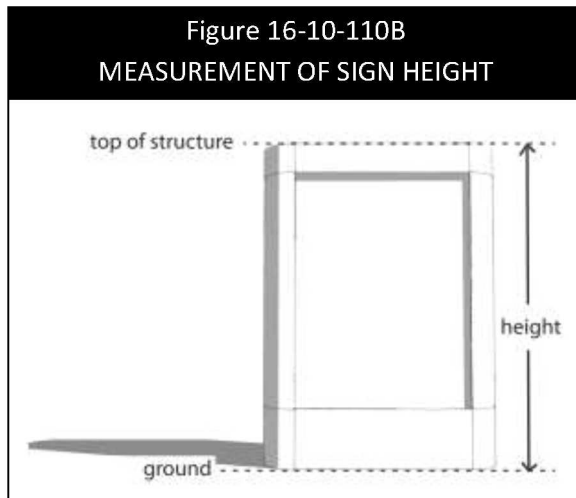
Sec. 16-10-110. Measurements and calculations.

(a) *Sign clearance.* Sign clearance is the distance between the bottom of a sign face or structural element that is not affixed to the ground and the nearest point on the ground-level surface under it. See Figure 16-10-110A, Measurement of Sign Clearance.

**Figure 16-10-110A
MEASUREMENT OF SIGN CLEARANCE**



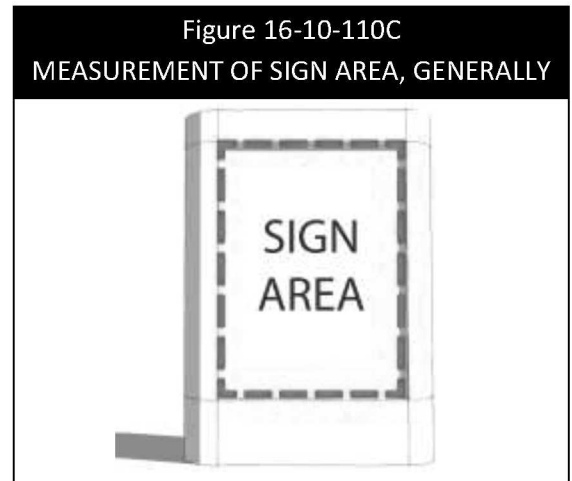
(b) *Sign height.* For detached signs (temporary and permanent), sign height is the vertical distance to the top of the sign face or sign structure, whichever is higher, measured from the elevation of the average grade around the base of the sign. See Figure 16-10-110B, Measurement of Sign Height.



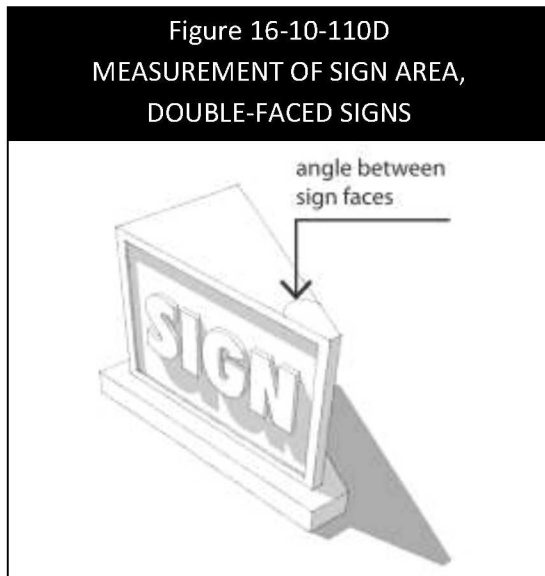
(c) *Sign area.*

- (1) Generally. Sign area is the area within a continuous polygon with up to eight straight sides that completely encloses the limits of text and graphics of a sign, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign's message from the background against which it is placed.
- (2) Inclusions and exclusions. The sign area does not include the structure upon which the sign is placed (unless the structure is an integral part of the display or used to differentiate it), but does include any open space contained within the outer limits of the display face of a sign, or between any component, panel, strip or figure of any kind composing the display face, whether

or not this open space is enclosed by a frame or border. See Figure 16-10-110C, Measurement of Sign Area, Generally.



- (3) Double-faced signs. For projecting, suspended, freestanding or other double-faced signs, only one sign face is measured, provided that the sign faces are parallel or form an interior angle of less than 30 degrees and the sign faces are mounted on the same structure. If the sign faces are not equal in area, the larger sign face is measured. If the interior angle between the sign faces is more than 30 degrees, then both sign faces are measured. See Figure 16-10-110D, Measurement of Sign Area, Double-Faced Signs.



(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-10-120. Prohibitions.

(a) *Generally.* The prohibitions in this Section apply to temporary and permanent signs in all areas of the Town.

(b) *Prohibited signs.* The following sign structures and designs are prohibited:

- (1) Signs with more than two sign faces.
- (2) Signs that are a traffic hazard because they simulate or imitate (in size, color, lettering or design) any traffic sign or signal.
- (3) Animated or moving signs that are visible from public rights-of-way, including any moving, swinging, rotating, flashing, blinking, scintillating, fluctuating or otherwise animated light, except as specifically permitted in Section 16-10-140, Electronic message centers, below.
- (4) Portable signs, except as specifically permitted in Division 4, Temporary Signs, of this Article.

(5) Pole signs.

(6) Abandoned signs.

(c) *Prohibited design elements.* The following elements shall not be incorporated as an element of any sign or sign structure, whether temporary or permanent:

- (1) Sound, smoke or odor emitters.
- (2) Awnings that are backlit or made of plastic.
- (3) Stacked products (e.g., tires, soft drink cases, bagged soil or mulch).
- (4) Unfinished wood support structures, except that stake signs may use unfinished stakes.
- (5) Flags, banners or comparable elements that are designed to move in the wind, but only when such elements are attached to another sign type (e.g., flags may be attached to flagpoles, but may not be attached to monument signs).
- (6) Spinning or moving parts.
- (7) Bare light bulbs, except on holiday displays (which are exempted from regulation by Paragraph 16-10-50(d)(4) of this Article), and permitted neon window signs that are less than six square feet in sign area. Neon lighting within channels of channel lettered signs is not limited by the prohibition on bare light bulbs.
- (8) Flashing lights, except on holiday displays (which are exempted from regulation by Paragraph 16-10-50(d)(4) of this Article).
- (9) Motor vehicles, unless:
 - a. The vehicles are operational, regularly used as motor vehicles and have current registration and tags;
 - b. The display of signage is incidental to the motor vehicle use; and

- c. The motor vehicle is legally parked.
- (10) Semi-trailers, shipping containers or portable storage units, unless:
 - a. The trailers, containers or portable storage units are:
 - 1. Structurally sound and capable of being transported,
 - 2. Used for their primary purpose (e.g., storage, pick-up or delivery), and
 - 3. If subject to registration, have current registration and tags;
 - b. The display of signage is incidental to the primary purpose; and
 - c. The semi-trailer, shipping container or portable storage unit is parked or placed in a designated loading area or on a construction site at which it is being used for its primary purpose.
- (d) *Prohibited obstructions.* In no event shall a sign, whether temporary or permanent, obstruct the use of:
 - (1) Building ingress or egress, including doors, egress windows and fire escapes.
 - (2) Equipment, structures or architectural elements that are related to public safety or utility service (e.g., standpipes, fire hydrants and meters).
 - (3) Any sight distance triangle that is required by this Chapter or other applicable regulations.
- (e) *Prohibited mounts.* No sign, whether temporary or permanent, shall be posted, installed, mounted on or affixed to any of the following:
 - (1) Trees or other vegetation.
- (2) Utility poles or light poles, unless:
 - a. The sign is a temporary banner that is not more than ten square feet in area;
 - b. There are at least eight feet of sign clearance;
 - c. The sign is mounted on brackets at the top and bottom of the sign that extend not more than 30 inches from the utility pole or light pole; and
 - d. The owner of the utility pole or light pole consents to its use for the display of the sign.
- (3) Utility cabinets or pedestals (except exempt signs posted by the owner of the utility cabinet or pedestal).
 - (f) *Prohibited locations.* In addition to applicable setback requirements and other restrictions of this Article, no sign shall be located in any of the following locations:
 - (1) In or over public rights-of-way (which, in addition to streets, may include other sidewalks, parkways, retaining walls, utility poles, traffic control devices, medians and center islands that are within public rights-of-way), except:
 - a. Temporary or permanent signs posted by the Town or governmental entity with jurisdiction over the right-of-way;
 - b. Temporary signs posted in connection with authorized work within the right-of-way, as authorized or required by the Town or governmental entity with jurisdiction over the right-of-way; and
 - c. Signs painted on or affixed to transit shelters and bus benches as authorized by the provider of the shelter or

bench, but not extending beyond the physical structure of the shelter or bench.

- (2) In locations that have less horizontal or vertical clearance from authorized communication or energized electrical power lines than the minimum clearance required by the laws of the State and the regulations duly promulgated by agencies thereof.
- (3) Within easements for overhead utilities, unless authorized by the utility service provider and in compliance with all other applicable requirements of this Article.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-10-130. Illumination.

(a) *Generally.* Illumination of signs using internal or external light sources is subject to the provisions and limitations of this Section.

(b) *Light trespass.* No sign, whether internally or externally illuminated, shall create light spill-over of more than one lux at any property line of a lot or parcel that is in the R-1 or R-2 Zoning District.

(c) *Location of illuminated signs.* Lighting of signs is allowed only in the Highway 85 corridor.

(d) *Internal illumination.*

- (1) Internal illumination is not allowed in the R-1 or R-2 Zoning District. In all other zoning districts, internally illuminated signs shall not exceed a luminance of 5,000 nits when lit during daylight hours and 100 nits when lit during nighttime hours.
- (2) Awning signs shall not be backlit or otherwise internally illuminated.
- (3) In all C and I Zoning Districts, one window sign per facade may be internally

illuminated, provided that the sign area of the illuminated sign is not more than six square feet.

(e) *External illumination.* External illumination of signs shall not exceed an illuminance of more than 500 lux on any part of the sign face or surrounding surfaces. External light sources shall be shielded and directed to prevent glare.

(f) *Hours of illumination.* All illuminated signs shall be turned off each day by the later of 10:00 p.m. or 30 minutes after closing of the associated land use. Signs may be turned back on at 5:00 a.m. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-10-140. Electronic message centers.

(a) *Generally.* Electronic message centers ("EMCs") are a type of internally illuminated sign that is subject to the applicable standards of Section 16-10-130 and the standards of this Section.

(b) *Prohibitions.* EMCs are not allowed on non-conforming sign structures or on property that contains a nonconforming pole sign structure. EMCs are not allowed on portable signs.

(c) *Number of EMCs.* Not more than one sign per property shall contain an EMC component. Two-sided monument signs and projecting signs may include one EMC per sign face.

(d) *Enclosure required; exception.* EMC displays shall be enclosed on all sides with a finish of brick, stone, stucco, finished metal or other durable material that is used for that portion of surface of the sign face that is not an EMC. For freestanding signs, the enclosure shall extend not less than six inches outward from the display on all sides. For projecting or wall signs, the enclosure shall extend not less than four inches outward from the display on all sides. For window signs installed on the interior of buildings, enclosure is not required.

(e) *Proportions.*

- (1) An EMC that is incorporated into a free-standing sign shall not occupy more than 50 percent of the area of any sign face.
- (2) An EMC that is incorporated into a projecting or wall sign shall not occupy more than the lesser of:
 - a. Thirty-five percent of the area of the sign face into which it is incorporated; or
 - b. Thirty-two square feet.

(f) *Other elements.* EMC displays are not allowed on signs that also include manual changeable copy elements.

(g) *Pixel pitch.* EMC displays shall have a pixel pitch of not more than 16 mm.

(h) *Brightness.* EMCs shall conform to the standards of Section 16-10-130 and shall be equipped and programmed to automatically dim when ambient light levels drop.

(i) *Operation.* EMCs shall be programmed, maintained and/or operated as follows:

- (1) Images (e.g., messages and graphics) shall be static (without motion, flashing, animation, frame effects or transitions).
- (2) Images shall be displayed for a period of not less than ten seconds.
- (3) If the EMC malfunctions such that image data is not properly displayed, it is programmed to either display a black screen or turn the screen off.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-10-150. Manual changeable copy message centers.

Manual changeable copy message centers are allowed as a component of other signs. The area of the manual changeable copy message center,

including its frame, shall not exceed the lesser of 32 square feet or 50 percent of the sign area of the sign in which the manual changeable copy message center is incorporated. The balance of the sign area shall utilize permanently affixed letters, images, graphics or symbols. Manual changeable copy message centers shall not be included on signs that also include EMC components.

(Ord. No. 03-2015, § 2, 7-7-2015; Ord. No. 03-2016, § 1, 3-29-2016)

Sec. 16-10-160. Unprotected content.

(a) *Prohibition on certain types of unprotected speech.* The following content is prohibited without reference to the viewpoint of the individual speaker:

- (1) Text or graphics of an indecent or immoral nature that is harmful to minors under state or federal law;
- (2) Text or graphics that advertise unlawful activity, except as provided in Subsection (b) below;
- (3) Text or graphics that are obscene, fighting words, defamation, incitement to imminent lawless action or true threats; or
- (4) Text or graphics that present a clear and present danger due to their potential confusion with traffic control signs or signs that provide public safety information (for example, signs that use the words "Stop," "Yield," "Caution" or "Danger," or comparable words, phrases, symbols or characters, in such a manner as to imply a safety hazard that does not exist).

(b) *Severability.* The narrow classifications of content that are prohibited by this Section are either not protected by the United States or Colorado Constitution, or are offered limited protection that is outweighed by the substantial governmental interests in protecting the public safety and welfare. It is the intent of the Board of Trust-

ees that each paragraph or subsection of this Section (e.g., Paragraphs (a)(1), (a)(2), (a)(3) or (a)(4), or Subsection (b)) be individually severable in the event that a court of competent jurisdiction holds one or more of them to be inconsistent with the United States or Colorado Constitution.
(Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 3 STANDARDS FOR PERMANENT SIGNS

Sec. 16-10-210. Standards for attached permanent signs.

(a) *Wall signs.* Wall signs are allowed according to the standards in Table 16-10-210A, Wall Signs.

Table 16-10-210A
Wall Signs

Type of Sign/ Standard	Zoning District			
	R-1	R-2	C-1 and C-2	I-1 and I-2
Primary Wall Sign				
Max. No. of Signs	1 per building		1 per building elevation	
Max. Sign Area	For nonresidential and multi-family buildings, 1 sf. per 1 ft. of width of facade on which sign is located; for residential and accessory buildings, overhead doors may be used for noncommercial signs		3 sf. per 1 ft. of width of facade on which sign is located	
Secondary Wall Sign				
Max. No. of Signs	1 per primary public entrance to nonresidential use		1 per primary public entrance	
Max. Sign Area	10 sf.		18 sf.	
Other Restrictions	Secondary wall signs shall not be allowed on building elevations where projecting signs are installed			

(b) *Projecting signs.* Projecting signs are allowed according to the standards in Table 16-10-210B, Projecting Signs.

Table 16-10-210B
Projecting Signs

<i>Standard</i>	<i>Zoning District</i>			
	<i>R-1</i>	<i>R-2</i>	<i>C-1 and C-2</i>	<i>I-1 and I-2</i>
Max. No. of Signs	Not Allowed		1 per street-facing facade	
Max. Sign Area	-		18 sf. per sign face	
Min. Sign Clearance	-		8 ft.	
Other Restrictions	-		Shall not extend above eave or cornice line unless approved by Sign Program alternative; projecting signs are not allowed if a monument sign or pole sign is located on the same lot; projecting signs are not allowed on building elevations that include secondary wall signs	

(c) *Window, awning and under-canopy signs.* Window, awning and under-canopy signs are allowed according to the standards in Table 16-10-210C, Window, Awning and Under-Canopy Signs.

Table 16-10-210C
Window, Awning and Under-Canopy Signs

Type of Sign / Standard	Zoning District			
	R-1 and R-2	C-1 and C-2	I-1	I-2
Window Signs				
Min. Window Transparency	Not Regulated	80%	50%	50%
Other Restrictions	Note: Internally illuminated signs are subject to Section 16-10-130			
Awning Signs				
Max. No. of Signs	Not Allowed	1 per awning		
Max. Sign Area (per sign)	-	85% of the area of the surface of the awning that is used to display a sign		
Other Restrictions	-	One surface of the awning may be used for signage		
Under-Canopy Signs				
Max. No. of Signs	Not Allowed		1 per public building entrance	
Max. Sign Area	-		8 sf.	
Min. Sign Clearance	-		7.5 ft.	
Other Restrictions	-		Under-canopy signs are limited to locations where building entrances are within 5 ft. of a public sidewalk	

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-10-220. Standards for detached permanent signs.

Monument signs are allowed according to the standards in Table 16-10-220A, Monument Signs.

Table 16-10-220A
Monument Signs

Standard	Zoning District			
	R-1	R-2	C-1 and C-2	I-1 and I-2
Max. No. of Signs	1 per property used for nonresidential or multi-family purposes; not allowed on property used for single-family or two-family residential purposes		1 per 200 ft. of street frontage or fraction thereof	
Max. Sign Area (per sign face)	18 sf.		1 sf. per 1 lf. of street frontage, but not more than 60 sf.	
Max. Sign Height	4 ft.		If abutting street frontage is 200 lf. or more, 10 ft.; if abutting street frontage is less than 200 lf., 8 ft.	
Min. Setbacks	5 ft. from all property lines		5 ft. from all property lines and sidewalk easements	
Other Restrictions	Must be installed in landscaped area that extends at least 4 ft. in every direction from base of sign; monument signs are not allowed if a pole sign is located on the same lot			

(Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 4 TEMPORARY SIGNS

Sec. 16-10-310. Standards for attached temporary signs.

(a) *Generally.* Attached temporary signs are allowed subject to the standards of this Section, for the duration that is set out in Section 16-10-330, Duration of display of temporary signs, below.

(b) *Banners.* Banners are permitted in the C and I Zoning Districts, provided that:

- (1) The property does not have a sign with an electronic message center or manual changeable copy message center;
- (2) There are not more than two banners per principal building;
- (3) No banner exceeds 32 square feet in area; and
- (4) All banners are attached to the principal building.

(c) *Sock signs and temporary wall signs.* Sock signs and temporary wall signs are permitted in the C and I Zoning Districts, provided that they are used during a period not to exceed 45 days in which a new permanent sign or sign component is being fabricated and installed.

(d) *Window signs.* Temporary window signs are allowed in all locations where permanent window signs are allowed, provided that the applicable transparency standards of Section 16-10-210, Standards for attached permanent signs, are met.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-10-320. Standards for detached temporary signs.

The maximum number, maximum sign area, maximum height and other restrictions that apply to detached temporary signs are set out in Table 16-10-320, Standards for Detached Temporary Signs.

Table 16-10-320
Standards for Detached Temporary Signs

Type of Detached Temporary Sign / Standard	Zoning District		
	R-1	R-2	C-1 and C-2 and I-1 and I-2
Yard Signs			
Max. No. of Signs	Not limited		1 per driveway
Max. Sign Area (per sign / total)	6 sf. / 30 sf.		6 sf. / 12 sf.
Max. Sign Height	4 ft.		4 ft.
Other Restrictions	Must set back 2 ft. from property lines; must be installed in a landscaped area		
Site Signs			
Max. No. of Signs	Not allowed		1 per frontage
Max. Sign Area (per sign / total)	-		32 sf. / 64 sf.
Max. Sign Height	-		5 ft.
Other Restrictions	-		Not allowed if a swing sign is present; must be installed in a landscaped area
Swing Signs			
Max. No. of Signs	1	1 per frontage	1 per frontage
Max. Sign Area (includes riders)	5 sf.	5 sf.	5 sf.
Max. Sign Height	5 ft.	5 ft.	5 ft.
Other Restrictions	Must be installed in a landscaped area		Not allowed if a site sign is present; must be installed in a landscaped area
Sidewalk Signs			
Max. No. of Signs	Not allowed	1	1 per frontage
Max. Sign Area (per sign)	-	6 sf.	8 sf.
Max. Sign Height	-	3 ft.	4 ft.
Other Restrictions	-	Must leave at least 4 ft. of clear sidewalk width for pedestrian use; must not obstruct pedestrian travel path (<i>Not: not allowed in public right-of-way; see Paragraph 16-10-120(f)(1)</i>)	
Inflatable Signs			
Max. No of Signs	Not allowed		1
Other Restrictions	-		Must be set back so that no part of the sign is closer than 2 ft. to a property line at any time; blower motors, if used to operate the sign, shall not exceed a noise level of 40 dBA at property line
Feather Flags			
Max. No. of Signs	Not allowed		3 per frontage

<i>Type of Detached Temporary Sign / Standard</i>	<i>Zoning District</i>		
	<i>R-1</i>	<i>R-2</i>	<i>C-1 and C-2 and I-1 and I-2</i>
Other Restrictions	-		Must be set back so that no part of the flag or supporting structure is closer than 2 ft. to a property line at any time, and located so that the flag does not obstruct building access or parking

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-10-330. Duration of display of temporary signs.

(a) *Generally.* The purpose of temporary signs is to display messages for a temporary duration. Temporary signs shall not be used as a subterfuge to circumvent the regulations that apply to permanent signs or to add permanent signage to a property in addition to that which is allowed by this Article.

(b) *Duration of display.*

- (1) In general, a temporary sign shall be removed as of the earlier of the date that:
 - a. It becomes an abandoned sign;
 - b. It falls into disrepair (see Section 16-10-510, Sign maintenance); or
 - c. The number of days set out in Table 16-10-330, Duration of Temporary Signs, expires.

Table 16-10-330
Duration of Temporary Signs

Sign Type Materials	Zoning District			
	R-1	R-2	C-1 and C-2	I-1 and I-2
Yard Signs				
Paper or cardboard sign face	Signs must be removed within 24 hours of placement; signs may be posted not more than 90 days per year		Signs must be removed within 24 hours of placement; signs may be posted not more than 14 days per year	
Laminated paper; plastic lined polyethylene bags and comparable materials	Signs may be posted for not more than 90 days per year			
Wood, corrugated plastic, metal or vinyl sign face	Signs may be posted for not more than 120 days per year			
Site Signs				
Vinyl sign face	-		Signs may be posted for not more than 30 days per year	
Corrugated plastic sign face	-		Signs may be posted for not more than 6 months per year	
Plywood sign face	-		Signs may be posted for not more than 10 months per year	
Metal; plywood with bonded aluminum sign face	-		Signs may be posted for not more than 10 months per year or 14 months per 2-year period	
Swing Signs				
Wood, corrugated plastic or metal sign face and finished wood or metal structure	Signs may be posted for not more than 9 months per year			
Sidewalk Signs				
All materials	-	Must be removed by 10:00 p.m. daily		
Inflatable Signs				
All materials	-	-	Signs may be displayed not more than 14 days per year	
Feather Signs				
All materials	-	-	Signs may be displayed not more than 30 days per year	
Banners				
All materials	-	-	Banners must be changed or removed after 90 consecutive days of display	
Sock Signs				
All materials	-	-	See Section 16-10-310	
Window Signs				
All materials	No specified time limit; see Subparagraph (b)(1)a. and (b)(1)b. for removal requirements			

- (2) Temporary signs that are required due to governmental regulation (e.g., public notices) shall be removed as required by the applicable regulation.

(c) *Administrative interpretations.* Materials for signage that are not listed in this Section may be introduced into the market. When a material is proposed that is not listed in this Section, the Town Administrator shall determine the class of materials with which the new material is comparable, based on the new material's appearance, durability and colorfastness. No temporary sign shall be displayed for a longer period than the longest permitted period in this Section, regardless of the material.

(Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 5 PERMITTING PROCEDURES; SIGN DESIGN PROGRAM ALTERNATIVE

Sec. 16-10-410. Permitting procedures.

Applications for sign permits shall be submitted on a form approved by the Chief Administrative Official and accompanied by the processing fee that is specified in the Town's Fee Schedule, along with any fees that are due pursuant to the applicable building code. The Chief Administrative Official shall approve or deny sign permit applications within five business days after receipt of a complete application and fee. If an application is denied, the Chief Administrative Official shall specify the reason for denial to the applicant in writing. If the Chief Administrative Official does not decide the application within five business days, the application is approved.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-10-420. Sign Design Program alternative.

(a) *Purpose.* The requirements of this Article ensure that signs that meet certain minimum standards for public safety and consistency with the desired character and quality of development in

the Town may be promptly approved and displayed. In some cases, alternative standards may improve the aesthetic and functional qualities of the development. Approval of a Sign Design Program pursuant to the standards of this Section allows for unified presentation of signage throughout a development, flexibility to provide for unique environments and pre-approval of designs and design elements to make processing of subsequent applications for sign permits more efficient. To this end, a Sign Design Program alternative is hereby created.

(b) *Authorization to modify requirements.* Signage which is proposed as part of a Sign Design Program may deviate from the standards of this Article in terms of the types and numbers of signs allowed, the maximum sign area and materials and illumination standards (including electronic message centers), subject to compliance with an approved Sign Design Program.

(c) *Procedures.* Sign Design Program applications shall be submitted on a form approved by the Chief Administrative Official. Town Staff shall review the application for completeness and shall forward the application to the Board of Trustees for consideration at a public hearing within 31 days after the date of application. The Board of Trustees shall consider the application at a public hearing and shall either approve the application, approve the application with conditions unrelated to sign content or viewpoint or deny the application after applying the approval criteria set out in Subsection (d) below, subject to the limitations of Subsection (e). Hearings on Sign Design Program applications shall not be tabled or continued without the applicant's consent, which shall be included in the record of the hearing.

(d) *Approval criteria.* The Board of Trustees may approve a Sign Design Program if it finds that the Sign Design Program results in a substantially improved, comprehensive and unified pro-

posals compared to what is allowed through strict compliance with the sign regulations of this Article.

- (1) Prohibited signs and sign elements. Prohibited signs and sign elements enumerated in Section 16-10-120 of this Article are not eligible for inclusion in a Sign Design Program, except that pole signs may be included at intersections if it is demonstrated that:
 - a. The pole sign is necessary to promote safety at the intersection and the site is configured such that a monument sign or attached sign will not provide adequate exposure;
 - b. The pole sign is installed in a landscaped area;
 - c. The sign height is less than 15 feet; and
 - d. The sign area is not more than 32 square feet.
- (2) Modification of sign setbacks. Setbacks for detached signs may be different from the requirements of this Article if it is demonstrated that there is no impact on public safety or on utility easements and all other requirements for approval of a Sign Design Program are met.
- (3) Architectural theme. All signs shall be architecturally integrated into or complementary to the design and materials of the buildings and character of the site and shall use similar and coordinated design features, materials and colors. The Sign Design Program shall establish an integrated architectural vocabulary and cohesive theme for the development.
- (4) Illumination. Lighting standards shall not deviate from the standards of this Article.

- (5) Height, area, number and location of signs. The height, area, type, number and location of signs permitted through the Sign Design Program shall be determined by the Board of Trustees, based on the following criteria:
 - a. The overall size of the development and the scale of the uses located or anticipated to be located there (larger land areas and scales of use tend to favor larger signs and/or more signs);
 - b. The relationship between the building setback and sign location (additional signage may be appropriate for buildings with lower visibility);
 - c. Frontage (larger frontages may justify more or larger signs, particularly if the size of the frontage tends to prevent sign clutter by allowing additional spacing between signs);
 - d. Access and visibility to the site;
 - e. Intended traffic circulation pattern;
 - f. Hierarchy of signage;
 - g. Relationship between the site and adjacent uses; and
 - h. Consistency with the objectives and design policies of the Town's Comprehensive Plan and any applicable land use or design plans approved by the Board of Trustees for the area in which the Sign Design Program is proposed.

(e) *Maximum total sign area.* The total permitted sign area shall not exceed 150 percent of the sign area for permanent signs that would otherwise be permissible if the property were in strict compliance with this Article.

(f) *Elimination of nonconforming signs.* In addition to proposed new signage, all existing signs on a property for which a Sign Design Program

approval is sought shall be addressed in the application. The Board of Trustees may require removal or modification of existing nonconforming signs as a condition of approval of a Sign Design Program.

(g) *Conditions of approval.* The Board of Trustees may impose reasonable conditions on the Sign Design Program that are not related to the content of the signs or the viewpoints of the sign users, in order to ensure continuing compliance with the standards of this Article and approved Sign Design Programs.

(h) *Contents of Sign Design Program.* A Sign Design Program shall set forth a master plan for signage for an entire development. Sign Design Programs shall set out:

- (1) The boundaries of the parcel in which the Sign Design Program will be applied;
- (2) Architectural elevations of the buildings on the parcel;
- (3) Sign dimensions and approximate locations;
- (4) Materials and colors;
- (5) Proposed illumination, including maximum illumination levels;
- (6) A design theme with illustrative examples of each sign type, the form of each sign type and the proposed general locations of each sign type; and
- (7) A demonstration that the Sign Design Program will improve the aesthetics of the development, reduce sign clutter and avoid or mitigate adverse impacts on the use, enjoyment or value of adjacent and nearby property.

(i) *Effect of approval.* Upon approval of a Sign Design Program, issuance of a sign permit shall be based on compliance with the standards set out in the Sign Design Program for the development.

Sign Design Programs may also specify types of signs that may be installed without further permits.

(Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 6 SIGN MAINTENANCE

Sec. 16-10-510. Generally.

Signs and sign structures of all types (attached, detached and temporary) shall be maintained as provided in this Division.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-10-520. Paint and finishes.

Paint and other finishes shall be maintained in good condition. Peeling finishes shall be repaired. Signs with running colors shall be repainted, repaired or removed if the running colors were not a part of the original design.

(Ord. No. 03-2015, § 2, 7-7-2015; Ord. No. 03-2016, § 1, 3-29-2016)

Sec. 16-10-530. Mineral deposits and stains.

Mineral deposits and stains shall be promptly removed.

(Ord. No. 03-2015, § 2, 7-7-2015; Ord. No. 03-2016, § 1, 3-29-2016)

Sec. 16-10-540. Corrosion and rust.

Permanent signs and sign structures shall be finished and maintained to prevent corrosion and rust. A patina on copper elements is not considered rust.

(Ord. No. 03-2015, § 2, 7-7-2015; Ord. No. 03-2016, § 1, 3-29-2016)

Sec. 16-10-550. Damage.

Permanent signs that are damaged shall be repaired or removed within 60 days. Temporary signs that are damaged (e.g., torn feather flags or yard signs) shall be removed within 24 hours.

(Ord. No. 03-2015, § 2, 7-7-2015; Ord. No. 03-2016, § 1, 3-29-2016)

Sec. 16-10-560. Level position.

Signs that are designed to be level, whether temporary or permanent, shall be installed and maintained in a level position.

(Ord. No. 03-2015, § 2, 7-7-2015; Ord. No. 03-2016, § 1, 3-29-2016)

DIVISION 7 NONCONFORMITIES AND ENFORCEMENT

Sec. 16-10-610. Nonconforming signs.

(a) *Generally.* Any permanent sign that exists on August 6, 2015, the effective date of this Article, but does not conform to the provisions of this Article, is a "legal nonconforming" sign, provided that it was originally approved by a sign permit, or, if no sign permit was required under applicable law, it was in all respects in conformity with the applicable law immediately prior to the effective date or had legal nonconforming status at such time.

(b) *Repairs and alterations.* Routine maintenance of nonconforming signs is permitted, including necessary non-structural repairs, paint and incidental alterations (e.g., changing the message of the sign by replacing or repainting the sign face). Structural alterations to nonconforming signs are permitted only if it is demonstrated that the alteration will eliminate the nonconformity.

(c) *Termination and removal.*

- (1) A nonconforming sign which has been damaged by fire, wind or other cause in excess of 50 percent of its replacement cost shall not be restored, except in conformance with this Article.
- (2) If an element of a sign that causes the sign to be nonconforming is removed, it shall not be replaced, except with a conforming element.

(3) If a nonconforming sign structure becomes an abandoned sign, it shall be removed or brought into conformance with this Article. For the purposes of this standard, a temporary "sock sign" may be used to display a message while a new sign face is being created.

(4) If a nonconforming sign structure is removed for any reason other than routine repair and maintenance, it shall not be replaced unless the replacement sign conforms to this Article.

(5) Nonconforming signs that are a danger to the public safety due to damage or wear shall be removed and shall not be replaced unless the replacement sign conforms to this Article.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-10-620. Enforcement.

(a) *Enforcement authority.* This Article shall be enforced by the Chief Administrative Official or the Code Enforcement Officer.

(b) *Immediate removal of signs.* Signs that are unlawfully located within the public right-of-way may be summarily removed by the Town and disposed of without notice.

(c) *Penalty for noncompliance.* Every person convicted of a violation of any provision of this Article shall be punished by fine not exceeding \$2,650.00 per day the violation continues. The Municipal Court may further order the defendant to remove a prohibited or unlawful sign within 20 days and, if the defendant fails to do so, that the Town may remove such sign and charge the property owner for the cost of removal plus a five-percent fee for administration, inspection and other incidentals.

(d) *Serving of notice.*

- (1) Notices of violation of this Article shall be either:
 - a. Sent by first-class mail, postage pre-paid, to the address of the record owner of the real estate and/or person in possession and control of the property upon which the violation is alleged; or
 - b. Personally served upon such person.
- (2) The notice of violation shall identify the sign or activity that is in violation of this Article and cite the section number that is allegedly violated. The notice of violation shall provide a period of not less than 14 days to cure the violation.
- (3) Failure to comply with the terms of the notice of violation may result in a summons to appear in Municipal Court.

(e) *Lien for collection of fines, penalties and costs.* In order to collect fines, penalties and costs that are assessed by the Municipal Court, the Town may file a lien against the property upon which the prohibited or unlawful sign is located, such lien to have priority over all liens except general taxes and prior special assessments. The lien shall be placed upon the tax rolls for the current year, to be collected in the same manner as other taxes are collected. The Town may file such lien at any time not less than 30 days after judgment is entered by the Municipal Court.

(f) *Alternative procedure.* The Board of Trustees finds that the signs and sign elements that are prohibited by Section 16-10-120 of this Article are a public nuisance. As such, in the alternative to the procedure set out in this Section, the Town may enforce this Article with respect to prohibited signs and prohibited sign elements in accordance with Chapter 7 of this Code.
(Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 8 DEFINITIONS

Sec. 16-10-710. Definitions.

For purposes of this Article, the following words shall have the meanings ascribed hereafter:

Abandoned sign means a sign that does not contain a message or contains a commercial or event-based message that is obviously obsolete (e.g., the name of a business that is no longer operational or an advertisement for an event that has already occurred), for a continuous period of 60 days.

Attached sign means a sign that is attached to or located inside a building (e.g., a wall sign, projecting sign, awning sign or window sign).

Awning sign means a sign that is mounted, painted or attached to canvas or other material that is installed over a projecting structural framework above a building window or door.

Banner means a type of temporary sign that is painted or printed on cloth, vinyl or other flexible material, which is typically mounted to poles, fences or walls with ties, clips, rails, brackets, hooks or frames.

Building elevation means the external face of a building, projected onto a two-dimensional plane. For purposes of calculating allowed sign area, the building elevation is the two-dimensional representation of the side of the building upon which the sign is proposed.

Detached sign means a sign that is not attached to or located inside a building (e.g., a monument sign or pole sign).

e.g. means "for example," and is intended to be illustrative and not exclusive.

Electronic message center (EMC) means a display surface that is composed of light-emitting

diodes (LEDs) and that is capable of displaying variable messages and graphics, which are generally created on a computer.

Feather flag means a flag that is mounted on a temporary flagpole (e.g., a flagpole that is installed in a mount that is staked into the ground), which may be vertical, bowed or flexible. Feather flags do not include flags that are flown from permanent, vertical flagpoles.



Flag means a flexible piece of fabric that is attached along one edge to a pole or rope and that is designed to move when the wind blows. Flags are typically (but not necessarily) rectangular in shape, and often (but not always) include printed or embroidered insignia that symbolizes a nation, state or organization, or that display a graphic or message.

Freestanding sign means a pole sign or a monument sign.

Land Use Code means the Land Use Code of the Town, Chapter 16 of this Code, as amended from time to time.

lf. means linear foot.

Lux means a measure of illuminance (a measure of light that falls upon or passes through an object), in terms of lumens per square meter.

Monument sign means a type of freestanding permanent sign generally having a low profile with little or no open space between the surface of the ground and the sign face or frame.

Nits means a measure of luminance (a measure of light that is emitted from an object), in terms of candelas per square meter.

Pixel pitch means a measurement of the resolution of an electronic message center display, in terms of the distance (generally in millimeters) between the center of a light-emitting diode (LED) cluster (pixel) and the center of the next LED pixel. Lower pixel pitch measurements indicate higher display resolution.

Pole sign means a type of freestanding permanent sign that is mounted upon one or more poles.

Portable sign means a sign that is designed to be easily moved from one location to another and, when placed, is neither fastened to a permanent structure or building, nor staked or otherwise installed into the ground. Portable signs include signs that are mounted on trailers, wheeled carriers or frames that are designed to be placed onto a surface without being secured to it.

Projecting sign means a sign that is mounted upon a building wall, such that the sign face is not roughly parallel to the building wall.

Roof sign means a sign that is installed, in whole or in part, above an eave line or parapet of a building.

sf. means square foot.

Sidewalk sign means a type of portable sign that is designed to be placed (but generally not anchored) upon a hard surface in order to attract the attention of pedestrians.

Sign means any surface, fabric, device or display which bears lettered, pictorial or sculptured matter, designed to convey information to the public, that is visible from abutting property, a

public street, sidewalk or right-of-way. The term *sign* also includes all structural members (if any).

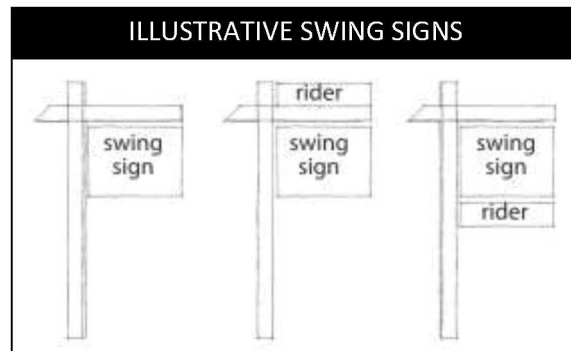
Sign face means the surface area of a sign which is designed for placement of text, symbols or images. The sign face does not include the supporting structure, if any, unless the supporting structure is used for the display of text, symbols or images. For wall signs, the sign face is equal to the sign area of the wall sign, or the area within any frame or color used to define, differentiate or mount the wall sign, whichever is larger.

Site sign means a type of temporary sign that is constructed of vinyl, plastic, wood, metal or other comparable rigid material, and that is displayed on a structure that includes at least two posts.

Sock sign means a type of temporary sign that is constructed of flexible material, designed to fit over a permanent sign face or mount.

Substantial modification means any modification of a sign that involves alteration or replacement of a structural support, enlargement of the sign area, material changes to the sign height or sign clearance, obvious changes of materials or components (e.g., replacement of wood with plastic), addition of new components (e.g., installation of lighting or an EMC) or repairs that cost more than 50 percent of the replacement cost of the sign. Substantial modifications do not include replacement of sign panels in a sign cabinet with comparable materials that display different messages, replacement of existing light sources with compliant light sources (unless the electrical work exceeds the repairs limit), painting or repainting,

Swing sign means a type of temporary sign that is suspended from a horizontal swing post attached to a post that is staked into the ground. Swing signs may include riders that are mounted to the swing post or suspended under the sign panel.



Town means the Town of Pierce, Colorado.

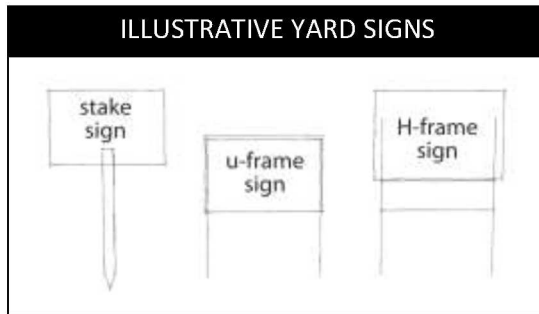
Under-canopy sign means a type of permanent sign that hangs from a canopy or awning structure, generally perpendicular to the building upon which the canopy or awning structure is mounted.

Wall sign means a type of permanent sign that is painted on or applied to a wall of a building; and a type of permanent sign that is installed against the wall of a building, with a structure that extends not more than one foot from the building wall and a sign face that is roughly parallel to the building wall upon which the sign is mounted.

Window sign means a type of temporary or permanent sign that is: (1) painted on, applied to or attached to a window; or (2) installed or positioned within a building such that the sign face is oriented towards and highly visible through a window that is within six feet of the sign.

Window transparency, when used in relation to regulation of window signs, means the percentage of a window that is not covered or obstructed by a window sign.

Yard sign means a type of temporary sign that is constructed of paper, vinyl, plastic, wood, metal or other comparable material, and that is mounted on a stake or a frame structure (often made from wire) that includes one or more stakes.



(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 11 FLOOD DAMAGE PREVENTION

Sec. 16-11-10. Adoption.

There is hereby adopted by reference, pursuant to Section 31-16-202, C.R.S., the Colorado Floodplain Damage Prevention Ordinance promulgated by the Department of Natural Resources, Colorado Water Conservation Board, an agency of the State of Colorado located at the address of 1313 Sherman Street, Room 721, Denver, CO 80203.

(Ord. No. 2013-5, § 1, 8-12-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-11-20. Intent and purpose.

The purpose of adopting and enforcing the floodplain management regulations is to meet or exceed the minimum National Flood Insurance Program standards and requirements. These standards are intended to prevent loss of life and property, as well as economic and social hardships that result from flooding. In return for the local adoption and enforcement of floodplain management regulations, the Federal Emergency Management Agency (FEMA) provides the availability of flood insurance coverage within the Town. The State adopted higher standards for floodplain management, which are outlined in the Rules and

Regulations for Regulatory Floodplains in Colorado, effective January 14, 2011. The Rules are the effective minimum standards for the State, and communities had three years from January 14, 2011, to adopt a local ordinance consistent with the Rules. This model ordinance is adapted from the FEMA model ordinance and incorporates the minimum standards of the State contained in the Rules.

(Ord. No. 2013-5, § 2, 8-12-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-11-30. Penalty.

Any person who violates this Article, upon conviction thereof, shall be punishable by a fine of up to \$2,650.00. Each occurrence of a violation shall be deemed a separate offense.

(Ord. No. 2013-5, § 3, 8-12-2013; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 12 NONCONFORMING USES

Sec. 16-12-10. Continuation of uses.

Except as provided in this Article, the lawful use of any building or land existing at the time of enactment of this Chapter, or of any amendments to this Chapter, may be continued even though such use does not conform to the requirements of this Chapter.

(Prior Code, § 6-12; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-12-20. Repairs and maintenance.

Ordinary repairs and maintenance of nonconforming buildings shall be permitted.

(Prior Code, § 6-12A; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-12-30. Restoration.

A nonconforming structure which has been damaged by fire or other causes may be restored to its

original condition, provided that such work is commenced within six months after such calamity and completed within one year after such calamity. Damage to the nonconforming structure shall not exceed 50 percent of the value of the structure in order to comply with the provisions of this Section.

(Prior Code, § 6-12B; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-12-40. Abandonment.

Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of this Chapter.

(Prior Code, § 6-12C; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-12-50. Change in use.

A nonconforming use shall not be changed to a use of lower or less restrictive classification. Such nonconforming use may, however, be changed to another use of the same or higher classification.

(Prior Code, § 6-12D; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-12-60. Extensions.

A nonconforming use shall not be extended either in intensity of use or in floor area or lot area.

(Prior Code, § 6-12E; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-12-70. Moving.

No building or structure which does not conform to all the regulations of the district in which it is located shall be moved in whole or in part to another location unless every portion of such build-

ing or structure is moved and the use thereof is made to conform to all regulations of the district into which it is moved.

(Prior Code, § 6-12G; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 13 OIL, GAS AND OTHER WELLS

Sec. 16-13-10. Legislative intent.

The purpose of this Division is to:

- (1) Recognize that oil and gas wells are a necessary facet of natural energy production.
- (2) Recognize and ensure the rights of those concerned to extract petroleum resources from the earth.
- (3) Recognize and ensure the rights of those concerned with the use and development of the surface of the land.
- (4) Ensure that the petroleum resource land uses are compatible with the total environment of the community.
- (5) Protect the public from the hazards of oil and gas well drilling and development.

(Prior Code, § 6-12H; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-13-20. Notice to Town.

(a) Any person intending to commence operations for the drilling, completion, reworking, production or modification of an oil and gas well within the Town shall notify the Town Clerk at least 30 days in advance of commencement of such operations. Such notice shall include:

- (1) The proposed date of operations from commencement to completion.
- (2) The location of the proposed operation.

(b) The person intending to commence operations shall provide to the Town copies of authority for such operations which may have been obtained from the Colorado Oil and Gas Commission and copies of documents filed with the Colorado Oil and Gas Commission regarding the proposed operations.

(Prior Code, § 6-12H; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-13-30. Permit required.

No person shall commence operations for the drilling, completion, reworking, production or modification of an oil and gas well within the Town without first having lawfully complied with the ordinances of the Town, including the application for and obtaining of a building, excavation or demolition permit. It is unlawful for any person to commence operations for the drilling, completion or production of oil and gas or other hydrocarbon oil within the Town without first having lawfully complied with the requirements of this Article, the zoning ordinances and the building codes.

(Prior Code, § 6-12H; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-13-40. Prohibited in certain locations.

The drilling, completion, production, reworking or modification of an oil and gas or hydrocarbon well and the installation of tank batteries and other structures accessory to oil and gas wells within the Town shall be entirely prohibited as follows:

- (1) In all zoning districts except industrial and agricultural districts. Persons or firms desiring to drill, rework or modify oil, gas or other hydrocarbon wells in the agricultural or industrial district shall file a written application with the Town Clerk. The Board of Trustees shall conduct a public hearing upon such application, providing

15 days' notice of such public hearing for the purpose of taking public comment on the granting or denial of such permit application. In granting a permit, the Board of Trustees may impose such conditions as may be reasonable to protect the public health, safety and welfare prior to granting such a permit.

- (2) Within 350 feet of any residence or business, commercial or industrial building.
- (3) Within 300 feet of any property line separating properties under different ownership, unless by joint agreement of the surface owners of properties on either side of the property line. If the State, through its regulatory agency, applies a greater setback requirement with regard to property lines, the state requirement shall apply.
- (4) Within 300 feet of any actual or proposed street or alley.
- (5) Within 100 feet of any actual or proposed utility easement or utility right-of-way.
- (6) Within any of the streets or alleys or proposed streets or alleys of the Town; and no street or alley should be blocked, encumbered or closed by any drilling or production operation except by special permit.

(Prior Code, § 6-12H; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-13-50. Insurance requirements.

Every operator shall submit a copy of an insurance policy naming the Town as an additional insured. Such insurance policy shall be in the face amount of no less than \$1,000,000.00 aggregate coverage and \$300,000.00 per individual. Such policy shall be written by a company authorized to do business in the State and shall insure both the applicant and the Town for damages to persons or property or for pollution of land, streams or air, if such damage or pollution arises out of

drilling, maintenance, production or other work done with respect to such proposed oil or gas well. (Prior Code, § 6-12H; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-13-60. Bond requirements.

Every operator shall, prior to commencing drilling or other operations, submit a bond in favor of the Town in the amount of \$50,000.00 for each well to be drilled. The bond shall be executed by the operator and corporate surety authorized to do business in the State and conditioned that the operator shall:

- (1) Pay all fees and sums due to the Town under this Chapter, comply with and abide by the ordinances of the Town and the laws of the State and, should the operator fail to do so, pay all costs and expenses incident in such failure to comply.
- (2) In the event the well is completed, abandoned or shut in, restore the site as much as possible to the same condition the site was in prior to commencement of the drilling operations.
- (3) Plug abandoned wells in accordance with the laws and regulations of the State and the Oil and Gas Conservation Commission and operate or maintain any producing well or shut-in well in accordance with state law and the rules and regulations of the Oil and Gas Conservation Commission.

(Prior Code, § 6-12H; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-13-70. Information to Town during operations.

The operator shall furnish to the Town such reports, logs or other information as the Town may from time to time request.

(Prior Code, § 6-12H; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-13-80. Transfer of operations.

No operator who has been granted a permit to drill or operate an oil and gas well shall sell, transfer, assign or convey the drilling site, equipment or operations without notifying the Town prior to such transfer, assignment or conveyance. (Prior Code, § 6-12H; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 14 SPECIAL REVIEW

Sec. 16-14-10. Intent.

The intent of this Article is to require a public hearing for special land uses in order to determine if the use has the potential to adversely affect other land uses, transportation systems, public facilities or the like, in surrounding neighborhoods, thereby ensuring that uses by special review will not harm the health, safety and welfare of the Town and its residents. The Board of Trustees may disapprove any such request or impose conditions and safeguards as may be required to maintain the intent of this Chapter.

(Ord. No. 2006-3, § 4, 11-13-2006; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-14-20. Use by special review.

(a) Uses by special review are uses which have been determined by the Board of Trustees to be more intense or to have the potential of a greater impact when compared to the uses allowed by right in a particular zoning district. A use by special review will require additional consideration to ensure that such use is designed, constructed and operated in a manner that is compatible with the existing and planned uses for the neighborhood. Additional consideration given to a use by special review is designed to protect the health, safety, convenience and general welfare of present and future residents of the Town.

(b) The Board of Trustees may approve the establishment of a use by special review through granting a special review or special use permit. All requests for a use by special review shall be reviewed by the Planning Commission. The Planning Commission shall provide a recommendation to the Board of Trustees for its consideration.

(c) Ordinary repairs and maintenance may be performed upon structures associated with a use by special review so long as such actions do not have the effect of expanding or enlarging the use, creating a more intensive use or changing the impact of the special use on the neighborhood by creating increased traffic, dust, pollution or other impact on the neighborhood not contemplated in the original use by special review.

(d) If the use by special review is discontinued for a period of one year, it shall be considered abandoned and a new application and approval procedures must be followed to reestablish the abandoned use.

(e) Applications for a use by special review shall be completed and filed with the Town Clerk. An application fee for each use by special review shall be such amount as set forth in the Town Fee Schedule.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-14-30. Procedure for permit.

The following procedure shall be followed by the applicant for a special use permit:

- (1) The applicant shall file a request for a review of the proposed special use and pay the appropriate fees.
- (2) The Planning Commission shall schedule a public hearing within 35 days after the filing of such application and shall publish notice of the date and time of a public hearing on such application.
- (3) The Planning Commission shall make a recommendation to the Board of Trustees based upon the following criteria:
 - a. The proposal is consistent with the Comprehensive Plan.
 - b. The proposal is consistent with the intent of the zoning district in which the use is proposed to be located.
 - c. The use which would be permitted will be compatible with the existing surrounding land uses and will not be substantially dissimilar from such uses.
 - d. The use which would be permitted will be compatible with future development of the surrounding area as permitted by the existing zoning and with the future development as projected by the Comprehensive Plan.
 - e. The use will not cause an unreasonably severe demand on Town services, such as police and fire protection, drainage control, water supply and sanitary sewer service.
 - f. The use will not adversely affect traffic flow and parking in the neighborhood.
 - g. There is adequate provision for the protection of the health, safety and welfare of the inhabitants of the neighborhood and the Town.
- (4) The Planning Commission's recommendation shall be forwarded to the Board of Trustees, which shall then consider the application and recommendation of the Planning Commission no later than 45 days after receipt of the recommendation of the Planning Commission. The Board of Trustees shall conduct a public hearing upon the application and shall grant or

deny the application based upon the criteria set forth in Paragraph (3) above. Such use shall only be granted if the Board of Trustees is satisfied that adequate water and sewer service is available to the site and that soil and geologic conditions are appropriate for the proposed use.

- (5) Uses by special review will meet the following requirements:
- a. Stormwater detention facilities shall be provided on site, which shall contain stormwater as may be determined by the Town Engineer. The drainage facility shall be designed to release all detained water at a quantity and rate not to exceed the quantity and rate of a five-year storm falling on the undeveloped site.
 - b. All parking and vehicle storage areas shall be provided on site, and parking shall not be permitted on the public right-of-way.
 - c. Adequate fire protection measures shall be available to the site.
 - d. Access to the site shall be provided in a safe manner which requires acceleration or deceleration lanes or other modifications to the street system at the applicant's expense.
 - e. Buffering or screening of the proposed use from adjacent properties shall be provided to improve compatibility, either by fencing, berming, landscaping or other procedures as may be appropriate.
 - f. Such other requirements as the Board of Trustees may deem appropriate to make the use compatible with existing uses in the neighborhood.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-14-40. Application requirements.

The application for a use by special review shall contain the following:

- (1) A statement which explains the proposed use and that the use is consistent with the Comprehensive Plan.
- (2) A statement which explains that the proposed use is consistent with the intent of the zoning district in which the proposed use is located.
- (3) A statement that explains that the use to be permitted would be compatible with the existing, surrounding land uses.
- (4) A statement which explains that the proposed use will comply with the requirements of Paragraph 16-14-30(3) above.
- (5) The name, address and telephone number of the applicant and the name, address and telephone number of the fee owner of the property proposed for the use by special review.
- (6) The legal description of the property, together with a site plan showing the entire parcel and the parcel designated for the special use.
- (7) A vicinity map showing the existing property and the existing use of properties adjacent to the property on which the special use is proposed.
- (8) A certified list of the names and addresses of the property owners within 100 feet of the property for which the special use is proposed, together with a certified list of the names and addresses of the mineral owners and lessees on or under the parcel of land being considered for a special use.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-14-50. Term of use.

The use may be permitted for a term of years or for a permanent change in the use of the property. The granting of the special use may include such other requirements as may be necessary to comply with the criteria established by this Article. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-14-60. Notice.

(a) Notice as described in this Article shall constitute mailing by U.S. Postal Service regular mail or personal service.

(b) Notice of a public hearing shall be by posting an appropriate sign on the property setting forth the date, time and place of the hearing and a brief description of the use requested. Such posting shall be done at the direction of the Town Clerk by the applicant.

(c) Notice of a public hearing shall also be by publication in the official newspaper one time at least ten days prior to the public hearing. (Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 15 BUILDING REVIEW**Sec. 16-15-10. Purpose.**

With the purpose of conserving the value of buildings and encouraging the most appropriate use of land throughout the Town, the Board of Trustees may review all building and sign permits where the character of the proposed construction might be so at variance with the established exterior architectural appeal and functional plan of the structures already located in the neighborhood as to depreciate the value of such established buildings. The Board of Trustees must restrict its review in such case to the effect of the proposed construction on the health, safety, morals and general welfare of the Town, keeping particularly

in mind the unique characteristics of existing structures which have established special land values and prosperity for the entire community. (Prior Code, § 6-13A; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-15-20. Method.

After receiving exterior elevations of the proposed structure, viewing the site on which such construction is proposed to be placed and notifying the applicant of the time and place of a hearing on such subject, the Board of Trustees may approve, disapprove or approve subject to certain conditions, any application which may require such building review. For each case, the Board of Trustees may obtain testimony from local architects or other qualified personnel on the possible effect of the proposed construction on established land values.

(Prior Code, § 6-13B; Ord. No. 2016-4, § 1, 8-29-2016)

**ARTICLE 16 BOARD OF ADJUSTMENT;
VARIANCES****Sec. 16-16-10. Powers and duties.**

(a) The Board of Adjustment shall have the following powers and duties, all of which shall be exercised subject to the laws of the State and subject to appropriate conditions and safeguards, in harmony with the purpose and intent of this Chapter and in accordance with the public interest and the most appropriate development of the area:

- (1) To hear and decide appeals from and review any order, requirements, decision or determination made by an administrative official charged with enforcement of the regulations established by this Chapter.

- (2) To hear and decide requests for special exceptions as referred to the Board of Adjustment in other sections of this Chapter.
- (3) To authorize upon appeal in specific cases variances from the terms of the Chapter where, by reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to owners of said property from a strict enforcement of this Chapter.

(b) A concurring vote of four members is needed to reverse any order, requirement, etc., of the administrative official charged with enforcing this Chapter; to decide in favor of any applicant on any matter upon which the Board of Adjustment is required to pass under this Chapter; or to effect any variation in this Chapter.

(Prior Code, § 6-14A; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-16-20. Procedure.

The Board of Adjustment shall hold a public hearing on all applications and appeals with the following special conditions required:

- (1) For applications for variances relating to the use requirements of this Chapter, a written notice of the hearing shall be sent by first-class mail at least ten days, or delivered personally at least seven days, prior to the hearing date, to owners of property within 300 feet of the property in question. The names of such owners shall be provided by the applicant.
- (2) For applications for variances not relating to the use requirement of this Chapter, a written notice of the hearing shall be sent by first-class mail at least ten days, or delivered personally at least seven days, prior to the hearing date to owners of

property adjacent to the property in question. The names of such owners shall be provided by the applicant.

- (3) All applications for variances relating to the use requirements of this Chapter shall be accompanied by a deposit for advertising as required by the Town Clerk and a fee as set forth in the Town Fee Schedule or otherwise established by ordinance or regulation.

- (4) Unless otherwise stated in the Board of Adjustment minutes, resolution or order of the Board of Adjustment, all variance permits shall be valid in perpetuity.

(Prior Code, § 6-14B; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 17 VESTED PROPERTY RIGHTS

Sec. 16-17-10. Definitions.

As used in this Article, unless the context otherwise requires, the following terms shall have the following meanings:

Site specific development plan means, for all developments, the final approval step, irrespective of its title, which occurs prior to building permit application; provided, however, that, if the landowner wishes said approval to have the effect of creating vested property rights pursuant to Article 68 of Title 24, C.R.S., the landowner must so request at least 28 days prior to the date said approval is to be considered. Failure to so request renders the approval not a site specific development plan, and no vested rights shall be deemed to have been created. The Board of Trustees may, by agreement with the developer, designate an approval other than described above to serve as the site specific development plan approval for a specific project.

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 within three years of approval of such plan, unless there is an agreement between the Town and the developer for a shorter or longer duration.

(Ord. No. 5-99, § 1, 8-9-1999; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-17-20. Notice and hearing.

No site specific development plan shall be approved until after a public hearing before the Board of Trustees for the final decision. Notice of such hearing shall be published once, at least seven days prior to the hearing. Such notice may, at the Town's option, be combined with the notice required by Section 31-23-304, C.R.S., for zoning modifications or with any other notice. At such hearing, interested persons shall have an opportunity to be heard.

(Ord. No. 5-99, § 2, 8-9-1999; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-17-30. Application requirements.

Any applicant for a site specific development plan shall provide all submittals required for final plat approval as set forth in this Code, or other regulations and requirements of the Town. No applicant shall be required to provide a sketch plan as defined in Section 30-28-101(8), C.R.S., a final architectural plan, public utility filings or final construction drawings and related documents specifying materials and methods for construction of improvements.

(Ord. No. 5-99, § 3, 8-9-1999; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-17-40. Other provisions unaffected.

Approval of a site specific development plan shall not constitute an exemption from or waiver

of any other provisions of the development requirements pertaining to the development and use of property.

(Ord. No. 5-99, § 4, 8-9-1999; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-17-50. Amendments.

In the event amendments to a site specific development plan are proposed and approved, the effective date of such amendments for purposes of duration of a vested property right shall be the date of approval of the original site specific development plan unless the approval action specifically finds to the contrary and incorporates such findings in the approval of the amendment.

(Ord. No. 5-99, § 5, 8-9-1999; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-17-60. Notice of approval.

Each map, final plat, site plan or other document constituting a site specific development plan shall contain the following language: "Approval of this plan creates a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended."

Failure to contain this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved and the specific parcel of property affected and stating that a vested property right has been created shall be published once, not more than 14 days after approval of the site specific development plan, in a newspaper of general circulation within the Town.

(Ord. No. 5-99, § 6, 8-9-1999; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-17-70. Payment of costs.

In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site specific development plan shall pay a fee as set forth in the Town Fee Schedule, together with all costs occasioned to the Town as a result of

the site specific development plan review, including publication costs and public hearing costs, if a separate public hearing is necessary.

(Ord. No. 5-99, § 7, 8-9-1999; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-17-80. Limitations.

Nothing in this Article is intended to create any vested property right, but only intended to implement the provisions of Article 68 of Title 24, C.R.S.

(Ord. No. 5-99, § 8, 8-9-1999; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-17-90. Publication.

Following approval of a site specific development plan and creation of a vested property right, a notice shall be published in a newspaper of general circulation within the Town, such notice advising the general public of such approval and creation of a vested property right. Such publication shall occur within 14 days of approval pursuant to Section 24-68-103, C.R.S.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-17-100. Interpretation.

This Article shall be so interpreted and construed as to effectuate its general purpose.

(Ord. No. 5-99, § 9, 8-9-1999; Ord. No. 2016-4, § 1, 8-29-2016)

**ARTICLE 18 SUPPLEMENTARY
REGULATIONS**

Sec. 16-18-10. General applicability.

Regulations specified in other sections of this Chapter shall be subject to the interpretations and exceptions set forth in this Article.

(Prior Code, § 6-11; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-18-20. Uses permitted.

(a) *Illumination of uses.* Any light used to illuminate signs, parking areas or for any other purposes shall be so arranged as to reflect the light away from nearby residential properties and away from the vision of passing motorists.

(b) *Signs.* In addition to other requirements of this Chapter, all signs for identification or outdoor advertising purposes shall comply with the following conditions:

- (1) No sign shall be located so that safety of a moving vehicle will be impaired by distracting the vision of the driver of the vehicle.
- (2) All signs exceeding one square foot of surface for each three feet of lot frontage shall be subject to approval by the Board of Trustees according to the provisions of Article 10 of this Chapter.
- (3) No sign shall project above the roofline of any structure or building on the same lot on which the sign is placed, nor shall any sign exceed the building height limit of the zone district in which it is placed.

(Prior Code, § 6-11A; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-18-30. Minimum lot area.

Where an individual lot was held in separate ownership from adjoining properties or was platted and recorded at the time of passage of the ordinance codified herein and has less area and/or less width than required in other sections of this Chapter, such lot may be occupied according to the permitted uses provided for the district in which such lot is located, except in the case of motels, hotels, lodges and resorts, which shall not be subject to the preceding exception.

(Prior Code, § 6-11B; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-18-40. Minimum lot width.

No part of an area or width required for a lot for the purpose of complying with the provisions of this Chapter shall be included as an area or width required for another building.

(Prior Code, § 6-11C; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-18-50. Minimum front yard.

Where lots comprising 50 percent or more of the frontage on one side of a street between intersecting streets have been improved with buildings at the time of passage of the ordinance codified herein, the average front yard of such buildings shall be the minimum front yard required for all new construction in such block.

(Prior Code, § 6-11D; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-18-60. Minimum floor area.

In measuring the minimum floor area as required, all measurements shall be along outside walls of the living area, not including garages or carport areas.

(Prior Code, § 6-11E; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-18-70. Minimum off-street parking.

Each space shall be not less than ten feet wide, 20 feet long and seven feet high, shall have vehicular access to a street or alley and shall be located on the same lot as the principal use which it serves in the R-1 and R-2 Districts and within 200 feet of the principal use in the C and I Districts. An area of 300 square feet, which includes area for ingress and egress, shall be required for each parking space.

(Prior Code, § 6-11F; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-18-80. Exclusions.

(a) No junk or waste shall be stored outdoors except as follows:

- (1) In residential areas, in containers of 32 gallons or less and no more than four per address, or in carts specifically designed for containing household refuse and approved by the Town.
- (2) In commercial and industrial areas, in such receptacles as are commonly designed for containing trash and refuse and as are approved by the Town.

(b) No junk material, wastes or trash shall be removed from one parcel of property and disposed of by depositing upon another parcel of property or in the streets or public rights-of-way, except by being delivered to an authorized dump site.

(c) On corner lots, no planting of shrubs, trees or flowers or the erection of a solid fence or structure over 30 inches above the level of the roadway or street which obstructs the view of traffic shall be permitted within the triangle measured from the point of intersection of the lot lines abutting the streets to a distance of 25 feet along each such lot line.

(d) It is unlawful to sell any products at retail or wholesale from any temporary stand, temporary structure, motor vehicle or trailer, except agricultural products grown on the premises upon which the stand is located.

(e) Yard sales and garage sales shall be allowed for no longer than two days at a time.

(Prior Code, § 6-11G; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-18-90. Concrete foundations.

All dwellings, including manufactured homes, factory-built homes and mobile homes not located in a designated mobile home park, shall be

set on and attached to a permanent concrete foundation, which consists of a poured eight-inch-wide formed wall, which extends a minimum of six inches above grade and shall include crawl spaces. All foam-formed systems shall either be covered or protected at all points above grade.

(Prior Code, § 6-11H; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-18-100. Mobile homes.

(a) Mobile homes may only be located, erected or placed in mobile home parks pursuant to Article 4 of this Chapter. Mobile homes which are not located in a mobile home park and which have been established and located upon any lot for more than five years prior to January 1, 1997, shall be allowed to remain as a preexisting nonconforming use. Such preexisting, nonconforming mobile homes may be replaced by newer and larger mobile homes, so long as the owner of such lot or parcel upon which the mobile home is located has complied with all of the other requirements of this Chapter, except that no single-wide mobile home may be replaced with a double-wide mobile home.

(b) The area between the grade and the bottom of the mobile home shall be fully enclosed by a perimeter wall, constructed of wood, cement or cement block, so as to completely enclose the area; except that windows may be installed according to the adopted building code. The enclosing wall shall replicate a foundation and shall be for the purpose of preventing infestation by rodents and animals and to provide a uniform appearance throughout the Town.

(Prior Code, § 6-11I; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-18-110. Site distance; clear vision.

(a) *Purpose.* The purpose of the sight distance regulation is to provide for the preservation and promotion of the public health, welfare and safety

of the inhabitants of the Town by establishing minimum standards for the unobstructed cross-visibility at intersections of two public rights-of-way.

(b) *Definitions.*

Flowline means the transition between the gutter and the face of the curb within a public road right-of-way. For a cross-pan or valley pan, it is the center of the pan. Where no curb exists, *flowline* will be considered the edge of pavement or roadway of the outside traveled lane.

Sight distance obstruction means any object that interferes with the ability of a motor vehicle operator or pedestrian to adequately view traffic or control devices for the purpose of safe and proper use of public rights-of-way; such objects shall include, but not be limited to, walls, fences, hedges, shrubs, trees, signs, benches, vehicles and other such objects extending more than three feet above the flowline. A sight distance obstruction is hereby declared by the Board of Trustees to be a safety hazard and is a violation of this Code. Such violation may be punished or abated as provided in Chapter 7 of this Code.

(c) *Exemptions.* Exempted shall be permanent buildings, suitable for human occupancy, for which a valid building permit had been issued prior to the effective date of the ordinance codified herein.

- (1) The clear vision zone of a corner lot is a triangle formed by combining the lines of sight for both left and right directions along the intersecting streets or streets and alleys. Clear vision zones shall be free from any sight distance obstruction.
- (2) Trees in existence on the effective date of the ordinance codified herein are exempted. No trees shall be planted in any clear vision zone hereinafter described after said effective date.

(d) *Setbacks.* The following chart shall be used to establish clear vision zone setbacks:

Clear Vision Zone Setbacks

<i>Type of Street</i>	<i>Speed of Major Street</i>	<i>Y Distance (in feet)</i>	<i>X Distance (in feet)</i>
Arterial	30—50 + mph	Right 75 Left 150	8
Collector	30—35 mph	Right 75 Left 120	8
Local	25—30 mph	Right 60 Left 100	8

- (1) The distances in the clear vision zone setback chart are typical distances to be used under normal conditions and may be modified by the Board of Trustees in order to protect the public safety and welfare in the event that exceptional sight conditions necessitate such a modification.
- (2) At the intersection of a street and alley, the minimum clear vision distance shall be a triangle measuring 30 feet along each curb or edge of the roadway from the point of intersection, the third side being a diagonal line connecting the first two lines.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 19 MISCELLANEOUS PROVISIONS

Sec. 16-19-10. Amendments.

Amendments to this Chapter shall be in accordance with state law, which requires the following action before adoption of any such amendment.

- (1) Study and recommendation of the proposed amendment by the Planning Commission.
- (2) Completion of a public hearing before the Board of Trustees after at least 15 days' notice of the time and place of such hear-

ing has been given by at least one publication in a newspaper of general circulation within the Town or by posting at three public areas within the Town.

(Prior Code, § 6-15; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-19-20. Special procedure.

Before submitting a report and recommendation on any proposed amendment to this Chapter as required in Paragraph 16-19-10(1) above, the Planning Commission shall hold a public hearing on the proposed amendment with the following special conditions required:

- (1) A notice of said hearing shall be published once in a newspaper of general circulation within the Town or posted at three public areas in the Town at least 15 days prior to the hearing date, which notice may be concurrent with that required to be given by the Board of Trustees of its hearing.
- (2) For proposed amendments to the Zoning Map, a written notice of said hearing shall be sent by first-class mail, at least 15 days prior to the hearing date, to property owners within the area in question and within 300 feet of the area in question. The names of such owners shall be provided by the applicant.
- (3) For proposed amendments to the Zoning Map, a fee as set forth in the Town Fee Schedule shall be charged. The Town may also charge such additional costs as may be appropriate, including costs of mailing, costs of amending the map and such other costs as may be incurred by the Town which are directly attributable to the requested change of zoning.

(Prior Code, § 6-15; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-19-30. Enforcement; building permits.

It is unlawful to erect, construct, reconstruct, alter or change the use of any building or other structure within the Town limits without obtaining a building permit from the Town, and such permit shall not be issued unless the plans of and for the proposed erection, construction, reconstruction, alteration or use fully conform to the zoning and building code regulations then in effect, and unless plans are submitted to the Town pursuant to such regulations. All such submitted plans may be disposed of by the Town 180 days after issuance of a certificate of occupancy. For all building permits required, a fee established by the Town shall be charged, except that the following construction shall be exempt from paying a building permit fee:

- (1) All remodeling which does not extend the floor area of the building or alter walls or structural support of the building.
- (2) All construction with a total value of less than \$50.00.
- (3) Accessory buildings of 100 square feet or less and anchored.

(Prior Code, § 6-16A; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-19-40. Modifications of heating, plumbing and electrical systems.

All fireplaces, wood or coal stoves or changes or modifications in the heating, air conditioning, plumbing or electrical system shall be done only after a permit is issued. A certificate of occupancy or completion shall only be issued after a final inspection has been completed.

(Prior Code, § 6-16B; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-19-50. Interpretation; conflict with other laws.

In their interpretation and application, the provisions of this Article shall be held to be minimum

requirements adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this Article are at variance with the requirements of other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standard shall govern.

(Prior Code, § 6-17; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-19-60. Appeal procedure.

A person aggrieved by a decision of the Town as a result of the regulations and requirements contained in this Chapter may appeal such decision to the District Court, pursuant to the Colorado Rules of Civil Procedure. It shall, however, be a prerequisite to filing an appeal with the District Court that such aggrieved person file with the Board of Trustees a written request for reconsideration, setting forth the following:

- (1) The section of this Chapter by which the applicant believes he or she is aggrieved.
- (2) A statement setting forth the acts of the governing body which the applicant believes are inappropriate or do not comply with this Chapter or other law.

This Section shall not apply to an appeal from the Board of Adjustments, as such procedures are provided by state statute.

(Prior Code, § 6-19; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-19-70. Rezoning background, procedures and fees.

(a) *Background.* The existing Zoning Map which was adopted in February 1972 may be amended, changed, modified or repealed. In case, however, of a protest against a zoning change, Sections 31-23-304 and 31-23-305, C.R.S., state that a zone change will not be effective if there is opposition from:

- (1) The property owners of 20 percent or more of the area of lots included in such proposed change.

- (2) Those immediately adjacent in the rear extending 100 feet, or of those directly opposite extending 100 feet from the street frontage of opposite lots.

Therefore, an amendment to the Zoning Map shall not be effective if there is opposition, as described above, unless there is a favorable vote of two-thirds of the Board of Trustees.

(b) *Rezoning procedures.*

- (1) Applicants for a rezoning shall make a formal presentation before the Planning Commission as stipulated in this Section. This presentation should thoroughly describe the intent, legal location and size of the proposed rezoning.
- (2) Before the Planning Commission submits its report and recommendations to the Board of Trustees, the Planning Commission shall hold a public hearing. A written notice of said hearing shall be sent by certified mail at least 15 days prior to the hearing date to property owners within 300 feet of the area in question. Names of such owners shall be supplied by the applicant. A notice of said hearing shall be published once in a newspaper of general circulation within the Town or posted at three public areas in the Town at least 15 days prior to the hearing date.
- (3) The Board of Trustees shall review the Planning Commission report and recommendations and hold a public hearing on the proposed amendment. The hearing notice may be concurrent with the Planning Commission hearing. The Board of Trustees shall thereafter render a decision on the proposed amendment.

(c) *Fees.* A fee shall be charged to cover advertising and processing costs for proposed zoning amendments. A fee shall be charged for all other proposed amendments. Said fees are set forth in the Town Fee Schedule.

(Prior Code, § 6-19; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 16-19-80. Movable living facilities.

Mobile homes, camper trailers, motor vehicles or any living facility which is capable of being moved is not permitted in any zoning district, either on public or private property, except in compliance with Section 8-2-10 of this Code, and for no more than two weeks in any calendar year. (Ord. No. 2016-4, § 1, 8-29-2016)

Chapter 17

Subdivisions

Article 1 General and Administrative Provisions

- Sec. 17-1-10. Declaration of purpose.
- Sec. 17-1-20. Control.
- Sec. 17-1-30. Jurisdiction.
- Sec. 17-1-40. Fees.
- Sec. 17-1-50. Interpretation of language.
- Sec. 17-1-60. Definitions.
- Sec. 17-1-70. Interpretation.
- Sec. 17-1-80. Validity.
- Sec. 17-1-90. Amendment.
- Sec. 17-1-100. Penalty.

Article 2 Procedure for Plats

- Sec. 17-2-10. Preapplication procedure.
- Sec. 17-2-20. Conditional approval of preliminary plat.
- Sec. 17-2-30. Approval of final plat.
- Sec. 17-2-40. Outline development plan and data.
- Sec. 17-2-50. Preliminary plat and data.
- Sec. 17-2-60. Final plat and data.

Article 3 Minor Subdivisions

- Sec. 17-3-10. Intent.
- Sec. 17-3-20. Application process.
- Sec. 17-3-30. Step 1, Pre-application conference.
- Sec. 17-3-40. Step 2, Application submittal.
- Sec. 17-3-50. Step 3, Town Staff certifies application is complete.
- Sec. 17-3-60. Step 4, Applicant submits letters of support and commitment to serve.
- Sec. 17-3-70. Step 5, Applicant posts signs on property and provides signed affidavit to Town.
- Sec. 17-3-80. Step 6, Town Staff notifies interested parties.
- Sec. 17-3-90. Step 7, Town Staff reviews application and prepares comments.
- Sec. 17-3-100. Step 8, Applicant responds to Town Staff comments.
- Sec. 17-3-120. Step 9, Final Town Staff review.
- Sec. 17-3-130. Step 10, Board of Trustees action.
- Sec. 17-3-140. Minor subdivision plat review criteria.

Article 4 Design Standards

- Sec. 17-4-10. General site considerations.
- Sec. 17-4-20. Arrangement of streets.
- Sec. 17-4-30. Closed-end streets.
- Sec. 17-4-40. Intersection of streets.
- Sec. 17-4-50. Half-streets.
- Sec. 17-4-60. Perimeter streets.
- Sec. 17-4-70. Right-of-way, pavement and sidewalk widths.
- Sec. 17-4-80. Horizontal adjustment.

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- Sec. 17-4-90. Vertical alignment.
- Sec. 17-4-100. Street names.
- Sec. 17-4-110. Utility easements.
- Sec. 17-4-120. Blocks.
- Sec. 17-4-130. Lots.

Article 5 Improvements

Division 1 General Regulations

- Sec. 17-5-10. Agreement with Town.
- Sec. 17-5-20. Performance bond.
- Sec. 17-5-30. Release of bond.
- Sec. 17-5-40. Application of provisions.
- Sec. 17-5-50. Town review and approval.
- Sec. 17-5-60. Reference monuments.
- Sec. 17-5-70. Maintenance of required improvements.

Division 2 Street Improvements

- Sec. 17-5-110. Grading.
- Sec. 17-5-120. Pavement base.
- Sec. 17-5-130. Pavement.
- Sec. 17-5-140. Alleys.
- Sec. 17-5-150. Curbs and gutters.
- Sec. 17-5-160. Driveways and access ways.
- Sec. 17-5-170. Sidewalks and walkways.
- Sec. 17-5-180. Street name signs.

Division 3 Public Improvements Required

- Sec. 17-5-310. Storm drainage system.
- Sec. 17-5-320. Sanitary sewerage system.
- Sec. 17-5-330. Potable water system.
- Sec. 17-5-340. Fire hydrants.
- Sec. 17-5-350. Underground electric power and telephone distribution systems.
- Sec. 17-5-360. Street lights.
- Sec. 17-5-370. Park and water fees.

Article 6 Planned Unit Development

- Sec. 17-6-10. Intent.
- Sec. 17-6-20. Procedure.
- Sec. 17-6-30. Principal permitted uses.
- Sec. 17-6-40. Accessory uses.
- Sec. 17-6-50. Special uses.
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SUBDIVISIONS

Article 7 School Site Dedication

- Sec. 17-7-10. Land dedication for school sites.
- Sec. 17-7-20. Exemptions.

Article 8 Variances and Modifications

- Sec. 17-8-10. Procedure.
- Sec. 17-8-20. Criteria for grant of variances or modifications.
- Sec. 17-8-30. Conditions.
- Sec. 17-8-40. Waivers.

Article 9 Mobile Home Parks

- Sec. 17-9-10. Definitions.
- Sec. 17-9-20. License required.
- Sec. 17-9-30. License fee.
- Sec. 17-9-40. Application for license.
- Sec. 17-9-50. Location.
- Sec. 17-9-60. Mobile home park plan.
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- Sec. 17-9-80. Supervision.
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Article 10 Planning Commission

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- Sec. 17-10-10. Deposit required.
- Sec. 17-10-20. Accounting.
- Sec. 17-10-30. Application of deposit.
- Sec. 17-10-40. Withdrawal or completion.
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- Sec. 17-10-110. Authority.
- Sec. 17-10-120. Notice and hearing.
- Sec. 17-10-130. Action.
- Sec. 17-10-140. Expiration of plat approval.
- Sec. 17-10-150. Notice.
- Sec. 17-10-160. Burden of proof.
- Sec. 17-10-170. Authority to vacate.
- Sec. 17-10-180. Method of vacating.
- Sec. 17-10-190. Access.
- Sec. 17-10-200. Vacation by ordinance.

ARTICLE 1 GENERAL AND ADMINISTRATIVE PROVISIONS

Sec. 17-1-10. Declaration of purpose.

(a) The following regulations have been prepared and enacted in accordance with state statutes for the purpose of promoting the health, safety and general welfare of the present and future inhabitants of the Town.

(b) To these ends, such regulations are intended to assure efficient circulation, adequate improvements, sufficient open space and basic order in subdivision design by providing for the proper arrangements of streets in relation to other existing or planned streets; for adequate and convenient open spaces for traffic circulation, utilities, emergency access, recreation and light and air; for the avoidance of population congestion; and for the establishment of standards for the design and construction of improvements herein required.

(Ord. No. 4-74, § 1, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-1-20. Control.

These regulations shall be held to be minimum requirements and shall apply to those subdivisions of land where streets are constructed to give access to newly created lots. Any and all such subdivisions shall be submitted in the form of plats or plans to the Planning Commission and the Board of Trustees for their approval or disapproval. The dedication to public use of any street, utility system or site shall also be governed by these regulations. No final plat on a subdivision shall be approved and accepted by the Board of Trustees unless it conforms to this Chapter.

(Ord. No. 4-74, § 2.1, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-1-30. Jurisdiction.

The territory within which these regulations are applicable shall include all land located within the legal boundaries of the Town and all land located within three miles of the corporate limits of the Town and not located in any other municipality for purposes of control with reference to the plan for major streets only.

(Ord. No. 4-74, § 2.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-1-40. Fees.

(a) There shall be required a fee for each plat submitted for approval. The fees set forth in the Town Fee Schedule shall be paid at the time of submission of such plats to the Planning Commission. In addition, the subdivider shall pay any recording fee required by the County Clerk and Recorder.

(b) The subdivider shall pay all fees as specified in the Town Fee Schedule, including but not limited to subdivision costs, fees and expenses set forth in any subdivision agreement.

(Ord. No. 4-74, § 2.3, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-1-50. Interpretation of language.

The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

- (1) The singular number includes the plural and the plural the singular.
- (2) The present tense includes the past and future tenses and the future the present.
- (3) The word *shall* is mandatory while the word *may* is permissive.
- (4) The masculine gender includes the feminine and neuter.

(Ord. No. 4-74, § 10, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-1-60. Definitions.

The following words and terms, wherever they occur in this Chapter, shall be construed as defined below:

Block means a parcel of land bounded on all sides by a street or streets.

Comprehensive Plan means a plan for guiding and controlling the physical development of land use and circulation facilities in the Town and any amendment or extension of such a plan.

Consumer means any person contacted as a potential purchaser, lessee or renter, as well as one who actually purchases, leases or rents property in the subdivision.

Dedication means a grant by the owner of a right to use land to the public in general involving a transfer of property rights and an acceptance of the dedicated property by the appropriate public agency.

Easement means a dedication of land for a specified use, such as providing access for maintenance of utilities.

Lot means a parcel of land intended for transfer of ownership or building development, having its full frontage on a public street.

Person means an individual, partnership, corporation, association, unincorporated organization, trust or any other legal or commercial entity, including a joint venture or affiliated ownership. The word *person* also means a municipality or state agency.

Plat means a map, drawing or chart upon which the subdivider presents proposals for the physical development of a subdivision, and which he or she submits for approval and intends to record in final form.

Reservation means a legal obligation to keep property free from development for a stated period of time, involving any transfer of property rights.

Right-of-way means the width between property lines of a street.

Street means a way for vehicular traffic, further classified and defined as follows:

Arterial streets are those which permit the relatively rapid and unimpeded movement of large volumes of traffic from one part of the community to another.

Collector streets are those which collect traffic from local streets and carry it to arterial streets or to local traffic generators such as neighborhood shopping centers and schools. Collector streets include the principal entrance streets to a residential development, those linking such adjacent developments and those providing circulation within such developments.

Local streets are those used primarily for direct access to properties abutting the right-of-way. Local streets carry traffic having an origin or destination within the development and do not carry through traffic.

Subdivider or *developer* means any person dividing or proposing to divide land so as to constitute a subdivision as herein defined, including any agent of the subdivider.

Subdivision means:

- (1) The division of a parcel of land into two or more parcels, sites or lots for the purpose, whether immediate or future, of transfer of ownership or building development, provided that the division of land into parcels of more than five acres which does not involve the creation of any new streets or easements of access shall be exempted; or

- (2) The improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets, except private streets serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants or lease holders or as easements for the extension and maintenance of public sewerage, water, storm drainage or other public utilities or facilities.

(Ord. No. 4-74, § 10, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-1-70. Interpretation.

On the interpretation and application of the provisions of this Chapter, the following shall govern:

- (1) The provisions herein contained shall be regarded as minimum requirements for the protection of the public health, safety and welfare.
- (2) Whenever a provision of this Chapter and any provisions in any other law of the Town cover the same subject matter, whichever is the more restrictive or imposes the higher standard or requirement shall govern.
- (3) Any part of any ordinance which is in conflict herewith is hereby repealed.

(Ord. No. 4-74, § 11.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-1-80. Validity.

Should any section, clause, sentence or part of this Chapter be adjudged by any court of competent jurisdiction to be unconstitutional and/or invalid, the same shall not affect the validity of this

Chapter as a whole or part thereof, other than the part so declared to be unconstitutional or invalid. (Ord. No. 4-74, § 11.3, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-1-90. Amendment.

This Chapter may be amended by the Board of Trustees from time to time in accordance with the provisions of law.

(Ord. No. 4-74, § 11.4, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-1-100. Penalty.

Any person who violates any of the provisions hereof shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(Ord. No. 4-74, § 11.1, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 2 PROCEDURE FOR PLATS

Sec. 17-2-10. Preapplication procedure.

(a) Prior to the filing of an application for approval of a preliminary plat, the subdivider shall submit to the Planning Commission an outline development plan as specified in Section 17-2-40 below. This procedure shall not require formal application, a fee or filing of a plat with the Planning Commission.

(b) The Planning Commission shall review the outline development plan to determine its general acceptability and compliance with the objectives and standards of these regulations, and shall hold a conference with the subdivider to discuss desirable modifications of the plan.

(Ord. No. 4-74, § 3.1, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-2-20. Conditional approval of preliminary plat.

(a) Upon formal application, the subdivider shall submit to the Planning Commission ten copies of a preliminary plat, together with supplementary material as specified in Section 17-2-50 below. The preliminary plat shall be submitted, together with written application for conditional approval, at least 20 days prior to the Planning Commission meeting at which it is to be considered.

(b) Upon receipt of the preliminary plat, the Planning Commission shall transmit copies to public agencies having jurisdiction and utility companies, which shall examine the plat and report their recommendations thereon to the Planning Commission.

(c) The Planning Commission shall review the preliminary plat for compliance with these regulations and negotiate with the subdivider on the type and extent of improvements to be installed and on modifications deemed advisable.

(d) Within 30 days following submittal, the Planning Commission shall inform the subdivider of its approval or disapproval, stating the conditions of approval, if any, or, if disapproved, stating the reasons therefor. Any conditions must be met before submittal of a final plat.

(e) Conditional approval of the preliminary plat shall be deemed a tentative expression of approval of the general layout as submitted or modified, pending approval of the final plat. (Ord. No. 4-74, § 3.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-2-30. Approval of final plat.

(a) A final plat, containing the information specified in Section 17-2-60 below, shall be submitted to the Planning Commission within 12 months after approval of the preliminary plat;

otherwise, such approval shall become null and void unless an extension of time is applied for and granted by the Planning Commission.

(b) The final plat as submitted shall conform substantially with the preliminary plat as approved and may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time. In the case of partial submission, the approval of the remaining portion of the preliminary plat shall automatically gain an extension of 12 months before another phase of the plat must be submitted in final form.

(c) Following review, the Planning Commission shall act to approve or disapprove the final plat and send its recommendations to the Board of Trustees for its approval or disapproval. If the plat is disapproved, the reasons therefor shall be stated in writing and a copy furnished to the subdivider. Only upon approval and recording of the final plat with the County Clerk and Recorder shall the Town issue building permits for structures within the subdivision.

(Ord. No. 4-74, § 3.3, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-2-40. Outline development plan and data.

The outline development plan and data shall contain the following information presented in generalized and schematic form:

- (1) Location map. The location map shall be prepared on a published sheet map or zoning map and shall indicate clearly the relationship of the proposed subdivision to the surrounding area within one-quarter mile of the subdivision's boundaries. The map shall show existing development, including major streets, existing public sewers, public water supply and storm drainage systems; major land use concentration; principal places of employment; commu-

nity facilities, such as schools and parks; zoning on and adjacent to the tract; and school districts, taxing districts and other special districts, if any. The location map shall include a title, scale, total acreage of the tract, north arrow and date. (Scale shall be not less than 1" = 600').

- (2) Sketch plan. The sketch plan may be a freehand drawing at suitable scale (not less than 1" = 200') in a legible medium, and shall clearly show the following: the proposed layout of streets and lots in relation to topographic conditions and natural landscape features on the site; the proposed location and extent of major open spaces and public sites; general locations of utility easements and installations; proposed land uses; and indication of building types, with approximate location of major buildings, exclusive of single-family residential dwellings.
- (3) General development information. This information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawings required in Paragraphs (1) and (2) above, and shall include information on existing covenants and land characteristics and information describing the development proposal, such as number of residential lots or dwelling units, typical lot width and depth, price ranges of lots and dwelling units, proposed protective covenants and proposed utilities and street improvements.

(Ord. No. 4-74, § 4.1, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-2-50. Preliminary plat and data.

(a) The preliminary plat may be drawn with scaled dimensions and need not be an engineering drawing with calculations or dimensions and sur-

vey closures. The preliminary plat shall be prepared at a scale of not less than 1" = 100', shall show all existing conditions required in Section 17-2-40 above and shall contain all information, including but not limited to that required below:

- (1) Outer boundary lines of the tract.
- (2) Location and dimensions of all existing streets, alleys, utility easements, drainage areas, irrigation ditches and laterals and all other significant features.
- (3) Proposed streets on and adjacent to the tract: name, right-of-way, width and location; type, width and elevation of surfacing; curbs and gutters, sidewalks and culverts.
- (4) Lot lines, lot numbers and block numbers.
- (5) Location, dimensions and purpose of all other proposed easements and rights-of-way to be reserved or dedicated for public use, such as schools, parks and playgrounds.
- (6) Location and acreage of sites, if any, for multi-family dwellings, shopping centers, community facilities, industry or other use, exclusive of single-family dwellings.
- (7) Site data, including number of residential lots and typical lot size.
- (8) Name of the proposed subdivision; names and addresses of owners, subdividers, designers and engineers; date; scale; north arrow; and legal description of the tract.

(b) A drainage plan shall be submitted along with the preliminary plat and shall show all information, including but not limited to that required below:

- (1) A topographic map of ground elevations on the tract based on the United States Geological Survey datum plane, or a da-

tum plane approved by the Planning Commission, showing contours at two-foot intervals.

- (2) A map showing the method of moving storm runoff water through the subdivision. The map should show runoff concentrations in acres of drainage area on each street entering each intersection. (This may be combined with the topographic map). Flow arrows should clearly show the complete runoff flow pattern at each intersection. For storm drainage facilities not on or adjacent to the tract, the direction and distance to, size and invert elevation or nearest extensions of such utilities shall be indicated.

(c) A utility plan shall be submitted, showing:

- (1) Location and size of existing utilities within and adjacent to the subdivision, including water, sewer, electricity, gas and telephone.
- (2) Proposed utility system, including water mains, fire hydrants, sewers, other utility mains (electricity, gas and telephone) and any other services that shall supply the subdivision. All utilities must be constructed within approved easements.
- (3) A utility clearance record showing approval by utility companies that service can be supplied (on a form supplied by the Town).

(d) Supplemental data shall include the following:

- (1) Subsurface conditions on the tract: the location and results of tests made to ascertain subsurface soil, rock and groundwater conditions.
- (2) A draft of proposed covenants whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development.

- (3) Such additional information as may be required by the Planning Commission in order to determine that the subdivision can be constructed without an adverse effect on the surrounding area; and, by reason of its location or design, will not cast an undue burden on public utilities and community facilities.

- (4) Application for rezoning, if required for the development of the subdivision.

(Ord. No. 4-74, § 4.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-2-60. Final plat and data.

The final plat and supplementary data shall contain the following information:

- (1) Final plat. The final plat shall be an engineering drawing prepared to normal engineering tolerances of accuracy with calculated rather than scale dimensions. The exterior lines of the final plat shall join or close. The plat shall be drawn in permanent ink on a reproducible linen or Mylar with outer dimensions of 24 inches by 36 inches and shall be at a scale of 1" = 100'. The final plat may constitute the entire approved preliminary plat or any logical portion of the approved preliminary plat proposed for immediate recording. The final plat shall conform to the approved preliminary plat, shall include all changes and additions as required by the Planning Commission and shall show the following:

- a. Primary control points, or descriptions, and "ties" to such control points to which all dimensions, angles, bearings and similar data on the plat shall be referred.
- b. Tract boundary lines; right-of-way lines of streets, easements and other

- rights-of-way; and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves. All dimensions, both linear and angular, shall be determined by an accurate control survey in the field which must balance and close within a limit of 1 in 10,000. No final plat showing plus-or-minus dimensions will be approved.
- c. Total acreage and surveyed legal description of the subdivision.
 - d. Name and right-of-way width of each street or other right-of-way.
 - e. Location, dimensions and purpose of any easements.
 - f. Numbers to identify each block, lot and/or site.
 - g. The purpose for which sites, other than residential lots, are dedicated or reserved.
 - h. The location and description of all monuments, both found and set.
 - i. Names of record owners of adjoining unplatted land.
 - j. Reference to recorded subdivision plats of adjoining platted land by record name, date and number.
 - k. Signature and seal of a land surveyor registered in the State, certifying to the accuracy of the survey and plat, including a statement explaining how bearings, if used, were determined.
 - l. Signature block for certification of approval by the Planning Commission and Board of Trustees, with signatures by the Chair of the Planning Commission and the Mayor.
 - m. Certification of title showing that the applicant is the landowner.
 - n. Statement by the subdivider dedicating streets, rights-of-way, easements and public sites.
 - o. Title under which the subdivision is to be recorded, scale, north arrow and date.
- (2) Other documents required at the time of submission of the final plat shall be:
- a. Complete engineering plans and specifications for all public facilities to be installed, including water and sewer utilities, streets and related improvements, bridges and storm drainage.
 - b. Agreements made with ditch companies, when needed.
 - c. Clearance record showing approval by the Health Department and utility companies (on a form supplied by the Town).
 - d. A financial statement, a copy of which shall be available for public inspection at the Town Hall and shall include:
 - 1. The name and address of each person having an interest in the subdivision or development and the extent of such interest.
 - 2. A statement of the condition of the title to the land comprising the subdivision or development, including all encumbrances, deed restrictions and covenants applicable thereto.
 - 3. A statement of the general terms and conditions, including the range of selling prices or rents,

- at which it is proposed to dispose of lots, dwellings or structures.
4. In the case of a subdivision, development or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the person bound, to fulfill obligations under the instrument creating such encumbrances and the steps, if any, taken to protect the purchaser in such eventuality.
 5. Copies of all forms of conveyance to be used in selling or leasing lots, dwellings or structures.
 6. Such certified and uncertified financial statements of the developer as the Planning Commission and Board of Trustees may require, and such other information, documents and certifications as the Planning Commission and Board of Trustees may require as being reasonably necessary or appropriate for the protection of consumers.
- e. A performance bond drawn and posted in favor of the Town, which bond shall be of sufficient amount to assure completion of all required improvements.
 - f. Protective covenants in a form for recording.
 - g. Such other certificates, affidavits, endorsements or deductions as may be

required by the Planning Commission or Board of Trustees in the enforcement of these regulations.

(Ord. No. 4-74, § 4.3, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 3 MINOR SUBDIVISIONS

Sec. 17-3-10. Intent.

(a) The intent of the minor subdivision plat is to provide a process for creating eight or fewer lots. For example, if a property had been platted for a large commercial use and the landowner wishes to create several lots for smaller commercial users, the applicant could utilize this process. The minor subdivision process is not meant for consecutive minor subdivisions. For example, if a landowner divides a ten-acre property into five lots, he or she may not use this process to continue to divide the property in the future to avoid having to comply with a major subdivision process.

(b) A minor subdivision plat will not be approved if the property is within any parcel or lot, any part of which has been subdivided through the minor subdivision process within three years preceding the date of the current application. (Ord. No. 2013-6, § 1, 7-8-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-3-20. Application process.

The steps contained in this Article shall be followed for a minor subdivision process. (Ord. No. 2013-6, § 1, 7-8-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-3-30. Step 1, Pre-application conference.

A preapplication conference with a representative from the Town is required before the applicant may submit a minor subdivision plat application. Topics to be discussed will include:

- (1) Town regulations and standards;

- (2) The application and review process;
 - (3) Submittal requirements; and
 - (4) Schedule.
- (Ord. No. 2013-6, § 1, 7-8-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-3-40. Step 2, Application submittal.

The applicant shall submit one copy of the complete minor subdivision plat application package to the Town Clerk and shall request that the application be reviewed by the Planning Commission and Board of Trustees. The minor subdivision plat application shall include:

- (1) Land use application form.
 - (2) Minor subdivisions - technical criteria form.
 - (3) Application fee and fee agreement. A non-refundable fee is collected to cover the cost of review by the Town Attorney, Town Engineer, Town Planner and any other expert whom the Town may wish to employ, together with recording fees. Actual costs may exceed the deposit; in this case, the applicant is liable for costs in excess of the deposit. The Town shall provide the applicant with a copy of the most current Town Fee Schedule and fee agreement form.
 - (4) Title commitment. The title commitment must be current and dated no more than 30 days from the date of the minor subdivision plat application submittal.
 - (5) Mineral, oil and gas rights documentation. Evidence is provided that the applicant has contacted all mineral rights owners and all lessees of mineral, oil and gas rights associated with the site by certified mail and is working towards resolution. Included in the evidence must be the name of the current contact person, his or her phone number and mailing address and a description of the issues. The mineral rights affidavit must be current and must be dated no more than 30 days before the date of the sketch plan application submittal.
- (6) Legal notice form. When required, the legal notice form will be provided by the Town, filled out by the applicant and returned to the Town with an electronic copy of the legal description in MSWord format.
 - (7) Minor subdivision plat. The minor subdivision plat drawing shall comply with the following standards:
 - a. The plat shall be prepared by or under the direct supervision of a registered land surveyor and meet applicable state requirements.
 - b. Noncontiguous parcels shall not be included in one plat, nor shall more than one plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one plat, provided that all owners join in the dedication and acknowledgment.
 - c. Lengths shall be shown to the nearest hundredth of a foot and bearings shall be shown in degrees, minutes and seconds.
 - d. The perimeter survey description of the proposed subdivision shall include at least one tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one part in 10,000.
 - e. Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.

- f. The minor subdivision plat will be 24 inches high by 36 inches wide unless otherwise approved by the Town Clerk, and shall contain the following information:
 1. Title of project.
 2. North arrow, scale (not greater than 1" = 100') and date of preparation.
 3. Vicinity map.
 4. Legal description.
 5. Basis for establishing bearing.
 6. Names and addresses of the owners, applicant, designers, engineers and surveyors.
 7. Names of adjacent subdivisions.
 8. Total acreage of the subdivision.
 9. Bearings, distances, chords, radii, central angles and tangent links for the perimeter, and all lots, blocks, rights-of-way and easements.
 10. Lot and block numbers, numbered in consecutive order, and square footage of each lot or tract.
 11. Excepted parcels from inclusion noted as "not included in this subdivision" and the boundary completely indicated by bearings and distances.
 12. Existing and proposed rights-of-way and easements in and adjacent to the subject property (labeled and dimensioned).
 13. Existing and proposed street names for all streets on and adjacent to the property.
 14. Existing and proposed easements and their type in and adjacent to subject property (labeled and dimensioned).
 15. The location and description of monuments.
 16. Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, please state this on the plat).
 17. Location of existing and proposed oil and gas facilities, their required setbacks, associated flow lines, existing and proposed relocation and name of the owner and the facility.
 18. Location of archaeologically significant or historic sites.
 19. Certificate blocks for signatures of the owner, surveyor, utility providers and Town approval, as applicable.
 20. Certification of ownership and dedication of streets, rights-of-way, easements and public sites.
- (8) General development information. Provide a written description addressing how the proposed development conforms to Chapter 16 of this Code. Describe the proposed development and how the development will be consistent with the adjoining properties and existing zoning in the area.
- (9) Grading and drainage plan and report. This plan and report must be certified by a Colorado registered professional engineer, including storm drainage concepts, such as locations for on-site detention or downstream structural improvements and soil erosion and sedimentation control

plans and specifications. The plan must comply with the *Town of Pierce Storm Drainage Design Criteria and Construction Specifications* (usually the Greeley standards). It must also discuss the impacts on and to any existing floodways and/or floodplains on and adjacent to the site, as well as any FEMA applications required.

- (10) Master utility plan. This plan shall be prepared by a registered professional engineer. It is necessary that the engineer consult with the appropriate utility service providers regarding the design of all utilities through the subdivision.
- (11) Landscape and open space plan with ecological characterizations. Open space will generally not be required. Landscaping may be required. Any landscape plan will not require a landscape architect's approval.
- (12) Traffic study. This study must be prepared by a professional traffic engineer (if required by Town Staff).
- (13) Draft of proposed covenants and architectural design guidelines (if required by Town Staff).
- (14) Surrounding and interested property ownership report. When required, the applicant shall provide the Town Clerk with two copies of a current (not more than 30 days old) list of the names and addresses of the surrounding property owners within 300 feet of the property, mineral interest owners of record, mineral and oil and lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.
- (15) Public hearing notification envelopes. When required, the applicant shall provide the Town Clerk with two sets of stamped, addressed envelopes. The envelopes shall have the Town's address as the return address and the envelopes shall be addressed to the surrounding property owners within 300 feet of the property, mineral interest owners of record, mineral and oil and gas lessees for the property and the appropriate referral agencies (as discussed in the pre-application conference).
- (16) Mineral, oil and gas rights documentation. Evidence that the surface owner has provided notice to all mineral interest owners at least 30 days before the date of the initial public hearing on the application for development as required by Article 65.5 of Title 24, C.R.S. If the lot is of sufficient size to warrant a surface use agreement, then a signed surface use agreement may be required.
- (17) Electronic copy of application package. Provide an Adobe pdf file of the complete application package.
(Ord. No. 2013-6, § 1, 7-8-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-3-50. Step 3, Town Staff certifies application is complete.

Within a reasonable period of time, Town Staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application to the Town Clerk. The original application and all documents requiring a signature shall be signed in blue ink.

(Ord. No. 2013-6, § 1, 7-8-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-3-60. Step 4, Applicant submits letters of support and commitment to serve.

If Town Staff deems necessary, within 14 days from the date the application is deemed complete, the applicant shall provide the Town with letters of support which shall be obtained from the Fire Department, all utility providers, the cable company and the Police Department. Town Staff will review the letters of support and the application, may identify issues of concern that the applicant shall address and shall forward such report to the applicant and the Planning Commission.

(Ord. No. 2013-6, § 1, 7-8-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-3-70. Step 5, Applicant posts signs on property and provides signed affidavit to Town.

The Planning Commission shall schedule a public hearing for the purpose of making a recommendation on the minor subdivision plat. The applicant shall post a sign on the property notifying the public of the public hearing date at least 14 days prior to the Planning Commission hearing. The sign shall include the time and place of the public hearing and the applicant's name. The applicant shall submit an affidavit certifying that he or she posted the property.

(Ord. No. 2013-6, § 1, 7-8-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-3-80. Step 6, Town Staff notifies interested parties.

Not less than 14 days before the date scheduled for public hearing or Town Staff decision, Town Staff shall send information about the application by regular mail to: referral agencies, Weld County, surrounding property owners within 300 feet, mineral interest owners of record, mineral, oil and gas lessees for the property, ditch companies and other interested parties. The referral information shall

include the time and place of the public hearing, the nature of the hearing, the location of the subject property and the applicant's name.

(Ord. No. 2013-6, § 1, 7-8-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-3-90. Step 7, Town Staff reviews application and prepares comments.

Town Staff will complete a review of the minor subdivision plat based on the Town's minor subdivision plat review criteria. Town Staff will revise its report based upon any appropriate comments from the Planning Commission and then will prepare an additional report or modify its report identifying issues of concern to be forwarded to the Board of Trustees.

(Ord. No. 2013-6, § 1, 7-8-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-3-100. Step 8, Applicant responds to Town Staff comments.

The applicant shall address the Town Staff's comments, then submit the following to the Town Clerk:

- (1) Letter explaining how all of the comments have been addressed.
- (2) Revised maps and other documents.
- (3) Comments responding to the Town Staff report and any comments of the Planning Commission.

(Ord. No. 2013-6, § 1, 7-8-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-3-120. Step 9, Final Town Staff review.

Town Staff will complete a final review of the resubmitted materials and then prepare a report to the Board of Trustees explaining how the application is or is not consistent with the review criteria.

(Ord. No. 2013-6, § 1, 7-8-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-3-130. Step 10, Board of Trustees action.

The finalized minor subdivision plat shall be presented to the Board of Trustees for its review and action at a public hearing. The Board of Trustees shall review the plat based on the minor subdivision plat review criteria. If approved, the Board of Trustees shall adopt the plat by ordinance and the Town Clerk shall request two original Mylars of the final plat ready for the Mayor and Town Clerk to sign and then record. If applicable, the Town will provide the finalized subdivision improvement agreement for the applicant to sign.

(Ord. No. 2013-6, § 1, 7-8-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-3-140. Minor subdivision plat review criteria.

(a) The Town shall use the following criteria to evaluate the applicant's request:

- (1) The land use mix within the project conforms to the zoning district map and furthers the goals and policies of the Comprehensive Plan, including:
 - a. The proposed development promotes the Town's small-town rural character;
 - b. Proposed residential development adds diversity to the Town's housing supply;
 - c. Proposed commercial development will benefit the Town's economic base;
 - d. Parks and open space are incorporated into the site design, if appropriate;
 - e. The proposed project protects the Town's environmental quality; and
 - f. The development enhances cultural historical, educational and/or human service opportunities.

- (2) The minor subdivision plat represents a functional system of land use and is consistent with the existing Town.
- (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 satisfactorily mitigated.
- (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 within the Town, according to the Town's goals.
- (6) The property is not located within any parcel or lot, any part of which has been subdivided by the minor subdivision process within three years preceding the date of the current application.

(b) The Board of Trustees may waive any requirements in these regulations which are deemed to be irrelevant or unnecessary to the minor subdivision process.

(Ord. No. 2013-6, § 1, 7-8-2013; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 4 DESIGN STANDARDS**Sec. 17-4-10. General site considerations.**

(a) All proposed subdivisions five acres or larger shall proceed through planned unit development.

(b) A proposed subdivision shall be in general compliance with respect to adequate dedication and/or reservation of major street rights-of-way, major utility easements and open spaces for schools and recreation areas.

(c) A proposed subdivision shall not, by reason of its location or design, cast an undue burden on public utility systems and community facilities on or adjacent to the tract. Where extension and enlargement of public utility systems and community facilities are necessary, the subdivider shall make provision to off-set higher net public cost or earlier incursion of public cost necessitated by the subdivision. Due consideration shall be given to the difference between anticipated public costs of installation, operation and maintenance and anticipated public revenue derived from the fully developed subdivision in determining added net public cost.

(d) No land shall be subdivided in areas where soil, subsoil or flooding conditions are a potential danger to health and safety.

(e) Drainage areas, wherever possible, shall be left in a natural state, and no encroachment shall be made on the natural channel. Multiple use of drainage and park facilities as, for example, through use of retention ponds, is encouraged. A plan to prevent water pollution shall be submitted and adhered to wherever any modification of topography is required during construction within 100 feet of any stream, ditch or drainage channel.

(f) Provision shall be made to preserve groves of trees, streams, unusually attractive topography and other desirable natural landscape features. Provision shall be made for the perpetual maintenance of such features through private covenants or other means acceptable to the Planning Commission and Board of Trustees.

(g) A proposed subdivision shall be designed in such a manner as to be coordinated with adjoining subdivisions with respect to the alignment of street rights-of-way and utility and drainage easements and open spaces.

(h) Where a subdivision borders a railroad right-of-way, freeway or arterial street, a landscaped buffer area shall be provided for adequate reduction of noise.

(Ord. No. 4-74, § 5.1, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-4-20. Arrangement of streets.

(a) The arrangement, extent, width, type and location of all streets shall be designed in relation to existing or planned streets, topographic conditions, public convenience and safety and the proposed use of land to be served.

(b) Local streets shall be arranged so that their use by through traffic will be discouraged.

(c) Arterial streets shall not be intersected by local streets. Collector streets shall not intersect arterial streets at intervals of less than 1,320 feet.

(d) Streets shall be extended to the boundaries of the property, except where such extension is prevented by topography or other physical conditions, or where the connection of streets with existing or probable future streets is deemed unnecessary for the advantageous development of adjacent properties.

(e) Where future extension of a street is anticipated, a temporary turnaround having a minimum outside diameter of 80 feet shall be provided.

(Ord. No. 4-74, § 5.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-4-30. Closed-end streets.

(a) The maximum allowable length of closed-end streets in single-family residential and multi-family residential developments shall be 600 feet.

(b) Closed-end streets shall be provided with circular turnarounds having a minimum outside right-of-way diameter of 120 feet and a minimum pavement diameter of 90 feet.

(Ord. No. 4-74, § 5.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-4-40. Intersection of streets.

Streets shall intersect at right angles.
(Ord. No. 4-74, § 5.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-4-50. Half-streets.

The dedication of a half-street shall not be accepted unless:

- (1) The subdivider obtains for the Town a dedication from the abutting landowner of the other one-half of the street;
- (2) The subdivider obtains from said abutting landowner an agreement in a form satisfactory to the Town which guarantees the cost of the improvements and construction of the same on the half-street within a time suitable to the Town; and
- (3) The subdivider guarantees the construction of the improvements on the half-street which he or she is dedicating.

(Ord. No. 4-74, § 5.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-4-60. Perimeter streets.

When the plat dedicates a street which ends on the plat or is on the perimeter of the plat, the subdivider shall convey the last foot of the street on the terminal end or outside border of the plat to the Town in fee simple, and such shall be designated as "outlots." The Town shall put the same to public use for public road and access purposes when, within its sole and absolute discretion, it deems advisable.

(Ord. No. 4-74, § 5.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-4-70. Right-of-way, pavement and sidewalk widths.

Minimum widths in feet, by street type, shall be as follows:

<i>Type</i>	<i>Right-of-Way</i>	<i>Pavement</i>	<i>Sidewalk</i>
Arterial	100	48 (divided)	5
Collector	80	40 *	5
Local	20	36 *	4
Alley	20	15	—

*Measured from flow line of gutter to flow line of gutter.

(Ord. No. 4-74, § 5.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-4-80. Horizontal adjustment.

(a) Where street centerlines deflect from each other at any point by more than 15 degrees, they shall be connected by horizontal curves having minimum radii as follows:

Local streets	100 feet
Collector streets	200 feet
Arterial streets	400 feet

(b) A tangent not less than 100 feet long shall be provided between reverse curves on collector and arterial streets.

(c) Cross-streets which cannot be directly aligned at intersections shall be separated by a horizontal offset of not less than 125 feet between centerlines, provided that this requirement shall not apply to the alignment of short, opposing closed-end streets.

(Ord. No. 4-74, § 5.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-4-90. Vertical alignment.

(a) No vertical grade shall be less than 0.2 percent, in order to facilitate adequate drainage.

(b) Maximum percent of street grade, except as provided below: *

Local streets	8%
Collector streets	7%
Arterial streets	5%

*Where a horizontal curve occurs on a grade of over 5.0%, the maximum allowable percent of grade on the curve shall be reduced by 0.5% of each 50 feet that the curve radius is less than 400 feet. Street grades shall not exceed 4.0% for a distance extending at least 40 feet in each direction from a street intersection.

(Ord. No. 4-74, § 5.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-4-100. Street names.

Names of new streets shall not duplicate names of existing streets, provided that new streets which are extensions of or in alignment with existing streets shall bear the names of such streets.

(Ord. No. 4-74, § 5.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-4-110. Utility easements.

(a) Where necessary for installation and maintenance of utility systems, easements of at least ten feet in width shall be reserved along rear lot lines, or at other locations which will not interfere with the siting of buildings.

(b) Where a subdivision is traversed by a watercourse, drainage way or stream, there shall be provided a perpetual drainage easement conforming substantially with the lines of such watercourse and of such width as necessary and adequate to carry off the predictable volume of stormwater drainage from a 25-year-frequency storm.

(c) In general, utility systems shall be arranged and located in such manner as to avoid cross-connections, minimize trenching and adequately separate incompatible systems.

(Ord. No. 4-74, § 5.3, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-4-120. Blocks.

(a) The lengths, widths and shapes of blocks shall be determined with due regard to the following:

- (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.

- (2) Requirements of Chapter 16 of this Code as to lot sizes and dimensions.

- (3) Need for convenient access and control and safety of vehicular and pedestrian traffic circulation.

- (4) Limitations and opportunities of topography.

- (b) Maximum block length between intersecting streets shall be 1,500 feet.

(Ord. No. 4-74, § 5.4, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-4-130. Lots.

(a) Lot size, width, depth, shape and orientation and minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated, and shall facilitate the placement of buildings with sufficient access, outdoor space, privacy and view.

(b) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street parking, landscaping and loading areas required by the type of use and development contemplated.

(c) Corner lots for residential use shall have extra width to accommodate the required building setback line on both street frontages.

(d) Each lot shall be provided with satisfactory access to an existing public street.

(e) Double frontage and reverse frontage lots shall not be permitted except where essential to provide separation of residential properties from arterial streets or commercial uses, or to overcome specific disadvantages of topography and orientation.

(f) A planting screen easement, across which there shall be no right of access, shall be provided along the property line of lots abutting an arterial

street. A statement dissolving right of access from individual lots to the arterial street shall be included with the final plat.

(g) Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.

(Ord. No. 4-74, § 5.5, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 5 IMPROVEMENTS

DIVISION 1 GENERAL REGULATIONS

Sec. 17-5-10. Agreement with Town.

The subdivider or developer shall enter into an agreement with the Town to guarantee construction of all required improvements, including streets, curbs and gutters, driveways, sidewalks, storm drainage system, sanitary sewerage, potable water system, street lights and street trees.

(Ord. No. 4-74, § 6.1, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-20. Performance bond.

Under such agreement, the subdivider shall post a performance bond or certified check, which bond or check shall be drawn in favor of the Town in an amount equal to the estimated cost of construction of improvements.

(Ord. No. 4-74, § 6.1, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-30. Release of bond.

The performance bond or certified check posted by the subdivider or developer shall not be released until final construction of improvements has been completed, inspected at the subdivider's expense and approved and accepted by the Town. (Ord. No. 4-74, § 6.1, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-40. Application of provisions.

The improvements required by Divisions 2 and 3 of this Article shall be provided in each subdivision or development proposed, and to the extent determined by the Planning Commission and Board of Trustees. Required improvements shall be designed in accordance with the detailed design standards and specifications deemed necessary by the Town and shall be constructed in accordance with the approved plans and profiles and the construction requirements and specifications of the Town.

(Ord. No. 4-74, § 6.1, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-50. Town review and approval.

No improvements shall be made until all plans, profiles and specifications have been reviewed and approved by the Town.

(Ord. No. 4-74, § 6.1, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-60. Reference monuments.

Permanent reference monuments of stone or concrete, at least 36 inches in length and six inches square or round with a suitable center point, shall be located and placed within the subdivision or development as required by the Board of Trustees. Iron pin monuments at least 24 inches long and flush with the surface shall be placed at all points on boundary lines where there is a change in direction, at all block and lot corners and at other points as required by the Board of Trustees.

(Ord. No. 4-74, § 6.4, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-70. Maintenance of required improvements.

Adequate provisions for the satisfactory maintenance of streets and utility improvements, including easements, shall be made by dedication of such improvements to the Town. Prior to accep-

tance by the Town, the improvements to be dedicated shall be inspected and approved by the Board of Trustees or its authorized representatives. (Ord. No. 4-74, § 6.5, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 2 STREET IMPROVEMENTS

Sec. 17-5-110. Grading.

Street rights-of-way shall be graded as necessary to provide adequate surface drainage and convenient access to lots or sites. (Ord. No. 4-74, § 6.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-120. Pavement base.

The pavement base shall be properly drained and constructed of suitable materials so as to support the contemplated traffic load. (Ord. No. 4-74, § 6.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-130. Pavement.

Pavement shall be constructed of asphalt or concrete of sufficient thickness to support the contemplated traffic load. Streets shall be paved to the widths required under Section 17-4-70 of this Chapter. (Ord. No. 4-74, § 6.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-140. Alleys.

If alleys are provided, they shall be graded and graveled in conformity with the standards of the Town. (Ord. No. 4-74, § 6.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-150. Curbs and gutters.

All streets shall be provided with concrete curbs and gutters for the pavement edging. Such curbs and gutters shall be designed as an integral part of the pavement. (Ord. No. 4-74, § 6.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-160. Driveways and access ways.

Where appropriate to the type of development proposed, driveways or access ways shall be provided for vehicular access to each structure or parking or loading area. Driveways and access ways provided shall be of adequate width and constructed with suitable subgrade, base, drainage and surfacing to be durable under the use contemplated. (Ord. No. 4-74, § 6.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-170. Sidewalks and walkways.

Sidewalks and walkways shall be provided where necessary or appropriate for the safety and convenience of pedestrians. The width of sidewalks shall be as specified in Section 17-4-70 of this Chapter. Sidewalks and walkways shall be durably constructed with all-weather surfacing and shall be adequately lighted and maintained for the use contemplated. (Ord. No. 4-74, § 6.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-180. Street name signs.

Easily legible street name signs shall be installed at street intersections or as necessary for convenient identification of streets. (Ord. No. 4-74, § 6.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

DIVISION 3 PUBLIC IMPROVEMENTS REQUIRED

Sec. 17-5-310. Storm drainage system.

(a) The storm drainage system shall consist of natural drainage courses whenever possible and/or surface drainage structures, catch basins and other underground drainage structures. The storm drainage system shall be of sufficient size and design to carry off all predictable surface water runoff within the subdivision or development and stormwater drainage which enters the development from adjacent areas based on a 25-year-frequency storm.

(b) Where deemed necessary by the Planning Commission and the Board of Trustees, catch basins shall be provided at all low points, at street intersections and at intermediate locations as necessary to prevent overloading of the street gutters. Catch basins provided shall be connected to collection mains of adequate size with outfalls approved by the Planning Commission.

(c) Storm drainage shall not be permitted to empty into any sanitary sewerage system.
(Ord. No. 4-74, § 6.3, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-320. Sanitary sewerage system.

The sanitary sewerage 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. The sanitary sewerage system shall be of sufficient size and design to collect all sewage from all proposed or probable structures within the subdivision or development.
(Ord. No. 4-74, § 6.3, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-330. Potable water system.

The potable water system provided shall connect to an existing public water system and shall

consist of water mains directly connected to using structures by means of lateral branches. 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.

(Ord. No. 4-74, § 6.3, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-340. Fire hydrants.

Fire hydrants shall be installed at street intersections and at other points as necessary to assure that no building is located more than 500 feet from the nearest fire hydrants.

(Ord. No. 4-74, § 6.3, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-350. Underground electric power and telephone distribution systems.

(a) Electric power and telephone connections and wire shall be placed below the surface of the ground in raceways and conduits. Transformers, switching bases, terminal boxes, meters, cabinets, pedestal ducts and other facilities necessarily appurtenant to such underground connections shall not be located on power poles, but shall be placed on or under the surface of the ground; and, where placed on the surface, shall be adequately screened and fenced as necessary for safety and concealment.

(b) Electrical transmission and distribution feeder lines and communication trunk and feeder lines may be placed aboveground.

(Ord. No. 4-74, § 6.3, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-360. Street lights.

Ornamental street lighting and associated underground street lighting supply circuits shall be installed. The minimum requirement shall be 7,000 lumen lamps at a maximum spacing of 400 feet.

The street lighting plan specifying the number, kind and approximate location of street lights must be included on the final plat.

(Ord. No. 4-74, § 6.3, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-5-370. Park and water fees.

(a) *Park fee.* For the purpose of providing funds with which to acquire additional lands in the Town for park purposes, a fee as set forth in the Town Fee Schedule is levied on each residence constructed in the Town. The park fee shall be payable to the Town Clerk prior to the issuance of a building permit for the construction of said residence. All funds received by the Town in payment for park fees shall be earmarked and used for the future purchase, development and construction of park facilities in the Town.

(b) *Raw water.* For the purpose of providing for the acquisition of additional fresh water for the Town to take care of the needs for water arising from growth and from deterioration of the quality of the present water supply, each applicant for a building permit to be issued by the Town for a residence or commercial building shall, prior to the issuance of such building permit for construction, deliver to the Town a deed or conveyance of a minimum of one acre-foot of fresh water or the equivalent for each building permit applied for. To be eligible for conveyance to the Town, said water must be water that is usable through the facilities of the North Weld County Water District. The conveyance for said water shall be delivered to the Town Clerk.

(Ord. No. 7-75, 1-2-1976; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 6 PLANNED UNIT DEVELOPMENT

Sec. 17-6-10. Intent.

Planned unit development is required whenever a parcel larger than five acres is subdivided, in

order to minimize the environmental impact of urban development, to enable the subdivider to make more efficient use of the site by minimizing grading and reducing the amount of land needed for streets and utilities and to provide to the consumer a wider choice of housing types and amenities.

(Ord. No. 4-74, § 8.1, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-6-20. Procedure.

The procedure for preparing, processing and presenting a planned unit development shall be the same as that specified for all subdivision of land in this Chapter except that there shall be no partial submission of a final plat.

(Ord. No. 4-74, § 8.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-6-30. Principal permitted uses.

The following are principal permitted uses in planned unit developments:

- (1) Single-family dwelling units.
- (2) Multi-family dwelling units.
- (3) A combination of the above.

(Ord. No. 4-74, § 8.3, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-6-40. Accessory uses.

The following accessory uses are permitted in planned unit developments: buildings and uses customarily appurtenant to the permitted uses.

(Ord. No. 4-74, § 8.4, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-6-50. Special uses.

By appropriate designation on the planned unit development plan, the following special uses may be allowed:

- (1) Recreational facilities and areas.

- (2) Community buildings.
 - (3) Public and parochial schools.
 - (4) Medical clinics.
 - (5) Nursing and rest homes.
 - (6) Nurseries and daycare centers for children.
 - (7) Public libraries.
 - (8) Convenience retail facilities.
 - (9) Professional offices.
 - (10) Eating places, not including drive-in types.
 - (11) Personal service shops or agencies.
 - (12) Prescription shops.
 - (13) Parking incidental to special uses permitted.
- (Ord. No. 4-74, § 8.5, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-6-60. Requirements.

Planned unit development is intended to allow originality in the planning of a community development by relaxing the minimum and maximum requirements set forth in this Chapter. It will be expected that development under planned unit development will provide for maintained open spaces and recreational areas, safety features for pedestrian and vehicular traffic, elimination of unsightly uniformity and conservation of natural features.

- (1) The following requirements as set forth in Chapter 16 of this Code can be modified as established by the planned unit development plan, subject to approval by the Planning Commission and Board of Trustees:
 - a. Minimum lot area.
 - b. Minimum lot width.
 - c. Minimum front setback.

- d. Minimum side setback.
- e. Minimum rear setback.
- (2) The following additional requirements are established for planned unit development:
 - a. Maximum building height shall not exceed 35 feet.
 - b. Maximum density of residential units shall be 12 units per acre.
 - c. Minimum common open space shall be 30 percent of the gross acreage of the site.
 - d. Off-street parking:
 - 1. Two spaces for each dwelling unit.
 - 2. One space for every two employees and one space for each 1,000 square feet of building area.
 - 3. Landscaping to screen parking areas.
 - 4. Adequate lighting for parking areas.
 - e. Unified ownership of site.
 - f. Where uses other than residential are proposed:
 - 1. Architectural elevations at a scale of not less than 1/8" = 1' for all nonresidential structures.
 - 2. Size, type and location of all signs, other than street signs.
 - g. Covenants specifying how common areas are to be maintained.

(Ord. No. 4-74, § 8.6, 9-3-1974 Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 7 SCHOOL SITE DEDICATION

Sec. 17-7-10. Land dedication for school sites.

(a) Dedication of land or cash payments in lieu thereof for school purposes shall be required for each new annexation, subdivision, planned unit

development, special use permit, planned unit development site plan, new residential construction or other development approval within the Town. Subdividers, owners or developers of property previously annexed or for which subdivision approval has been granted, but who have, in their subdivision improvements agreement or annexation agreement, agreed to comply with this Chapter shall comply with the provisions of this Chapter.

(b) A subdivider, owner or developer shall be required to allocate land or make cash payments in lieu thereof for the appropriate value in accordance with any agreement entered into between Weld County School District RE-9 and the Town, and such payment shall be made pursuant to the current methodology as indicated in such intergovernmental agreement.

(c) The amount of land required to be dedicated or cash paid in lieu of such land dedication may from time to time be modified upon receipt by the Town of updated methodology for the calculation of such dedication or fees in lieu of such dedication.

(d) The specific site of any land dedication shall be determined at the time of final plat approval. In the event cash in lieu of land dedication is the method of compliance with this Article, then such cash in lieu may be paid in gross at the time of final plat approval. In the event payment is not made in gross, then the cash-in-lieu payment shall be collected at the time of issuance of the building permit. All funds collected pursuant to this Article shall be paid directly to Highland School District RE-9 at 209 West First Street, Ault, Colorado 80610, prior to the issuance of such permit.

(Ord. No. 1-2001, § 1, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-7-20. Exemptions.

This Article shall apply to all new residential construction within the Town, except construc-

tion which will not have an adverse effect on the school district's ability to provide adequate educational opportunities. The following construction shall be exempt from this Article:

- (1) Alteration or expansion of a residential dwelling unit not exceeding a net increase of 1,000 square feet of the existing dwelling unit.
- (2) Replacement of a residential dwelling unit in which the replacement does not exceed a net increase of 1,000 square feet of the dwelling unit being replaced.
- (3) Construction of a non-dwelling unit, accessory building or structure.
- (4) Construction of any nonresidential building or structure.
- (5) Nursing homes or assisted living facilities designed exclusively for the elderly or disabled.
- (6) Town-approved planned residential developments that are subject to recorded covenants restricting the age of the residents of said dwelling units, such that the dwelling units may be classified as "housing for older persons" pursuant to the federal Fair Housing Amendments Act of 1988.

(Ord. No. 1-2001, § 2, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 8 VARIANCES AND MODIFICATIONS

Sec. 17-8-10. Procedure.

Application for variances or modifications of these regulations shall be submitted to the Planning Commission. Such application shall include a statement setting forth the nature and extent of

the requested variance or modification, together with evidence supporting the need for such variance.

(Ord. No. 4-74, § 9.1, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-8-20. Criteria for grant of variances or modifications.

When the Planning Commission and the Board of Trustees find that extraordinary hardships may result from strict compliance with these regulations, they may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variance is based on a finding that unusual topography or other exceptional conditions not caused by the subdivider make such variance necessary and that the granting thereof will not have the effect of nullifying the intent and purpose of these regulations.

(Ord. No. 4-74, § 9.2, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-8-30. Conditions.

In granting variances and modifications, the Planning Commission and the Board of Trustees may require such conditions as will, in their judgment, secure substantially the objectives of the requirements and standards so varied or modified.

(Ord. No. 4-74, § 9.3, 9-3-1974; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-8-40. Waivers.

The Board of Trustees may authorize waivers of this Chapter in cases where, due to exceptional conditions peculiar to the site, practical difficulties or an unnecessary hardship is placed on the landowner. Such waiver shall not be granted if it would be detrimental to the public good or create a conflict with the intent and purpose of this Chapter.

- (1) Any applicant desiring a waiver shall set forth in writing the request for the waiver,

explaining what exceptional condition, practical difficulty or unnecessary hardship exists to require the waiver. Maps or diagrams identifying the condition may be attached to the letter. The letter shall also address how the waiver, if granted, will not be detrimental to the public good, create a conflict with the requirements of this Chapter or impair the intent and purpose of this Chapter.

- (2) The conditions of any waiver shall be set forth in the minutes of the Board of Trustees or in a separate resolution or written document. Waivers might be granted only if they meet the following criteria:
 - a. The waiver, if granted, will not alter the essential character of the neighborhood or district in which the property is located or diminish the value, use or enjoyment of adjacent property.
 - b. The waiver, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions sought to be waived.
 - c. Such practical difficulties or unnecessary hardship has not been created by the applicant.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 9 MOBILE HOME PARKS

Sec. 17-9-10. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

Licensee means any person licensed to operate and maintain a mobile home park under the provisions of this Article.

Mobile home means any vehicle or similar portable structure having been constructed with wheels

(whether or not such wheels have been removed) and having no foundation other than wheels, jacks or skirtings and so designed or constructed as to permit occupancy for dwelling or sleeping purposes.

Mobile home park means any plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

Mobile home space means a plot of ground within a mobile home park designed for the accommodation of one mobile home.

Park means a mobile home park.

Permittee means any person to whom a temporary permit is issued to maintain or operate a mobile home park under the provisions of this Article.

Person means natural person, joint venture, joint stock company, partnership, association, club, company, firm, corporation, business, trust or organization, or the manager, lessee, agent, servant, officer or employee of any of them.
(Ord. No. 6-70, § 1, 8-3-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-9-20. License required.

It is unlawful for any person to maintain or operate a mobile home park within the limits of the Town unless such person first obtains a license therefor, in accordance with the provisions of this Article.
(Ord. No. 6-70, § 2, 8-3-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-9-30. License fee.

(a) The application fee for the original review of each application submitted shall be as set forth in the Town Fee Schedule.

(b) The annual license fee for each mobile home park shall be as set forth in the Town Fee Schedule.
(Ord. No. 6-70, § 3, 8-3-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-9-40. Application for license.

(a) *Application for initial license.* Application for an initial mobile home park license, together with the application fee, shall be filed with the designated official. The application shall be in writing, shall be signed by the applicant and shall include the following:

- (1) The name and address of the applicant.
- (2) The location and legal description of the mobile home park.
- (3) A complete plan of the park in conformity with the requirements of Section 17-9-60 below.
- (4) Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the mobile home park.
- (5) Such further information as may be requested by the designated official to enable him or her to determine if the proposed park will comply with legal requirements. The application and all accompanying plans and specifications shall be filed in triplicate. The designated official shall investigate the applicant and inspect the application and the proposed plans and specifications. If the applicant is of good moral character and the proposed mobile home park will, when constructed or altered in accordance with such plans and specifications, be in compliance with all provisions of this Chapter and all other applicable ordinances and statutes, the designated official shall approve the

application and, upon completion of the park according to the plans, shall issue the license.

(b) *Application for renewal of license.* Upon application in writing by a licensee for renewal of a license and upon payment of the annual license fee, the designated official shall issue a certificate renewing such license for another year.

(Ord. No. 6-70, § 4, 8-3-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-9-50. Location.

Mobile home parks may be located in any district as a special use. Where any boundary of a park directly abuts property which is improved with a permanent residential building located within 25 feet of such boundary or directly abuts unimproved property which may, under existing laws and regulations, be used for permanent residential construction, a fence, wall or hedge shall be provided along such boundary.

(Ord. No. 6-70, § 5, 8-3-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-9-60. Mobile home park plan.

The mobile home park shall conform to the following requirements:

- (1) **Size.** The site for the mobile home park shall not be less than three acres.
- (2) **Density.** The density for the park shall not exceed six units per gross acre.
- (3) **Mobile home space.** Each mobile home space shall have a minimum area of 3,200 square feet.
- (4) **Mobile home space dimensions.** Each space shall have an average width of not less than 40 feet.

- (5) **Site setbacks.** Setbacks between the perimeter property lines of the site and any mobile home shall not be less than the following:

- a. Adjacent to any dedicated street or highway: 20 feet.
- b. Adjacent to any side or rear property line: ten feet.

- (6) **Distance between trailers.** The following minimum distances shall be maintained between mobile homes:

- a. A distance of 20 feet between any mobile home, service building or another mobile home.
- b. A distance of five feet between any mobile home and any access driveway.

- (7) **Recreation facilities.** A recreational area designed for joint usage of all mobile home park inhabitants shall be provided at a ratio of 400 square feet of area for each mobile home space.

- (8) **Access and service roads.** The site shall have direct access to a public street or highway. Service roads within the mobile home park shall provide access to each space. The minimum width of such service road shall be 20 feet. If the road is to be used for parallel parking, the width shall be as follows:

- a. Parking, one side: 32 feet.
- b. Parking, both sides: 40 feet.

All service roads within the mobile home park shall be paved with asphalt or concrete and provided with six-inch vertical face curb and gutter and 36-inch sidewalks.

- (9) **Walkways.** If service buildings are included in the plan, walkways not less than

30 inches wide shall be provided from the mobile home spaces to the service buildings.

- (10) Utilities. Provisions shall be made to provide sewer, water and electric power service to each mobile home in a manner which will conform to all governing regulations.
- (11) Fire protection. Every park shall conform to the standards established by the National Fire Code (NFPA) No. 501A-1964, "Trailer Courts," or as otherwise required by the Board of Trustees.
- (12) Other considerations. If, in the process of reviewing the application for the mobile home park, the Board of Trustees deems it necessary to apply other conditions of approval or, due to unusual circumstances, it becomes necessary to require standards more restrictive than those outlined herein, such conditions may be required to make the use more compatible with either the existing or proposed environment.
- (13) Individual mobile home sites. The parking of a mobile home on a lot not located within a mobile home park is prohibited, unless said mobile home will not be occupied as a dwelling. Mobile homes set on foundations are considered to be single-family dwellings and must conform to current zoning regulations and building codes for such use.

(Ord. No. 6-70, § 6, 8-3-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-9-70. Service buildings.

(a) Service buildings, if provided, and housing sanitation facilities shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems.

(b) The service buildings shall be well-lighted at all times of the day and night, shall be well-ventilated with screened openings, shall be constructed of such moisture-proof material, which may be painted woodwork as shall permit repeated cleaning and washing, and shall be maintained at a temperature of at least 68 degrees Fahrenheit during the period from October 1 to May 1. The floors of the service buildings shall be of water-impervious material.

(c) All service buildings and the grounds of the park shall be maintained in a clean, slightly condition and kept free of any condition that will menace the health of any occupant or the public or will constitute a nuisance.

(Ord. No. 6-70, § 7, 8-3-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-9-80. Supervision.

The licensee or permittee, or a duly authorized attendant or caretaker, shall be in charge at all times to keep the mobile home park, its facilities and its equipment in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with the licensee or permittee, for the violation of any provision of this Article to which the licensee or permittee is subject. A register shall be maintained daily of all persons permanently residing in the park, together with their mobile home location and license number.

(Ord. No. 6-70, § 8, 8-3-1970; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-9-90. Enforcement.

(a) *Revocation of license.* The officer as designated by the Town may revoke any license to maintain and operate a park when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this Article. After such conviction, the license shall be reissued

if the circumstances leading to conviction have been remedied and the park is being maintained and operated in full compliance with the law.

(b) *Posting of license.* The license certificate shall be conspicuously posted in the office of or on the premises of the mobile home park at all times.

(c) *Separability of provisions.* Should any section or provision of this Article be declared invalid, such decision shall not affect the validity of the remaining portions of this Article.

(d) *Penalty.* Any person violating this Article shall be fined in accordance with the provisions of Section 1-4-20 of this Code.
(Ord. No. 6-70, § 9, 8-3-1970; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 10 PLANNING COMMISSION

DIVISION 1 SUBDIVISIONS

Sec. 17-10-10. Deposit required.

No territory within the Town shall be subdivided or developed without compliance with this Article. Subdivisions of three or fewer lots may be approved without full compliance with this Article by summary procedure designated by the Board of Trustees. Any person desiring to subdivide any parcel of land or territory within the Town into more than three separate lots or parcels shall first deposit a land use and development deposit with the Town Treasurer as set forth in the Town Fee Schedule. The land use deposit shall be paid to the Town Treasurer at the time of filing either an outline development plan, preliminary plat, site plan or petition for annexation, and no action shall be taken on any petition for annexation, outline development plan or preliminary plat by

the Board of Trustees or Planning Commission until such deposit has been paid to the Town Treasurer.

(Ord. No. 2-2001, § 3, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-20. Accounting.

A land use development deposit shall be accounted for separately by the Town Treasurer, who will maintain a separate account of all funds expended and fees and expenses incurred by the Town as a result of the annexation or development review. Such expenses shall be paid out of the land use development deposit. If at any time the deposit is exhausted, a new deposit in the same amount shall be required prior to granting any further reviews.

(Ord. No. 2-2001, § 3, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-30. Application of deposit.

The land use deposit shall be used to defray the expenses, including but not limited to reviewing the annexation, preparation of any annexation documents or annexation agreement, review of development proposals, including fees and costs incurred for review by the Town Planner, Town Engineer, Town Attorney, any water attorney, water engineer or traffic engineer, public hearing expenses, recording expenses, reproduction of materials or maps or any other consultant required to be engaged by the Town as a result of the proposed development, subdivision or annexation and any development fees set forth in the Town Fee Schedule.

(Ord. No. 2-2001, § 3, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-40. Withdrawal or completion.

Upon termination or withdrawal of any application at any time and by giving written notice to the Town of any such withdrawal or termination,

the Town shall promptly calculate the costs and expenses accrued and shall refund to the payor any unused portion of the land use development deposit. Upon completion of the development, final inspection and approval of the inspection and acceptance of the infrastructure in the development by the Board of Trustees, the accrual of expenses shall terminate. As soon thereafter as practical, the Town Treasurer shall calculate the total costs and expenses chargeable to the deposit and shall refund any excess or unused portion of the deposit.

(Ord. No. 2-2001, § 3, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-50. Property owner to sign acknowledgement.

At the time of filing any annexation petition, outline development plan, preliminary plat, site plan or any other land use proposal, the Town shall tender to the landowner, developer or subdivider an agreement for payment of land use application fees, which agreement shall set forth the terms of this Article and shall be signed by the landowner, developer or subdivider acknowledging the requirements of this Article and accepting the terms hereof.

(Ord. No. 2-2001, § 3, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-60. Project suspension.

In the event the land use development deposit described in this Article is not paid when due, all further consideration of any application by the Town or Town Staff shall terminate. In the event the deposit has been fully consumed and no new deposit has been made, all further consideration of any application by the Town, Town Staff or Planning Commission shall terminate.

(Ord. No. 2-2001, § 3, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-70. Construction.

This Article shall not be construed to impose any new fee, but shall be construed to be a deposit to ensure collection of all annexation or development costs incurred by the Town.

(Ord. No. 2-2001, § 3, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-80. Collection costs.

If any owner, subdivider or developer fails to pay fees as required herein, fails to pay any fee described herein when lawfully due or fails to post a deposit when required, such amount shall draw interest at the rate of 18 percent per annum. All court costs, attorneys' fees or expenses of collecting any amount due to the Town shall be paid by the owner, developer or subdivider.

(Ord. No. 2-2001, § 3, 4-9-2001; Ord. No. 2016-4, § 1, 8-29-2016)

**DIVISION 2 SUSPENSION, WITHDRAWAL
OR TERMINATION OF APPROVAL OF
PLAT**

Sec. 17-10-110. Authority.

The Board of Trustees may suspend or withdraw its approval of a plan or plat or may require corrective measures if it determines that the subdivider provided information upon which an approval was based that he or she knew or should have known was materially false or misleading or that he or she knowingly failed to disclose information that causes the information which was disclosed to be materially false or misleading. Suspension of approval may occur at any step in the subdivision process before final approval of the final plat.

(Ord. No. 2-2001, § 4; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-120. Notice and hearing.

Before any such action may be taken, the Board of Trustees shall mail written notice to the subdivider, first-class postage prepaid, notifying him or her of the possible suspension or withdrawal, stating the alleged basis for it and notifying the subdivider to appear if he or she so desires at a specified public meeting of the Board of Trustees, to be held not less than ten days nor more than 30 days after the date of the notice, to show cause why the specified approval should not be suspended or withdrawn, or corrective measures ordered.

(Ord. No. 2-2001, § 4; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-130. Action.

After giving the subdivider an opportunity to be heard, the Board of Trustees shall determine the matter and, upon good cause being shown, may suspend or withdraw any approval or require specified corrective measures to be taken. Adoption and approval of a resolution taking such action shall be deemed the final decision of the Board of Trustees. Any interested person aggrieved by action of the Board of Trustees pursuant to this Article may appeal to the District Court in and for the County, pursuant to Rule 106(a)(4), C.R.C.P., within the time therein provided.

(Ord. No. 2-2001, § 4; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-140. Expiration of plat approval.

Following notice and an opportunity for hearing as provided herein, the Board of Trustees may vacate an approved plat or any portion thereof, covering an area of not less than five acres, if there has been no substantial reliance on the plat within such area for a period of not less than five years

after recordation of the plat and next preceding the issuance of notice, all as provided in this Article. For purposes of this Article:

Noticed area means the lands covered by the plat or portion thereof proposed for vacation pursuant to this Article.

Ownership parcel means a group of contiguous platted lots or blocks, disregarding intervening unopened streets, held in common ownership as of the date of the notice provided in Section 17-10-150 below. It includes such intervening platted but unopened streets.

Substantial reliance on the plat means:

- (1) A division of any ownership parcel by the location of dwellings, lawful at the time of construction, based upon the plat, which have been continuously occupied, used and maintained in reasonable reliance on the plat; or
- (2) The construction and maintenance of roadways or other public improvements serving discrete areas within the ownership parcel, which areas were established or divided based upon the plat in reasonable reliance thereon.

(Ord. No. 2-2001, § 4; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-150. Notice.

If reasonable cause exists to believe that a plat or some portion thereof should be vacated pursuant to this Division, the Board of Trustees may give written notice to all persons holding record ownership, deed of trust and mortgage interests in each ownership parcel within the noticed area, as those interests then appear in the records of the County Clerk and Recorder. Such notice shall describe the ownership parcel, advise that the platted lot and block boundaries and intervening streets with it are being considered for vacation, state the date, time and place of a public hearing at which

the Board of Trustees will consider the matter and notify such persons that they may appear if they so desire to show cause why such lot and block boundaries and intervening streets within their ownership parcel should not be vacated. The public hearing shall be held not less than 30 days after notice is given. Notice shall be given by first-class mail, postage prepaid, to each interested person at the address given for him or her in the recorded instrument evidencing his or her interest, or to the County Assessor, and by publication two times in a newspaper of general circulation in the Town, with the second such publication occurring not less than 15 days before the date of the public hearing.

(Ord. No. 2-2001, § 4; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-160. Burden of proof.

An interested person shall have the burden of proving that, within the ownership parcel in which he or she has an interest, there has been substantial reliance on the plat within a period of not less than five years after recordation of the plat and next preceding the notice.

(Ord. No. 2-2001, § 4; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-170. Authority to vacate.

In portions of the noticed area where the Board of Trustees finds that, within a period of not less than five years after recordation of the plat and next preceding the notice, there has been no substantial reliance on the plat, it shall leave the lot and block boundaries between ownership parcels intact and may vacate platted lot and block boundaries and unopened streets within and adjacent to ownership parcels.

(Ord. No. 2-2001, § 4; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-180. Method of vacating.

If the Board of Trustees finds that, within a period of not less than five years after recordation of the plat and next preceding the notice, there has been substantial reliance on the plat within an ownership parcel, it may leave the lot and block boundaries affecting a division of such ownership parcel resulting from such reliance intact and vacate remaining lot and block boundaries and unopened streets within each accepted division. Each accepted division shall be deemed a separate ownership parcel.

(Ord. No. 2-2001, § 4; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-190. Access.

No action pursuant to this Article shall leave an ownership parcel without platted access to a public street or highway which has been accepted for maintenance by the Town, the County or the State, nor shall the Board of Trustees vacate any streets without reserving rights-of-way for existing utility facilities of which it has knowledge. The Board of Trustees has full discretion to decline to vacate any street within a noticed area and to reserve such right-of-way or easement interests in any vacated street as it deems in the best interest of the Town.

(Ord. No. 2-2001, § 4; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 17-10-200. Vacation by ordinance.

(a) Any action to vacate lot or block boundaries of public streets pursuant to this Section shall be by ordinance, which clearly describes the ownership parcels remaining within the noticed area and each portion of each street vacated. A certified copy of the ordinance shall be duly recorded in the office of the County Clerk and Recorder on or after the effective date thereof. Adoption and approval of the ordinance taking such action shall be deemed the final decision of the Board of

Trustees. Any interested person aggrieved by action of the Board of Trustees pursuant to this Division may appear to the District Court in and for the County, pursuant to Rule 106(a)(4), C.R.C.P., within the time therein provided.

(b) After the adoption of any ordinance enacted pursuant to this Division, the division of any ownership parcel identified in said ordinance shall be deemed a subdivision within the meaning of this Division and shall require approval of the Board of Trustees as provided herein. No failure to act or delay by the Board of Trustees in acting pursuant to this Division shall be deemed to waive or stop the Board of Trustees from acting at a future time, nor shall such failure or delay vest any rights in the owner of any property within the Town.

(Ord. No. 2-2001, § 4; Ord. No. 2016-4, § 1, 8-29-2016)

Chapter 18

Building Regulations

Article 1 Building Code

Sec. 18-1-10. Adoption.
Sec. 18-1-20. Copy on file.
Sec. 18-1-30. Amendments.
Sec. 18-1-40. Violations.

Article 2 Residential Code

Sec. 18-2-10. Adoption.
Sec. 18-2-20. Copy on file.
Sec. 18-2-30. Amendments.

Article 3 Electrical Code

Sec. 18-3-10. Adoption.
Sec. 18-3-20. Copy on file.
Sec. 18-3-30. Amendments.

Article 4 Mechanical Code

Sec. 18-4-10. Adoption.
Sec. 18-4-20. Copy on file.
Sec. 18-4-30. Amendments.

Article 5 Plumbing Code

Sec. 18-5-10. Adoption.
Sec. 18-5-20. Copy on file.
Sec. 18-5-30. Amendments.

Article 6 Fuel Gas Code

Sec. 18-6-10. Adoption.
Sec. 18-6-20. Copy on file.
Sec. 18-6-30. Amendments.

Article 7 Fire Code

Sec. 18-7-10. Adoption.
Sec. 18-7-20. Copy on file.
Sec. 18-7-30. Amendments.

Article 8 Energy Conservation Code

Sec. 18-8-10. Adoption.
Sec. 18-8-20. Copy on file.
Sec. 18-8-30. Amendments.

PIERCE MUNICIPAL CODE

Article 9 Property Maintenance Code

- Sec. 18-9-10. Adoption.
- Sec. 18-9-20. Copy on file.
- Sec. 18-9-30. Amendments.

Article 10 Existing Building Code

- Sec. 18-10-10. Adoption.
- Sec. 18-10-20. Copy on file.
- Sec. 18-10-30. Amendments.

Article 11 Dangerous Building Code

- Sec. 18-11-10. Purpose; scope; adoption.
- Sec. 18-11-20. Copy on file.
- Sec. 18-11-30. Amendments.
- Sec. 18-11-40. Penalties.

Article 12 Building Conservation Code

- Sec. 18-12-10. Adoption.
- Sec. 18-12-20. Copy on file.
- Sec. 18-12-30. Amendments.

Article 13 Building Permits

- Sec. 18-13-10. Planning Commission authority.

Article 14 Building Moving

- Sec. 18-14-10. Regulations.
- Sec. 18-14-20. Street obstruction prohibited.
- Sec. 18-14-30. Application for relocation permit.
- Sec. 18-14-40. Application fee.
- Sec. 18-14-50. Moving permit required.
- Sec. 18-14-60. Relocation permit issuance.
- Sec. 18-14-70. Bond; exceptions; term.
- Sec. 18-14-80. Default, forfeiture of bond.
- Sec. 18-14-90. Temporary structures.
- Sec. 18-14-100. Violations; penalties.

ARTICLE 1 BUILDING CODE**Sec. 18-1-10. Adoption.**

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., the *International Building Code*, 2012 edition (IBC), as published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, Chapters 1 through 35 inclusive and Appendix Chapter I, is hereby adopted by reference as the Town building code as if fully set out in this Article, to have the same force and effect as if set forth herein in every particular. The subject matter of the adopted code includes comprehensive provisions and standards regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings and structures for the purpose of protecting the public health, safety and general welfare. (Ord. No. 2013-3, § 2, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-1-20. Copy on file.

At least one copy of the International Building Code, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person during regular business hours. The code as finally adopted shall be available for sale to the public through the office of the Town Clerk at a moderate price. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-1-30. Amendments.

The International Building Code is adopted with the additions, deletions, insertions and changes as follows:

- (1) IBC Section 101.1 (Title) is amended by the addition of the term "Town of Pierce" where indicated.

- (2) IBC Section 101.4.3 IBC Section 101.4.3 (Plumbing) is amended by deletion of the last sentence.
- (3) IBC Section 101.4.5 (Fire prevention) is amended by replacing "International Fire Code" with "adopted fire code."
- (4) IBC Section 101.4.6 IBC (Energy) is amended by replacing the words "International Energy Conservation Code" with "2009 International Energy Conservation Code."
- (5) IBC Section 105.1 (Required) is amended by replacing the words "building official" with "Town."
- (6) IBC Section 105.2 (Work exempt from permit) is amended by:
 - a. Deleting Exception #1 and replacing it with:

"One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet and the roof height does not exceed 10 feet above grade measured from a point directly outside the exterior walls of the structure."
 - b. Deleting Exception #2 and replacing it with "Fences not over 6 feet high."
 - c. Adding Exception #14, to read:

"Shingles repair or replacement work not exceeding one square (100 square feet in area) of covering per building."
- (7) IBC Section 105.5 (Expiration) is amended by the deletion of this section in its entirety and replacing it with:

"Every permit issued by the building official under the provisions of this code

shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one-half the amount required for a new permit for such work, provided that no changes have been made or will be made in the original plans and specifications for such work, and provided further that such suspension or abandonment has not exceeded one year. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee."

- (8) IBC Section 109.6 (Refunds) is amended by deleting the section in its entirety and replacing it with the following:

"The Town may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

"The Town may authorize refunding of not more than 80 percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this code.

"The Town may authorize refunding of not more than 80 percent (80%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan reviewing is done.

"The Town shall not authorize refunding of any fee paid except on written ap-

plication filed by the original permittee not later than 180 days after the date of fee payment."

- (9) IBC Section 111.3 (Temporary occupancy) is amended by deleting the words "building official" in the first and second sentences and replacing them with "Town."
- (10) IBC Section 113.1 (General) is amended by deleting the last two sentences and inserting the following:

"The members of the Board of Appeals shall be comprised of the members of the Town Board of Appeals."

- (11) IBC Section 113.3 (Qualifications) is deleted in its entirety.
- (12) IBC Section 114.2 (Notice of violation) is amended by adding the following after the last paragraph:

"Notice of violations shall be delivered in accordance with section 107 of the IPMC."

- (13) IBC Section 202 (Definitions) is amended by the addition of the following:

" 'Sleeping Room' (Bedroom) is any enclosed habitable space within a dwelling unit, which complies with the minimum room dimension requirements of IBC Section 1208 and contains a closet, an area that is useable as a closet, or an area that is readily convertible for use as a closet. Living rooms, family rooms and other similar habitable areas that are so situated and designed so as to clearly indicate these intended uses shall not be interpreted as sleeping rooms."

- (14) IBC Section 1013.2 (Where required) is amended by the addition of a second paragraph inserted before the exceptions as follows:

"All area wells, stair wells, window wells and light wells attached to any building

that are located less than 36 inches (914.4 mm) from the nearest intended walking surface and deeper than 30 inches (762 mm) below the surrounding ground level, creating an opening greater than 24 inches (610 mm) measured perpendicular from the building, shall be protected with guards conforming to this section around the entire opening, or be provided with an equivalent barrier."

- (15) IBC Section 1029.5.1 (Minimum size) is amended by the addition of the following;

"For all building permits issued after the effective date of Ordinance No. 1-98 adopted June 8, 1998, adopting the UBC 1997 Ed., all escape and rescue windows requiring a window well pursuant to the International Building Code shall comply with the dimension requirements set forth in this section, whether or not said escape or rescue window is located in a sleeping room.

"With regard to building permits issued prior to the effective date of Ordinance No. 1-98 adopted June 8, 1998, adopting the UBC 1997 Ed., for additions to or alterations of existing buildings or structures, any window well with a finished sill height below adjacent ground level shall be deemed in compliance with the Town's regulations if said window well meets the dimensions set forth in the 1991 Edition of the Uniform Building Code, previously in effect in the Town."

- (16) IBC Section 1301.1.1 (Criteria) is amended by replacing "International Energy Conservation Code" with "2009 International Energy Conservation Code."
- (17) IBC Section 1612.3 (Establishment of flood hazard areas) is amended by the insertion of "Town of Pierce" where indicated in

[Name of Jurisdiction] and the date of the latest flood insurance study for the Town, dated April 27, 2006, where indicated in [Date of Issuance].

- (18) IBC Section 3401.3 (Compliance with other codes) is amended by deleting "International Fire Code" and inserting in its place "adopted fire code," deleting "International Private Sewage Disposal Code," and deleting "NFPA 70" and inserting in its place "National Electrical Code adopted by the State of Colorado."

- (19) IBC Section 3412.2 (Applicability) is amended by the insertion of "May 1, 2013," the effective date of building codes for the Town, where indicated in [DATE TO BE INSERTED BY JURISDICTION].

(Ord. No. 2013-3, § 2, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-1-40. Violations.

It is unlawful and constitutes a public nuisance for any person to maintain any property, building or other structure in the Town in a condition which is in violation of the provisions of this Chapter. Any person convicted of violating the provisions of this Chapter shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 2 RESIDENTIAL CODE

Sec. 18-2-10. Adoption.

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., the *International Residential Code*, 2012 edition (IRC), as published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, Chapters 1 through 43 inclusive and Appendix Chapters G and H, is hereby adopted by reference as the Town

residential building code, to have the same force and effect as if fully set out in this Article. The subject matter of the adopted code concerns the fire, life and structural safety aspects of one-family and two-family dwellings and townhouses, and national test, material and special design standards for these types of buildings and structures. (Ord. No. 2013-3, § 3, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-2-20. Copy on file.

At least one copy of the International Residential Code, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person during regular business hours. The code as finally adopted shall be available for sale to the public through the office of the Town Clerk at a moderate price. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-2-30. Amendments.

The International Residential Code, 2012 edition, is adopted with the additions, deletions, insertions and changes as follows:

- (1) IRC Section R101.1 (Title) is amended by the addition of the term "Town of Pierce" where indicated.
- (2) IRC Section R105.1 (Required) is amended by replacing the words "building official" with "Town."
- (3) IRC Section R105.2 (Work exempt from permit) is amended by deleting:
 - a. Exception #1 and replacing it with:
 "One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided that the floor area does not exceed 120 square feet and the roof height does not exceed 10 feet above

grade measured from a point directly outside the exterior walls of the structure."

- b. Exception #2 and replacing it with "Fences not over 6 feet high."
- c. Exception #10 and replacing it with:
 "Shingle repair or replacement work not exceeding one square (100 square feet in area) of covering per building."

- (4) IRC Section 105.5 (Expiration) is amended by the deletion of this section in its entirety and replacing it with:

"Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one-half the amount required for a new permit for such work, provided that no changes have been made or will be made in the original plans and specifications for such work, and provided further that such suspension or abandonment has not exceeded one year. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee."

- (5) IRC Section R108.5 (Refunds) is amended by deleting the section in its entirety and replacing it with the following:

"The Town may authorize refunding of any fee paid hereunder which was erroneously paid or collected."

"The Town may authorize refunding of not more than 80 percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with this code.

"The Town may authorize refunding of not more than 80 percent (80%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan reviewing is done.

"The Town shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 180 days after the date of fee payment."

- (6) IRC Section R109.1.5 (Other inspections) is amended by the addition of a new subsection as follows:

"R109.1.5.2 Insulation inspection. Inspection of the structure shall be made following installation of the wall, ceiling and floor insulation and exterior windows and before wall coverings are installed."

- (7) IRC Section R110.4 (Temporary occupancy) is amended by deleting the words

"building official" in the first and second sentences and replacing them with "Town."

- (8) IRC Section R112.1 (General) is amended by deleting the last three sentences and inserting the following:

"The members of the Board of Appeals shall be comprised of the members of the Town Board of Appeals."

- (9) IRC Section R112.3 (Qualifications) is deleted in its entirety.

- (10) IRC Section R202 (Definitions) is amended by the addition of the following:

" 'Sleeping Room' (Bedroom) is any enclosed habitable space within a dwelling unit, which complies with the minimum room dimension requirements of IRC Sections R304 and R305 and contains a closet, an area that is useable as a closet, or an area that is readily convertible for use as a closet. Living rooms, family rooms and other similar habitable areas that are so situated and designed so as to clearly indicate these intended uses, shall not be interpreted as sleeping rooms."

- (11) IRC Table R301.2(1) is completed to provide the following:

Table R301.2(1)
Climatic and Geographic Design Criteria

<i>Ground Snow Load</i>	<i>Wind Design</i>		<i>Seismic Design Category</i>	<i>Subject to Damage From</i>			<i>Winter Design Temp</i>	<i>Ice Barrier Under- layment Required</i>	<i>Flood Hazard</i>	<i>Air Freezing Index</i>	<i>Mean Annual Temp</i>
	<i>Speed (mph)</i>	<i>Topo- graphic Effects</i>		<i>Weather- ing</i>	<i>Frost Line Depth</i>	<i>Termites</i>					
20 psf	90	No	B	Severe	30 in.	Slight to Moderate	1	NO	April 27, 2006	1000	45°F

- (12) IRC Section R302.1 (Exterior walls) is amended by deleting the words:

"or dwellings equipped throughout with an automatic sprinkler system installed in accordance with section P2904 shall comply with table R302.1(2)."

- (13) IRC Table R302.1(2) is deleted in its entirety.

- (14) IRC Section R302.2 (Townhouses) is amended by replacing "1-hour fire resistance-rated wall" with "2-hour fire resistance-rated wall."

- (15) IRC Section R302.3 (Two-family dwelling) is amended by replacing "1-hour fire-resistance rating" with "2-hour fire-resistance rating."

- (16) IRC Section R303.4 (Mechanical ventilation) is amended by replacing "5 air changes per hour" with "7 air changes per hour" and replacing the words "in accordance with section N1102.4.1.2" with "in accordance with section 402.4.2.1 of the International Energy Conservation Code, 2009 Edition."

- (17) IRC Section R309.5 (Fire sprinklers) is deleted in its entirety.

- (18) IRC Section R310.1 (Emergency escape and rescue openings) is amended by deleting the first paragraph and replacing it with:

"All windows located in basements, habitable attics and sleeping rooms shall meet all the requirements of sections R310.1 through R310.2.2."

- (19) IRC Section R310.1.1 (Minimum opening area) is amended by the deletion of the exception.

- (20) IRC Section R310.2 (Window wells) is amended by the addition of the following:

"For all building permits issued after the effective date of Ordinance No. 1-98, adopted June 8, 1998, adopting the UBC 1997 Ed., all escape and rescue windows requiring a window well pursuant to the International Building Code shall comply with the dimension requirements set forth in this section, whether or not said escape or rescue window is located in a sleeping room.

"With regard to building permits issued prior to the effective date of Ordinance No. 1-98, adopted June 8, 1998, adopting the UBC 1997 Ed., for additions to or alterations of existing buildings or structures, any window well with a finished sill height below adjacent ground level shall be deemed in compliance with the Town's regulations if said window well meets the dimensions set forth in the 1991 Edition of the Uniform Building Code, previously in effect in the Town."

- (21) IRC Section R310.2.1 (Ladder and steps) is amended by the addition of the following exception, to read as follows:

"Exception: Only one window well ladder shall be required in an unfinished basement."

- (22) IRC Section R312.1 (Guards required) is amended by the addition of a third paragraph as follows:

"All area wells, stair wells, window wells and light wells attached to any building that are located less than 36 inches (914 mm) from the nearest intended walking surface and deeper than 30 inches (762 mm) below the surrounding ground level, creating an opening greater than 24 inches (610 mm) measured perpendicular from the building, shall be protected with guards

conforming to this section around the entire opening, or be provided with an equivalent barrier.

"Exceptions:

"1. The access side of stairways need not be protected.

"2. Area and window wells provided for emergency escape and rescue windows may be protected with approved grates or covers that comply with Section R310.4 of this code.

"3. Covers and grates may be used over stairways and other openings used exclusively for service access or for admitting light or ventilation."

- (23) IRC Section R313 (Automatic Fire Sprinkler Systems) is deleted in its entirety.

- (24) IRC Section R401.2 (Requirements) is amended by the addition of the following:

"Foundations shall be designed and the construction drawings stamped by a Colorado registered design professional. The foundation design must be based on an engineer's soils report. The drawings must be noted with the engineering firm name, specific location for design and soils report number. A site certification prepared by a State of Colorado registered design professional is required for setback verification on all new Group R Division 3 occupancies."

- (25) IRC Section R405.1 (Concrete or masonry foundations) is amended by the addition of the following after the first sentence:

"All foundation drains shall be designed and inspected by a State of Colorado registered design professional."

- (26) IRC Section R501.3 (Fire protection of floors) is deleted in its entirety.

- (27) IRC Chapter 11 (Energy Efficiency) is deleted in its entirety and replaced with the 2009 International Energy Conservation Code.

- (28) IRC Section M1502.4.4.2 (Manufactures instructions) is deleted in its entirety.

- (29) IRC Section G2415.12 (Minimum burial depth) is amended by the addition of the following:

"All plastic fuel gas piping shall be installed a minimum of 18 inches (457 mm) below grade."

- (30) IRC Section G2415.12.1 (Individual outside appliances) is deleted in its entirety.

- (31) IRC Section G2417.4.1 (Test pressure) is amended by changing "3 psig" to "10 psig."

- (32) IRC Section G2417.4.2 (Test duration) is amended by replacing "10 minutes" with "15 minutes."

- (33) IRC Section P2503.5.1 (Rough plumbing) is amended by deleting the first paragraph and replacing it with:

"DWV systems shall be tested on completion of the rough piping installation by water or air with no evidence of leakage."

- (34) IRC Section P2603.5.1 (Sewer depth) is amended by filling in both areas where indicated to read "12 inches (305 mm)."

- (35) IRC Section P3103.1 (Roof extension) is amended by replacing the words "6 inches" with "12 inches."

(Ord. No. 2013-3, § 3, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 3 ELECTRICAL CODE

Sec. 18-3-10. Adoption.

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., there is hereby adopted, by reference the

National Electrical Code, 2002 edition (NEC), published by the National Fire Protection Association, One Batterymarch Park, Quincy, Massachusetts 02269. The purpose of the adopted code is to protect the health, safety and lives of the residents of the Town. The subject matter of the adopted code includes comprehensive rules and regulations governing materials, methods of installation, inspection and other matters pertaining to the practical safeguarding of persons and property from hazards arising from the use of electricity.

(Ord. No. 2002-4, § 6, 5-13-2002; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-3-20. Copy on file.

At least one copy of the National Electrical Code, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person during regular business hours. The code as finally adopted shall be available for sale to the public through the office of the Town Clerk at a moderate price.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-3-30. Amendments.

The code adopted herein is hereby modified by the following amendments: none.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 4 MECHANICAL CODE

Sec. 18-4-10. Adoption.

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., the *International Mechanical Code*, 2012 edition (IMC), as published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478, Chapters 1 through 15 inclusive, is hereby adopted by reference as the Town mechanical code, to have the

same force and effect as if fully set out in this Article. The subject matter of the adopted code includes comprehensive provisions and standards relating to the erection, installation, alteration, repair, relocation, replacement, addition to, use or maintenance of heating, ventilating, cooling and refrigeration systems, incinerators or other miscellaneous heat-producing appliances within the Town for the purpose of protecting the public health, safety and general welfare.

(Ord. No. 2013-3, § 4, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-4-20. Copy on file.

At least one copy of the International Mechanical Code, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person during regular business hours. The code as finally adopted shall be available for sale to the public through the office of the Town Clerk at a moderate price.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-4-30. Amendments.

The International Mechanical Code, 2012 edition, is adopted with the additions, deletions, insertions and changes as follows:

- (1) IMC Section 101.1 (Title) is amended by the addition of the term "Town of Pierce" where indicated.
- (2) IMC Section 504.6.4.2 (Manufactures Instructions) is deleted in its entirety.

(Ord. No. 2013-3, § 4, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 5 PLUMBING CODE

Sec. 18-5-10. Adoption.

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., the *International Plumbing Code*, 2012 edi-

tion (IPC), as published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, Chapters 1 through 13 inclusive, is hereby adopted by reference as the Town plumbing code, to have the same force and effect as if fully set out in this Article. The subject matter of the adopted code includes comprehensive regulations governing materials, installation methods and other matters pertaining to plumbing for the purpose of protecting the public health, safety and general welfare. (Ord. No. 2013-3, § 6; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-5-20. Copy on file.

At least one copy of the International Plumbing Code, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by an interested person during regular business hours. The code as finally adopted shall be available for sale to the public through the office of the Town Clerk at a moderate price. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-5-30. Amendments.

The International Plumbing Code, 2012 edition, is adopted with the additions, deletions, insertions and changes as follows:

- (1) IPC Section 101.1 (Title) is amended by the addition of the term "Town of Pierce" where indicated.
- (2) IPC Section 305.4.1 (Sewer depth) is amended by filling in both areas where indicated to read "12 inches (305 mm)."
- (3) IPC Section 312.3 (Drainage and vent air test) is amended by deleting the first paragraph.

- (4) IPC Section 904.1 (Roof extension) is amended by inserting the number "12" (152.4 mm)" where indicated in the second sentence.

(Ord. No. 2013-3, § 6, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 6 FUEL GAS CODE

Sec. 18-6-10. Adoption.

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., the *International Fuel Gas Code*, 2012 edition (IFGC), as published by the International Code Council, Inc., 5203 Leesburg Pike, Suite 600, Falls Church, Virginia 22041-3401, Chapters 1 through 8 inclusive, is hereby adopted by reference as the Town fuel gas code, to have the same force and effect as if fully set out in this Article. The subject matter of the adopted code concerns requirements for the installation and maintenance of fuel gas burning appliances and systems. (Ord. No. 2013-3, § 5, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-6-20. Copy on file.

At least one copy of the International Fuel Gas Code, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person during regular business hours. The code as finally adopted shall be available for sale to the public through the office of the Town Clerk at a moderate price. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-6-30. Amendments.

The International Fuel Gas Code, 2012 edition, is adopted with the additions, deletions, insertions and changes as follows:

- (1) IFGC Section 101.1 (Title) is amended by the addition of the term "Town of Pierce" where indicated.

- (2) IFGC Section 404.12 (Minimum burial depth) is amended by the addition of the following:

"All plastic fuel gas piping shall be installed a minimum of 18 inches (457 mm) below grade."

- (3) IFGC Section 406.4.1 (Test pressure) is amended by changing "3 psig" to "10 psig."

- (4) IFGC Section 406.4.2 (Test duration) is amended by changing the second paragraph to read:

"When testing a system having a volume less than 10 cubic feet or a system in a single-family dwelling, the test duration shall be not less than 15 minutes."

- (5) IFGC Section 614.6.5.2 (Manufactures instructions) is deleted in its entirety.

(Ord. No. 2013-3, § 5, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 7 FIRE CODE

Sec. 18-7-10. Adoption.

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., there is adopted as the fire code for the Town, by reference thereto, the *International Fire Code*, 2012 edition (IFC), and all appendices and tables thereto published by the International Code Council, Inc., and the Western Fire Chiefs Association, 5360 South Workman Mill Road, Whittier, California. The subject matter of the adopted code includes comprehensive provisions and standards designed to prevent fires. The purpose of the adopted code is to protect the health, safety and welfare of the residents of the Town.
(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-7-20. Copy on file.

At least one copy of the International Fire Code, certified to be a true copy, has been and is

now on file in the office of the Town Clerk and may be inspected by any interested person during regular business hours. The code as finally adopted shall be available for sale to the public through the office of the Town Clerk at a moderate price.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-7-30. Amendments.

The code adopted herein is hereby modified by the following amendments: none.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 8 ENERGY CONSERVATION CODE

Sec. 18-8-10. Adoption.

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., the *International Energy Conservation Code*, 2009 edition (IECC), as published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, Chapters 1 through 5 inclusive, is hereby adopted by reference as the Town energy conservation code as if fully set out in this Article, to have the same force and effect as if set forth herein in every particular. The subject matter of the adopted code concerns the design of energy-efficient building envelopes and installation of energy-efficient mechanical, lighting and power systems and for energy conservation-related standards for testing and materials.

(Ord. No. 2013-3, § 7, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-8-20. Copy on file.

At least one copy of the International Energy Conservation Code, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person during regular business hours. The code as

finally adopted shall be available for sale to the public through the office of the Town Clerk at a moderate price.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-8-30. Amendments.

The International Energy Conservation Code is adopted with the additions, deletions insertions and changes as follows:

- (1) IECC Section C101.1 (Title) is amended by the addition of the term "Town of Pierce" where indicated.

(Ord. No. 2013-3, § 7, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 9 PROPERTY MAINTENANCE CODE

Sec. 18-9-10. Adoption.

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., the *International Property Maintenance Code*, 2012 edition (IPMC), as published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, Chapters 1 through 8 inclusive, is hereby adopted by reference as the Town property maintenance code as if fully set out in this Article, to have the same force and effect as if set forth herein in every particular. The subject matter of the adopted code includes the provision of just, equitable and practical procedures for the continued maintenance of property.

(Ord. No. 2013-3, § 8, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-9-20. Copy on file.

At least one copy of the International Property Maintenance Code, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person during regular business hours. The code as

finally adopted shall be available for sale to the public through the office of the Town Clerk at a moderate price.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-9-30. Amendments.

The International Property Maintenance Code is adopted with the additions, deletions, insertions and changes as follows:

- (1) IPMC Section 101.1 (Title) is amended by the addition of the term "Town of Pierce" where indicated.
- (2) IPMC Section 103.5 (Fees) is deleted in its entirety.
- (3) IPMC Section 111.2 (Membership of board) is amended by deleting the section in its entirety and replacing it with the following:

"The members of the Board of Appeals shall be comprised of the members of the Town Board of Appeals."

- (4) IPMC Section 111.2.1 (Membership of board) is deleted in its entirety.
- (5) IPMC Section 111.2.2 (Chairman) is deleted in its entirety.
- (6) IPMC Section 111.2.3 (Disqualification of member) is deleted in its entirety.
- (7) IPMC Section 111.2.4 (Secretary) is deleted in its entirety.
- (8) IPMC Section 111.2.5 (Compensation of members) is deleted in its entirety.
- (9) IPMC Section 302.4 (Weeds) is deleted in its entirety.
- (10) IPMC Section 302.8 (Motor vehicles) is deleted in its entirety.
- (11) IPMC Section 308 (Rubbish and Garbage) is deleted in its entirety.

(12) IPMC Section 604.2 (Service) is amended by replacing "NFPA 70" with "Electrical Code adopted by the state of Colorado." (Ord. No. 2013-3, § 8, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 10 EXISTING BUILDING CODE

Sec. 18-10-10. Adoption.

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., the *International Existing Building Code*, 2012 edition (IEBC), as published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, Chapters 1 through 15 inclusive, is hereby adopted by reference as the Town existing building code as if fully set out in this Article, to have the same force and effect as if set forth herein in every particular. The subject matter of the adopted code concerns the fire, life and structural safety aspects of existing buildings, addressing repair, alteration or change of occupancy. (Ord. No. 2013-3, § 9, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-10-20. Copy on file.

At least one copy of the International Existing Building Code, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person during regular business hours. The code as finally adopted shall be available for sale to the public through the office of the Town Clerk at a moderate price. (Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-10-30. Amendments.

The International Existing Building Code is adopted with the additions, deletions, insertions and changes as follows:

- (1) All references to "ICC Electrical Code" shall be replaced with "Electrical Code adopted by the state of Colorado."

- (2) IEBC Section 101.1 (Title) is amended by the addition of the term "Town of Pierce" where indicated.

- (3) IEBC Section 1301.1 (Conformance) is amended by deleting the section in its entirety and replacing it with the following:

"Structures moved into or within the jurisdiction shall comply with the provision of this code for new structures."

(Ord. No. 2013-3, § 9, 3-11-2013; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 11 DANGEROUS BUILDING CODE

Sec. 18-11-10. Purpose; scope; adoption.

(a) There is hereby adopted by reference the *Uniform Code for the Abatement of Dangerous Buildings*, 1997 Edition, as published by the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, California.

(b) The purpose of the Uniform Code for the Abatement of Dangerous Buildings is to ensure that structures are safe, sanitary and fit for occupation and use.

(c) The subject matter of the adopted code includes comprehensive provisions regulating and governing the conditions of buildings and structures, providing for the removal of buildings or structures which may endanger the life, limb, health, morals, property, safety and welfare of the general public or their occupants, ensuring that the structures are safe, sanitary and fit for occupation and providing means for condemnation of buildings and structures which are unfit for human occupation or dangerous.

(Ord. No. 2005-1, §§ 1—3, 6-13-2005; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-11-20. Copy on file.

At least one copy of the Uniform Code for the Abatement of Dangerous Buildings, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person during regular business hours. The code as finally adopted shall be available for sale to the public through the office of the Town Clerk at a moderate price.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-11-30. Amendments.

The code is hereby adopted by reference as if fully set out in this Article with the additions, deletions, insertions and changes as follows:

- (1) Section 205, Board of Appeals, is amended to read as follows:

"205. Board of Appeals. The Board of Appeals described in Section 205 of the adopted code shall be the Board of Adjustment of the Town of Pierce. The policies and rules of the Board of Adjustment shall be used in hearing all appeals related to the adopted code. The concurring vote of four members of the Board of Adjustment shall be required to overturn a decision of the Building Official."

(Ord. No. 2005-1, § 3, 6-13-2005; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-11-40. Penalties.

Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor and each such person, upon conviction, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(Ord. No. 2005-1, § 5, 6-13-2005; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 12 BUILDING CONSERVATION CODE**Sec. 18-12-10. Adoption.**

Pursuant to Part 2 of Article 16 of Title 31, C.R.S., there is hereby adopted by reference the *Uniform Code for Building Conservation*, 1997 edition (UCBC), as published by the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, California.

(Ord. No. 2002-4, § 7, 5-13-2002; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-12-20. Copy on file.

At least one copy of the Uniform Code for Building Conservation, certified to be a true copy, has been and is now on file in the office of the Town Clerk and may be inspected by any interested person during regular business hours. The code as finally adopted shall be available for sale to the public through the office of the Town Clerk at a moderate price.

(Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-12-30. Amendments.

The code adopted herein is hereby modified by the following amendments: none.

(Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 13 BUILDING PERMITS**Sec. 18-13-10. Planning Commission authority.**

The Planning Commission is authorized to exercise the authority granted by state law and is authorized to carry out the responsibilities set forth by this Code or any ordinance of the Town or other tasks assigned to it by the Board of Trustees. The Planning Commission is granted authority to authorize the issuance or denial of

building permits. The Planning Commission shall only authorize the issuance of a building permit if all of the following conditions exist or are met:

- (1) The building and building site conform or will conform to all requirements of the zoning district where the building site is located.
- (2) The building site has not been divided or subdivided except by approval of the Board of Trustees.
- (3) The building site abuts or fronts on and has legal access to a dedicated public street or highway which has been accepted for maintenance by the Town, the County or the State.
- (4) Any structure which requires a supply of domestic water or generates wastewater has been connected to the authorized water system and wastewater system, if applicable.
- (5) No permit shall be issued for construction in any area of special flood hazard until such proposal is in compliance with the flood damage prevention regulations of the Town. Upon finding that any development within an area of special flood hazard complies with the appropriate regulations, the Planning Commission shall refer the matter to the Board of Trustees for final determination of the issuance of a building permit.
- (6) No building permit shall be issued without proof of ownership by means of a deed, title insurance commitment or equity position, evidenced by a contract. If the applicant is an equity owner, the legal owner shall sign any necessary documents together with the equity owner.

(Ord. No. 2-2001, § 2; Ord. No. 2016-4, § 1, 8-29-2016)

ARTICLE 14 BUILDING MOVING

Sec. 18-14-10. Regulations.

(a) No building, structure or temporary building shall be moved within the Town except pursuant to these regulations.

(b) Buildings or structures moved into or relocated within the Town shall comply with the provisions of this Article and all applicable portions of the building codes adopted by the Town.

(Ord. No. 6-97, §§ 1, 2-1, 6-9-1997; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-14-20. Street obstruction prohibited.

No person, without the written permission of the Building Official, shall obstruct a street by placing a building therein or move a building through or upon a street, and no person shall aid or assist in so obstructing a street or moving a building or leaving a building or structure in any street or thoroughfare, without providing proper traffic control and warning devices as approved by the Board of Trustees.

(Ord. No. 6-97, § 2-2, 6-9-1997; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-14-30. Application for relocation permit.

(a) All applications for moving or relocating buildings through the streets of the Town shall be made to the Building Official in writing upon forms furnished by the Building Official and shall set forth such information as the Building Official may require in order to carry out the purposes of this Article.

(b) Every such application shall state the present location of the building proposed to be moved or relocated, its length, width, height and the principal material of its sides and of the roof; shall definitely describe the route over which it is to be moved; shall indicate the location and height of existing aboveground public utility lines and poles

along such route; and shall state the legal description and street and house number of the location to which it is proposed to move such building.

(c) No relocation permit shall be issued to any person to relocate any building or structure upon another lot unless such use, building or proposed conversion thereof conforms to applicable codes of the Town and the adopted building code.

(d) No permit shall be issued to any person to relocate any building or structure which is so constructed or in such condition as to be dangerous or unsafe, which is infested with pests or unsanitary or which is so dilapidated, defective or in such a condition of deterioration or disrepair that its relocation at the proposed site would create a safety or health hazard or would cause substantial damage or material detriment to the surrounding property.

(e) Every such application shall be accompanied by the written consent of the Chiefs of the Fire and Police Departments, who shall be notified of the route to be taken and when the removal or relocation shall be made.

(f) No person except a licensed house mover shall remove or relocate any building within the corporate limits of the Town.
(Ord. No. 6-97, §§ 2-3, 2-4, 6-9-1997; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-14-40. Application fee.

(a) All applications for a relocation permit shall be accompanied by a fee as set forth in the Town Fee Schedule to cover the cost of the Building Official in inspecting the condition of the building or structure to be moved and for the inspection of the proposed new location. Such fee shall be in addition to the regular building permit fee required by the building code.

(b) All relocation permits shall expire 45 days from the date of issuance and are nontransferable.

(c) The Building Official has the authority to waive this fee for good cause.

(Ord. No. 6-97, § 2-4, 6-9-1997; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-14-50. Moving permit required.

A permit for the actual moving of each individual structure via any public street, alley and/or right-of-way shall be required. Said permit shall be posted in a visible place on the lower right-hand corner of the structure. A permit fee as set forth in the Town Fee Schedule shall be assessed for each individual structure for each calendar day or fraction thereof that the structure is being moved and/or parked on a public street, alley and/or right-of-way within the Town. Cost of the permit shall include the assistance of the Town police authority and/or a representative of the Town for traffic control when practical, feasible and determined necessary by the Town.

(Ord. No. 6-97, § 2-4, 6-9-1997; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-14-60. Relocation permit issuance.

(a) If the present use or condition of the building or structure permits practical conversion or effective repair or alteration, the Building Official shall issue a relocation permit, provided that plans are submitted to the Building Official showing that the proposed improvements and alterations conform to the building code and this Code and will not cause substantial damage or material detriment to the surrounding property.

(b) The Building Official shall cause an inspection to be made of the building or structure to be relocated and of the site upon which it is to be located in order to determine whether said permit shall be granted. If the building or structure to be relocated presently lies outside the Town limits, the applicant shall pay a mileage fee as set forth in the Town Fee Schedule for each mile actually and necessarily traveled by the Building Official to

make such inspection. Such fee shall be paid in advance and shall be in addition to all other fees required by this Article.

(Ord. No. 6-97, § 2-5, 6-9-1997; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-14-70. Bond; exceptions; term.

(a) A relocation permit shall not be issued unless the applicant therefor first posts with the Town Clerk a bond executed by the owner of the premises where the building or structure is to be relocated as principal or by a surety company authorized to do business in the State as surety. Such bond shall name the Town of Pierce, a municipal corporation, as obligee, and shall be in an amount equal to the cost of the completed proposed structure as estimated by the Building Official, plus 30 percent of the estimated amount for administration. Such estimate shall be made in accordance with the existing practices of estimating in the building industry in this area, but in no event shall such estimate be greater than \$30.00 per square foot of available floor space when completed. In lieu of a surety bond, the applicant may deposit a cash bond with the Town Clerk in a similar amount and with conditions as required in the case of a surety bond.

(b) A relocation bond shall not be required when the building or structure being moved is a manufactured housing unit certified to regulation adopted under Section 24-32-701, et seq., C.R.S. and such unit has been issued a building permit under the provisions of the building code.

(c) A relocation bond shall not be required when the building or structure is being moved or relocated by a governmental agency for governmental purposes.

(d) The relocation bond shall be conditioned upon compliance with all provisions of the building code, this Code and all other applicable ordi-

nances, and that the work required to be done shall be fully performed and completed within six months.

(e) The term of such bond shall commence with the date of execution thereof and shall terminate upon the completion of all work in compliance with the terms and conditions of the relocation permit and bond. Upon such completion, the Building Official shall evidence the same in writing addressed to the principal and surety and execute such release as the surety shall require or, in the event of a cash bond having been posted, shall cause the necessary requisition to be drawn upon the funds held by the Town Clerk in order to refund the same.

(Ord. No. 6-97, § 2-6, 6-9-1997; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-14-80. Default, forfeiture of bond.

(a) Whenever a default occurs in the performance of any term or condition of a relocation permit or bond, written notice thereof shall be given to the principal and to the surety on the bond, if any. Such notice may be served personally or by certified mail and first-class mail, postage prepaid. Such notice shall state the nature of the default and shall specify the work to be done and the time within which such work shall be completed. Failure to comply with the requirements of such notice shall, without further notice, constitute a forfeiture of the bond. Upon notification by the Building Official of such forfeiture, the Town Attorney shall be authorized to forthwith institute such action as may be necessary to obtain the proceeds of such bond. Upon receipt of such notice of default, the owner, permittee or surety may correct such default or perform such work within the time specified in said notice.

(b) In the event of the forfeiture of a relocation bond, the Building Official shall proceed by contract or otherwise to complete the required work using the proceeds of the forfeited bond. Upon

completion of such work, the balance, if any, of the proceeds of the bond shall be refunded to the payor of the same, less an amount equal to 25 percent of the cost of the work, which shall be paid into the General Fund of the Town to cover the costs of supervision of the work and other incidentals. In lieu of completing the work required, the Building Official may demolish the building or structure and clear, clean and restore the site.

(c) In the event of any such default or forfeiture, the Building Official or any person or contractor of the person engaged by the Town shall have the absolute right and privilege to enter upon the premises and complete the required work or to remove or demolish the building or structure, as the case may be. It shall be unlawful for the owner, his or her agent, surety or any other person to interfere with, obstruct or attempt to obstruct in any manner the performance of the work or the removal or demolition of the building or structure.

(Ord. No. 6-97, §§ 2-7, 2-8, 6-9-1997; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-14-90. Temporary structures.

Temporary structures, such as reviewing stands and other miscellaneous structures, sheds, canopies or fences used for the protection of the public around and in conjunction with construction work may be erected by special permit from the Building Official for a limited period of time as established by the Building Official. Such buildings or structures need not comply with the type of construction of fire-resistive time periods required by the building code adopted by the Town. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

(Ord. No. 6-97, § 2-9, 6-9-1997; Ord. No. 2016-4, § 1, 8-29-2016)

Sec. 18-14-100. Violations; penalties.

(a) It is unlawful for any person to violate any of the provisions of this Article.

(b) Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and each such person, upon conviction, shall be punished in accordance with the provisions of Section 1-4-20 of this Code.

(Ord. No. 6-97, § 3, 6-9-1997; Ord. No. 2016-4, § 1, 8-29-2016)

CODE COMPARISON TABLE

<u>Prior Code</u>	<u>New Code</u>	<u>Prior Code</u>	<u>New Code</u>	<u>Prior Code</u>	<u>New Code</u>
1-1	1-1-10, 1-1-20	3-18	7-2-120	6-3L	16-2-120
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3-16	Deleted	6-3H	16-2-80	6-10E	16-9-50
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		6-3K	16-2-110		

CODE COMPARISON TABLE

<u>Prior Code</u>	<u>New Code</u>	<u>Prior Code</u>	<u>New Code</u>
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7-3E	6-3-100		

CODE COMPARISON TABLE

This table gives the location within this Code of those ordinances which are included herein.

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		Art. II.2	5-2-30
		Art. II.3, 4	5-2-40
		Art. II.5	5-2-50
		Art. III.1	5-2-60
		Art. III.2	5-2-70
		Art. IV.1	5-2-80
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		Art. IV.4	5-2-110
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		Art. V.1	5-2-130
		Art. VI.1	5-2-150
		Art. VI.2	5-2-160
		Art. VI.3	5-2-170
		Art. VI.4	5-2-180
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<u>Title of Legislation</u>	<u>Date</u>	<u>Section</u>	<u>Section this Code</u>
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CODE COMPARISON TABLE

<u>Title of Legislation</u>	<u>Date</u>	<u>Section</u>	<u>Section this Code</u>
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